

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES P.O Box 6274 Arusha, Tanzania - Telephone: +255 732 979506/9; Fax: 255 732 979503		

RULES OF COURT*

* These Internal Rules shall replace the Interim Rules of Procedure of 20 June 2008, following the harmonization of the Interim Rules of the Court and the Commission carried out during joint meetings in July 2009 in Arusha, October 2009 in Dakar and April 2010 in Arusha.

PREAMBLE

The Court,

In accordance with the African Charter on Human and Peoples' Rights of 27 June 1981 and the Protocol thereof on the Establishment of an African Court on Human and Peoples' Rights dated 9 June 1998,

And in pursuance of article 33 of the Protocol,

Adopts the following Rules of Court which shall be known as the "Interim Rules of Court".

Rule 1 ***Definitions***

For the purposes of these Rules, unless the context otherwise indicates:

- a. "Assembly" means the Assembly of Heads of State and Government of the African Union;
- b. "Charter" means the African Charter on Human and Peoples' Rights;
- c. "Commission" means the African Commission on Human and Peoples' Rights;
- d. "Constitutive Act" means the Constitutive Act of the African Union;
- e. "Court" means the African Court on Human and Peoples' Rights;
- f. "Executive Council" means the Executive Council of the African Union;
- g. "Judge" means a Member of the Court;

- h. “Member State” means a Member State of the African Union;
- i. “President” means the President of the Court;
- j. “Protocol” means the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- k. “Registrar” means the Registrar of the Court;
- l. “Registry” means Registry of the Court;
- m. “Rules” mean the present Rules;
- n. “State Party” means a State Party to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- o. “Vice President” means the Vice President of the Court.

PART I - THE COURT

CHAPTER I - MEMBERS OF THE COURT

Rule 2 ***Term of Office***

1. The newly elected Judges will assume duty on the first day of the first ordinary session following their election. Before assuming duty, the elected Judges shall take an oath of office or make a declaration in accordance with Rule 4 of these Rules.
2. Notwithstanding the foregoing sub-rule, outgoing Members of the Court shall remain in office until such time as they are replaced; after they are replaced, they shall continue to sit until the completion of all stages of any case in which the Court has met for an oral hearing prior to the date of replacement.

Rule 3
Precedence

1. The Members of the Court, in the exercise of their functions, are of equal status, irrespective of age, date of election or length of service.
2. Members of the Court shall, except as provided in sub-rule 4 and 5 of this Rule, take precedence according to the date on which their terms of office respectively began pursuant to Rule 2 of these Rules.
3. Members of the Court who assume duty on the same date shall take precedence, in relation to one another, according to seniority of age.
4. A Member of the Court who is re-elected to a new term of office which is continuous with his/her previous term shall retain his/her precedence.
5. The President and the Vice-President of the Court, while holding these offices, shall take precedence before all other Members of the Court.
6. The Member of the Court who is, in accordance with the foregoing sub-rules, next in precedence after the President and the Vice-President, is in these Rules designated as "the Senior Member of the Court". Whenever that Member is unable to act, the Member of the Court who is next after him in precedence and able to act shall be considered the Senior Member of the Court.

Rule 4
Oath of Office or Solemn Declaration

1. Pursuant to article 16 of the Protocol, each Member of the Court shall make the following oath or solemn declaration: "I (full names of Judge) do swear or solemnly declare that I will perform my duties and exercise my powers as a Member of the Court

honourably, faithfully, impartially and conscientiously, and that I will preserve the confidentiality of its deliberations even after my term of office has expired”.

2. This oath/declaration shall be taken/made in a public sitting as soon as possible after his/her election, and if necessary, a special public sitting shall be held for this purpose.

3. A Member of the Court who is re-elected shall take/make a new oath/declaration only if his/her new term is not continuous with his/her previous one.

Rule 5

Incompatibility

1. In accordance with the terms of article 18 of the Protocol, during their term in office, no Members of the Court shall participate in any other activity of a nature that will compromise the independence and impartiality of such a Judge or the demands of the office.

2. In particular, the Members of the Court may not hold political, diplomatic or administrative positions or function as government legal advisers at the national level.

3. Each Member of the Court shall declare any other activities to the Court.

Rule 6

Resignation

1. In the event of the resignation of a Member of the Court, the notice of resignation shall be tendered to the President of the Court, who shall notify the Chairperson of the African Union Commission of the same. Upon the latter notification, the seat shall be considered vacant.

2. Where the Member of the Court who decides to resign is the President, he/she shall announce his/her decision to the Vice President who shall notify the Chairperson of the African Union Commission and the resignation shall take effect in accordance with the terms of sub-rule 1 of the present Rule.

Rule 7 Suspension or Removal

1. Where the application of article 19(1) of the Protocol is under consideration, the President or, if the circumstances so require, the Vice-President, shall inform the Member of the Court concerned accordingly, in a written statement which shall include the grounds thereof and any relevant evidence. He/she shall, subsequently, at a private session of the Court specially convened for the purpose, be afforded an opportunity of making a statement, of furnishing any information or explanations he/she wishes to give, and of supplying answers, orally or in writing, to any questions put to him/her. At a further private session, at which the Member of the Court concerned shall not be present, the matter shall be considered; each Member of the Court shall state his/her opinion and, if requested, a vote shall be taken.

2. Any decision to suspend or remove a Member of the Court shall be communicated to the Chairperson of the African Union Commission.

Rule 8 Inability to Sit, Exemption and Withdrawal

1. Any Member of the Court who is unable to attend a sitting of the Court shall notify the President as early as possible.

2. In accordance with article 22 of the Protocol, any Member of the Court who is a national of a State that is party to a case shall abstain from hearing that case.

3. A Member of the Court shall also abstain from hearing cases in which the State by virtue of which he/she was elected is a party.

4. No Member of the Court shall take part in the consideration of any case if:

a) he/she has previously acted, in relation to the case, as agent, counsel or advocate for one of the parties, or as a member of a national or international court or a commission of inquiry or in any other capacity;

b) he/she has a personal interest in the case, including a spousal, parental or other close family, personal or professional relationship, or a subordinate relationship with any of the parties;

c) he/she has expressed opinions publicly, through the communications media, in writing, through his or her public actions or otherwise, that may, objectively adversely affect his or her impartiality;

d) for any other reason, his/her independence or impartiality may, legitimately, be called into doubt;

5. If a Member intends to withdraw for any of the aforesaid reasons he/she shall, accordingly, notify the President of the Court, who shall exempt such Judge from participation in the hearing of the matter.

6. In the event of any doubt as to the existence of any of the grounds for withdrawal listed in this Rule, the Member concerned shall make his/her disclosures to the Court, and deliberations and voting on the matter shall be carried out in his/her absence.

CHAPTER II – THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

Rule 9 Term of Office

1. The President and Vice President shall be elected for a period of two (2) years and may be re-elected only once. However, none of them may continue to hold office should they cease to be a Member of the Court.

2. The term of office of the President and Vice President shall begin to run on the commencement date of the terms of office of the Members of the Court elected in a biennial election, pursuant to Rule 2 of these Rules.

3. The elections of the President and Vice-President shall be held on the above mentioned date or shortly thereafter. The outgoing President or Vice-President, if still a Member of the Court, shall continue to exercise the functions of his/her office until the election has taken place.

4. If for any reason, the President or the Vice President ceases to be a Member of the Court before the expiry of his/her term of office, the Court shall elect a successor for the remainder of the term.

Rule 10 Elections

1. If on the date of the election to the Presidency, the outgoing President is still a Member of the Court, he/she shall conduct the election. If he/she has ceased to be a Member of the Court, is unable to act, or is himself/herself a candidate, the election shall be conducted by the Member of the Court exercising the functions of the Presidency pursuant to Rule 12, sub-rule 1 of these Rules.

2. The vote shall be taken by secret ballot after the Member of the Court acting as President indicates the number of votes required to be elected.

3. The Member of the Court obtaining the votes of the absolute majority of all the Judges of the Court shall be declared elected.

4. If no Member of the Court obtains the absolute majority required during the first ballot, the Judge having obtained the least number of votes shall withdraw. If during the second ballot no candidate receives the majority required, a third round shall take place between the two candidates having obtained the greatest number of votes. An additional round or additional rounds shall take place until one candidate has achieved the required majority. In the event of a tied vote, preference shall be given to the Judge having precedence under the terms of Rule 3 of these Rules.

5. The Member of the Court who is elected President shall take office immediately.

6. The incoming President shall conduct the election of the Vice President, either at the same or at the following sitting. The provisions of sub-rule 2 to 5 above shall also apply to this election.

Rule 11

Functions

1. The functions of the President are to:

a) represent the Court;

b) preside at the sittings of the Court;

c) direct the work and supervise the administration of the Court;

d) promote the activities of the Court;

e) present a detailed Annual Report to the Court on the Court's activities and on his/her own activities as President over the year;

f) pursuant to article 31 of the Protocol, prepare and present an Annual Report to the Assembly;

g) carry out any other duties assigned to him/her by the Protocol or the present Rules, or entrusted to him/her by the Court.

2. The Vice-President shall assist the President in performing his/her functions. He/she shall replace him/her in the event of inability to act or of a vacancy in the presidency, or at the request of the President.

Rule 12

Exercise of Functions

1. In the event of the office of the President becoming vacant or the President being unable to act, his/her functions shall be performed by the Vice-President and, in default, by the Senior Member of the Court.

2. When the President is precluded from hearing a case under the terms of article 22 of the Protocol and Rule 8 hereof, he/she shall continue to act as President for all purposes save in respect of the said case; the same shall apply to the Vice President.

3. The President shall take the necessary measures to ensure the continuous exercise of the functions of the presidency at the Seat of the Court. In the event of his/her absence, he/she may, so far as is compatible with the Protocol and the present Rules, arrange for these functions to be exercised by the Vice President or in default, by the Senior Member of the Court.

4. If the President decides to resign the Presidency, he/she shall

communicate his decision in writing to the Court through the Vice President, or, failing that, through the Senior Member of the Court. If the Vice President decides to resign from his office, he/she shall communicate his/her decision to the President.

Rule 13
***Adequate gender representation, main legal traditions and
main regions of Africa***

In electing to office or making appointments governed by this Chapter and Part II of these Rules, the Members of the Court shall pursue, to the greatest extent possible, a policy aimed at securing a balanced representation of gender, the principal legal traditions and the main regions of Africa.

CHAPTER III – INTERNAL FUNCTIONING OF THE COURT

Rule 14
Ordinary Sessions

1. The Court shall hold four ordinary sessions per annum, each of which shall last about fifteen days.
2. The sessions of the Court shall be convened on the dates set by the Court during its previous session. Under exceptional circumstances, the President may, in consultation with the other Members of the Court, change the dates of a session.
3. The invitation letter shall indicate the dates, agenda, duration and venue of the session as well as any other relevant information. The letter shall be sent to the Members of the Court at least thirty (30) calendar days before the session is held.

Rule 15
Extraordinary Sessions

1. Extraordinary sessions may also be convened by the President on his own initiative or at the request of a majority of the Members of the Court.
2. The invitation letter shall indicate the dates, agenda, duration and venue of the sessions as well as any other relevant information. The letter shall be sent to the Members of the Court at least fifteen (15) calendar days before the session is held.

Rule 16
Venue of Meeting

The sessions shall normally take place at the Seat of the Court. However, the Court may, pursuant to article 25 (1) of the Protocol, decide to sit in the territory of any other Member State of the African Union.

Rule 17
Quorum

1. The quorum of seven (7) Judges stipulated under article 23 of the Protocol shall apply to all sittings of the Court.
2. If at the commencement of a sitting, the quorum is not met, the President shall adjourn it.
3. If during a sitting, the quorum ceases to exist, the President shall adjourn the sitting.

Rule 18
Official and Working languages

1. The official languages of the Court shall be the official languages of the African Union.
2. The working languages of the Court shall be the working languages of the African Union. However, the Court may, whenever the need arises, select one or more of these languages as its working languages.
3. Notwithstanding the provisions of sub-rules¹ and 2 of this Rule, the Court may permit any person appearing before it to use a language of his or her choice, if it is shown that he or she does not have sufficient knowledge of any of the official languages of the Court.
4. The terms and conditions for obtaining interpreters for implementation of sub-rule 3 of this Rule shall be determined by the Court.

Rule 19
Internal Judicial Practice and Practice Directions

Subject to the provisions of the Protocol and these Rules, the judicial practice and procedure followed by the Court shall be governed by relevant resolutions or practice directions of the Court.

PART II: THE REGISTRY

Rule 20
Composition and Organisation of the Registry

1. The Registry shall comprise the Registrar, the Deputy Registrar, and such other staff as the Court may require for the effective exercise of its functions.
2. The Court shall prescribe the organisation of the Registry.

3. Instructions for the Registry shall be drawn up by the Court.
4. The staff of the Registry shall be subject to Staff Rules and Regulations drawn up by the Court.

Rule 21
Appointment and Term of Office of the Registrar

1. The Court shall appoint its Registrar.
2. Candidates for the position of Registrar shall be of the highest moral standing and shall possess the necessary legal, administrative and linguistic knowledge and experience for the discharge of the functions linked to the post.
3. The Registrar shall be appointed for a term of five years. He/she may be re-appointed.
4. The process of recruiting the Registrar shall be conducted in accordance with the procedure established by the Court and consistent with the norms of the African Union.
5. The applications shall include all relevant information concerning the applicant, and in particular, information as to age, nationality, sex, current occupation, academic qualifications as well as the knowledge and experience required in sub-rule 2 above.

Rule 22
Appointment and Term of Office of the Deputy Registrar

1. The Court shall appoint a Deputy Registrar.
2. The provisions of Rule 21 of these Rules shall apply to the appointment and term of office of the Deputy Registrar.

Rule 23
Oath/Solemn Declaration

1. Upon assumption of office, the Registrar shall take the following oath/make the following declaration before the Court: “I ... (full names of Registrar) swear/solemnly declare that I will discharge the duties incumbent upon me as Registrar of the African Court on Human and Peoples' Rights with all loyalty, discretion and good conscience; that I will preserve the confidentiality of the information to which I have access in the exercise, or due to the exercise of my functions, and that I will faithfully observe all the provisions of the Protocol and of the Rules of the Court.”
2. Upon assumption of office, the Deputy Registrar shall take a similar oath or make a similar declaration before the Court.
3. These oaths/declarations shall be recorded in the minutes of the Court.

Rule 24
Appointment of the Other Staff of the Registry

1. Other staff members of the Registry shall be appointed by the Court under such terms and conditions as it shall determine in accordance with the norms of the African Union. Appointments to such other positions as the Court shall determine may, however, be made by the Registrar with the approval of the President.
2. Upon assumption of duty, every staff member shall take the following oath/make the following declaration before the President, in the presence of the Registrar: “I (full names of official) swear/solemnly declare that I will discharge the duties incumbent upon me as an official of the Registry of the African Court on Human and Peoples' Rights with all loyalty, discretion and good conscience; that I will preserve the confidentiality of the information to which I have access in the exercise or due to the exercise of my functions, and that I will faithfully observe all the provisions of the Protocol and of the Rules of the Court.”

Rule 25
Functions of the Registrar

1. The Registrar shall assist the Court in the exercise of its judicial function and shall be in charge of the general administration of the Court's Registry. He or she shall be responsible for the supervision and coordination of all the operations and activities of the Registry.

2. In the discharge of his/her duties, the Registrar shall:

a) keep, in such form as may be prescribed by the Court, a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry;

b) be the regular channel of communication to and from the Court, and in particular effect all communications, notifications and transmission of documents required by the Protocol or by these Rules and ensure that the date of dispatch and receipt thereof are readily verifiable;

c) transmit to the parties copies of all pleadings and documents annexed thereto upon receipt thereof in the Registry;

d) be present, in person or by his/her duly qualified representative, at the sittings of the Court, and be responsible for the preparation of minutes of such sittings;

e) sign the minutes referred to in subparagraph (d) above;

f) inspect documentation submitted to the Court to establish authenticity thereof;

g) have custody of the seal, the official stamp and all the records and archives of the Court;

h) make arrangements for such provision or verification of translations and interpretations into the Court's official languages as the Court may require;

i) be responsible for the printing and publication of the Court's judgments, advisory opinions and orders, the pleadings and statements, and minutes of public sittings in each case, and of such other documents as the Court may direct to be published;

j) communicate to the government of the country in which the Court is sitting, and any other governments which may be concerned, the necessary information as to the persons from time to time entitled, under the Protocol and any relevant agreements, to privileges, immunities, or facilities;

k) transmit documents to the Members of the Court, States party to the Protocol and to the Chairperson of the African Union Commission as well as other organs of the African Union where required;

l) deal with enquiries concerning the Court and its work;

m) prepare the draft budget of the Court;

n) be responsible for the sound management of all accounts and financial administration in accordance with the applicable financial rules of the African Union and the financial regulations of the Court;

o) assist in maintaining relations between the Court and the departments of the African Union Commission as well as those of the other organs of the African Union;

p) ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional associations, learned societies, faculties and schools of law, and public information media;

3. The Court may entrust additional duties to the Registrar.
4. In the exercise of his/her functions, the Registrar shall work under the direction and supervision of the President and be answerable to the Court.

PART III: JURISDICTION

Rule 26 ***Jurisdiction***

1. Pursuant to the Protocol, the Court shall have jurisdiction:
 - a) to deal with all cases and all disputes submitted to it concerning interpretation and application of the Charter, the Protocol and any other relevant human rights instrument ratified by the States concerned;
 - b) to render an advisory opinion on any legal matter relating to the Charter or any other relevant human rights instruments, provided that the subject of the opinion is not related to a matter being examined by the Commission;
 - c) to promote amicable settlement in cases pending before it in accordance with the provisions of the Charter;
 - d) to interpret a judgment rendered by itself; and
 - e) to review its own judgment in light of new evidence in conformity with Rule 67 of these Rules.
2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

PART IV: CONTENTIOUS PROCEDURE

CHAPTER I: GENERAL PROVISIONS

Rule 27

Phases of Proceedings

1. The procedure before the Court shall consist of written, and if necessary, oral proceedings.
2. The written procedure shall consist of the communication to the Court, the parties, as well as the Commission, as appropriate, of applications, statements of the case, defences and observations and of replies if any, as well as all papers and documents in support, or of certified copies thereof.
3. The oral proceedings shall consist of a hearing by the Court of representatives of parties, witnesses, experts, or such other persons as the Court may decide to hear.

Rule 28

Representation

Every party to a case shall be entitled to be represented or to be assisted by legal counsel and/or by any other person of the party's choice.

Rule 29

Relations between the Court and the Commission

1.
 - a. In pursuance of Article 2 of the Protocol, the Court shall meet with the Commission at least once a year and whenever necessary to ensure a good working relationship between the two institutions.

- b. The Bureau of the Court may meet the Bureau of the Commission as often as necessary.
- 2. In accordance with Article 33 of the Protocol, the Court shall consult the Commission, as appropriate, on any amendment of its rules, and any issues of procedure, governing the relationship between the two institutions.
- 3.
 - a. In a case brought before the Court by the Commission under Article 5(1)(a) of the Protocol, its application shall be accompanied by its Report as well as all documents pertaining to the proceedings.
 - b. The Court may, if necessary, hear one or more Commissioners assisted by such Legal Officers of the Commission's Secretariat and/ or experts as the Commission shall designate or appoint.
 - c. The Court may also, if it deems it necessary, hear, under Rule 45 of the Rules, the individual or NGO that initiated a communication to the Commission pursuant to Article 55 of the Charter.
- 4. Where, pursuant to Article 6(1) of the Protocol, the Court decides to solicit the opinion of the Commission on the admissibility of a case, it shall transmit to the Commission a copy of the pertinent sections of the case file, indicating the time limit within which it wishes to receive the opinion.
- 5.
 - a. Where the Court decides to transfer a case to the Commission pursuant to Article 6(3) of the Protocol, it shall transmit to the Commission a copy of the entire pleadings so far filed in the matter accompanied by a summary report.

At the request of the Commission, the Court may also transmit the original case file.

b. The Registrar shall immediately notify the parties who were before the Court about the transfer of the case to the Commission.

6. For the purpose of examining an application brought before it, relating to issues in a communication before the Commission, the Court shall ascertain that the said communication has been formally withdrawn.

Rule 30

Legal Costs

Unless otherwise decided by the Court, each party shall bear its own costs.

Rule 31

Legal Assistance

Pursuant to article 10 (2) of the Protocol, the Court may, in the interest of justice and within the limits of the financial resources available, decide to provide free legal representation and/or legal assistance to any party.

Rule 32

Cooperation of the States

1. The States Parties to a case have the obligation to cooperate so as to ensure that all notices, communications or summonses addressed to persons residing in their territory or falling under their jurisdiction are duly executed.

2. The same rule shall apply to any proceeding that the Court decides to conduct or order in the territory of a State Party to a case.

3. When the performance of any of the measures referred to in the preceding paragraphs requires the cooperation of any other State, the President shall request the government concerned to provide the requisite assistance.

CHAPTER II: WRITTEN PROCEEDINGS

Rule 33 ***Access to the Court***

1. Pursuant to the provisions of articles 5 and 34 (6) of the Protocol, the following are entitled to submit cases to the Court:

- a. The Commission;
- b. The State Party which has lodged an application to the Commission;
- c. The State Party against which an application has been lodged at the Commission;
- d. The State Party whose citizen is a victim of a human rights violation;
- e. An African Intergovernmental Organization;
- f. An individual or a Non-Governmental Organization which has observer status before the Commission provided the requirements of article 34(6) of the Protocol are met.

2. In accordance with article 5(2) of the Protocol, a State Party which has an interest in a case may submit a request to the Court to be permitted to join in accordance with the procedure established in Rule 53 of these Rules.

Rule 34
Commencement of Proceedings

1. The Applicant shall file in the Court Registry, one (1) copy of the application containing a summary of the facts of the case and of the evidence intended to be adduced.

The said application shall be signed by the Applicant or by his/her representative.

The Registrar shall acknowledge receipt of the application.

2. Any application addressed to the Court shall give clear particulars of the Applicant and of the party or parties against whom such application has been brought. The application shall also contain the names and addresses of the persons designated as the Applicant's representatives.

3. The application shall be written in one of the official languages of the Court, and the original forwarded to the Court Registry.

4. The application shall specify the alleged violation, evidence of exhaustion of local remedies or of the inordinate delay of such local remedies as well as the orders or the injunctions sought. All applications filed by individuals and Non-Governmental Organizations shall meet the other admissibility conditions as set out in article 56 of the Charter and Rule 40 of these Rules.

5. Any Applicant who on his/her own behalf or on behalf of the victim wishes to be granted reparation pursuant to article 27(1) of the Protocol shall include the request for the reparation in the application in accordance with sub-rule 4 above. The amount of the reparation and the evidence relating thereto may be submitted subsequently within the time limit set by the Court.

6. The Registrar shall effect service of the application on the other party by registered post together with a request to acknowledge receipt.

Rule 35
Transmission of Applications

1. Upon the receipt of an application filed in accordance with article 5(1) and (3) of the Protocol, the Registrar shall transmit a copy thereof together with any annexes, to the President and other Members of the Court.

2. Unless otherwise decided by the Court, the Registrar shall forward copies of the application where applicable to the:

a) State Party against which the application has been filed, in accordance with Rule 34 (6) of these Rules;

b) State Party whose citizen is a victim of the alleged violation;

c) State Party against which an application has been filed at the Commission;

d) Commission;

e) Individual or legal entity or the Non-Governmental Organization that has filed an application at the Commission by virtue of article 55 of the Charter.

3. The Registrar shall also inform the Chairperson of the African Union Commission and through him/her, the Executive Council of the African Union, and all the other States Parties to the Protocol, of the filing of the application;

4. In forwarding applications as stipulated in sub-rules 2 and 3 of this Rule, the Registrar shall invite:

a) the Respondent State Party to indicate, within thirty (30) days of receipt of the application, the names and addresses of its representatives;

b) any other State Party that may wish to intervene in the proceedings under article 5(2) of the Protocol, to inform the Registrar accordingly, within the time stipulated in Rule 53;

c) if applicable, the Commission to forward to the Registrar, within thirty (30) days the names and addresses of its representatives;

Rule 36
Registration and Transmission of Pleadings

1. All pleadings received by the Registrar shall be registered and a copy thereof transmitted to the other party.
2. The Registrar shall acknowledge receipt of all such pleadings.

Rule 37
Time Limit for Reply

The State Party against which an application has been filed shall respond thereto within sixty (60) days provided that the Court may, if the need arises, grant an extension of time.

Rule 38
Dismissal of Application without Merit

Whenever the Court finds that there is no merit in an application, it shall dismiss such application giving reasons for its decision, and may not have to summon the parties to the hearing, provided its decision and the reasons thereof are communicated to all the parties.

Rule 39
***Preliminary Examination of the Competence of the Court
and of Admissibility of Applications***

1. The Court shall conduct preliminary examination of its jurisdiction and the admissibility of the application in accordance with articles 50 and 56 of the Charter, and Rule 40 of these Rules.
2. Pursuant to sub-rule 1 of this Rule, the Court may request the parties to submit any factual information, documents or other material considered by the Court to be relevant.

Rule 40
Conditions for Admissibility of Applications

Pursuant to the provisions of article 56 of the Charter to which article 6(2) of the Protocol refers, applications to the Court shall comply with the following conditions:

1. disclose the identity of the Applicant notwithstanding the latter's request for anonymity;
2. comply with the Constitutive Act of the Union and the Charter ;
3. not contain any disparaging or insulting language;
4. not be based exclusively on news disseminated through the mass media;
5. be filed after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. be filed within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter; and

7. not raise any matter or issues previously settled by the parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union.

Rule 41
Filing of Documents

The Court may, before the commencement of or during the course of the proceedings, call upon the parties to file any pertinent document or to provide any relevant explanation. The Court shall formally note any refusal to comply.

CHAPTER III: ORAL PROCEEDINGS

Rule 42
Fixing of the Date of Hearing

When the case is ready for hearing, the President shall, after consulting the parties or the representatives of the Commission, if applicable, fix the date of the hearing. The Registrar shall notify them accordingly.

Rule 43
Public Hearings

1. Cases shall be heard in open court.
2. However, the Court may, of its own accord or at the request of a party, hold its hearings *in camera* if, in its opinion, it is in the interest of public morality, safety or public order to do so.
3. Whenever the Court orders that any proceedings shall not be conducted in public, the Court shall give one or more of the reasons specified in sub-rule 2 of this Rule as the basis of its decision. The

parties or their legal representatives shall be permitted to be present and heard *in camera*

Rule 44
Conduct of Hearings

The Presiding Judge shall conduct the hearing. He/she shall prescribe the order in which the representatives of the parties and where applicable, the representatives of the Commission, are to be heard.

Rule 45
Measures for Taking Evidence

1. The Court may, of its own accord, or at the request of a party, or the representatives of the Commission, where applicable, obtain any evidence which in its opinion may provide clarification of the facts of a case. The Court may, *inter alia* , decide to hear as a witness or expert or in any other capacity any person whose evidence, assertions or statements it deems likely to assist it in carrying out its task.
2. The Court may ask any person or institution of its choice to obtain information, express an opinion or submit a report to it on any specific point.
3. The Court may, at any time during the proceedings, assign one or more of its Members to conduct an enquiry, carry out a visit to the scene or take evidence in any other manner.

Rule 46
Witnesses, Experts and Other Persons

1. The Registrar shall issue summons to any witness, expert or other person the Court decides to hear.

2. After verification of his/her identity and before giving evidence, every witness shall take the following oath or make the following solemn declaration:

“I swear/solemnly declare upon my honour and conscience that I will tell the truth, the whole truth and nothing but the truth.”

The oath or solemn declaration shall be recorded.

3. After verification of his/her identity and before carrying out his/her task, every expert shall take the following oath or make the following solemn declaration:

“I swear/solemnly declare that I will discharge my functions as expert on my honour and conscience.”

The oath or solemn declaration shall be recorded.

4. The oath or declaration referred to in sub-rules 2 and 3 of this Rule shall be taken or made before the Court.

5. The Court shall rule on any challenge arising from an objection to a witness or expert.

Rule 47
Questions Put During Hearings

1. The Presiding Judge, or any Judge, may put questions to the representatives of the parties, and if applicable, the representative of the Commission, the witnesses, experts, and other persons appearing before the Court.

2. The witnesses, experts and other persons who appear before the Court may be examined by the representatives of the parties, and if applicable by the representatives of the Commission. The persons referred to in this paragraph may be subjected to cross-examination, followed by a re-examination.

Rule 48 ***Verbatim Record of Hearings***

1. The Registrar shall be responsible for making a verbatim record of each hearing. The verbatim record shall include the:

- a) composition of the Court at the hearing;
- b) list of the persons appearing before the Court;
- c) text of statements made, questions put and answers given;
- d) text of any decision delivered by the Court during the hearing.

2. The representatives of the parties, and the representatives of the Commission, if applicable, shall receive the verbatim record of their arguments, statements or evidence, in order that they may, under the responsibility of the Registrar, make corrections, provided that such corrections do not affect the substance of what was said. The Registrar shall fix the time-limits granted for this purpose.

3. Once corrected, the verbatim record shall be signed by the President and the Registrar; and shall then constitute a true reflection of the proceedings.

Rule 49
Recording of Hearings

The proceedings of the hearing shall be recorded and such recordings shall be conserved in the archives of the Court.

Rule 50
New Evidence

No party may file additional evidence after the closure of pleadings except by leave of Court.

CHAPTER IV: SPECIFIC PROCEDURES

Rule 51
Interim Measures

1. Pursuant to article 27(2) of the Protocol, the Court may, at the request of a party, the Commission or on its own accord, prescribe to the parties any interim measure which it deems necessary to adopt in the interest of the parties or of justice.
2. In case of extreme urgency, the President may convene an extraordinary session of the Court to decide on measures to be taken. He/she may, in this regard, and by all reliable means, enlist the views of the Members not present.
3. The Court shall duly notify the parties to the case, the Commission, the Assembly, the Executive Council and the African Union Commission of the aforesaid interim measures.
4. In the Annual Report submitted by the Court to the Assembly pursuant to article 31 of the Protocol, the Court shall disclose the interim measures it ordered during the period under review. In the event of non-compliance with these measures by the State

concerned, the Court shall make all such recommendations as it deems appropriate.

5. The Court may invite the parties to provide it with information on any issue relating to implementation of the interim measures adopted by it.

Rule 52

Preliminary Objections

1. Any party served with the application may raise preliminary objections to any part or parts thereof.

2. Preliminary objections shall be raised at the latest before the date fixed by the Court for the filing of the first set of pleadings to be submitted by the party who intends to raise the objections.

3. The submission of preliminary objections shall not cause the proceedings on the substantive case to be suspended unless the Court so decides. In any case, the Court shall rule on the objections or incorporate its ruling in its decision on the substantive case.

4. Every preliminary objection shall set out the facts and the law on which the objection is based as well as the submissions and a list of the documents in support, if any; it shall also specify any evidence which the party intends to produce. Certified copies of all supporting documents shall be attached.

5. Where a party raises a preliminary objection, the Court shall invite the other party to submit, its written observations in reply before ruling on the preliminary objection, the Court may decide to invite the parties to submit further observations in writing.

6. Before deciding on the preliminary objection, the Court may, on the request of a party, or of its own accord, decide to hold a hearing if it deems it necessary.

7. The Court shall give reasons for its ruling on the preliminary objection.

Rule 53 Intervention

1. An application for leave to intervene, in accordance with article 5 (2) of the Protocol shall be filed as soon as possible, and, in any case, before the closure of the written proceedings.

2. The application shall state the names of the Applicant's representatives. It shall specify the case to which it relates, and shall set out:

a) the legal interest which, in the view of the State applying to intervene,
has been affected;

b) the precise object of the intervention; and

c) the basis of the jurisdiction which, in the view of the State applying to intervene, exists between it and the parties to the case.

3. The application shall be accompanied by a list of the supporting documents attached thereto and shall be duly reasoned.

4. Certified copies of the application for leave to intervene shall be communicated forthwith to the parties to the case, who shall be entitled to submit their written observations within a time-limit to be fixed by the Court, or by the President if the Court is not in session. The Registrar shall also transmit copies of the application to any other concerned entity mentioned in Rule 35 of these Rules.

5. If the Court rules that the application is admissible, it shall fix a time limit within which the intervening State shall submit its written observations. Such observations shall be forwarded by the Registrar to the parties to the case, who shall be entitled to file

written observations in reply within the timeframe fixed by the Court.

6. The intervening State shall be entitled, in the course of the oral proceedings, if any, to present its submissions in respect of the subject of the intervention.

Rule 54

Joinder of Cases and Pleadings

The Court may at any stage of the pleadings either on its own volition or in response to an application by any of the parties, order the joinder of interrelated cases and pleadings where it deems it appropriate, both in fact and in law.

Rule 55

Judgments in Default

1. Whenever a party does not appear before the Court, or fails to defend its case, the Court may, on the application of the other party, pass judgment in default after it has satisfied itself that the defaulting party has been duly served with the application and all other documents pertinent to the proceedings.

2. Before acceding to the application of the party before it, the Court shall satisfy itself that it has jurisdiction in the case, and that the application is admissible and well founded in fact and in law.

Rule 56

Out-of-Court Settlement

1. Parties to a case may settle their dispute amicably at any time before the Court gives its judgment.

2. Any settlement between the parties shall be reported to the Court, which shall render judgment limited to a brief statement on the facts and the solution adopted.

3. However, the Court may, having regard to its discretion under the Protocol, decide to proceed with a case notwithstanding the notice of such amicable settlement.

Rule 57

Amicable Settlement Under the Auspices of the Court

1. Pursuant to article 9 of the Protocol, the Court may promote amicable settlement of cases pending before it. To that end, it may contact the parties and take appropriate measures to facilitate amicable settlement of the dispute, based on respect for human and peoples' rights as recognized by the Charter.

2. Any negotiations entered into with a view to reaching an amicable settlement shall be confidential and without prejudice to the parties' observations in the proceedings before the Court. No written or oral communication and no offer of concession made as part of such negotiations shall be mentioned or referred to in the proceedings before the Court.

3. In the event of an amicable settlement of a case, the Court shall render a judgment, which shall be limited to a brief statement of the facts and of the solution adopted.

4. However, pursuant to its discretion under the Protocol, the Court may decide to proceed with the hearing of the application notwithstanding the notice of amicable settlement.

Rule 58

Discontinuance

Where an Applicant notifies the Registrar of its intention not to proceed with the case, the Court shall take due note thereof, and

shall strike the application off the Court's cause list. If at the date of receipt by the Registry of the notice of the intention not to proceed with the case, the Respondent State has already taken measures to proceed with the case, its consent shall be required.

CHAPTER V: JUDGMENTS OF THE COURT

Rule 59 ***Decision of the Court***

1. Upon the conclusion of the hearing of a case, the Court shall close the proceedings for its deliberations and judgment.
2. The decision of the Court shall be rendered by the Court within ninety (90) days from the date of completion of the deliberations.

Rule 60 ***Court's Deliberations***

1. The deliberations of the Court shall be held *in camera* and shall remain confidential.
2. Only Judges who were Members of the Panel that heard the case shall participate in the deliberations of the Court.
3. The decision of the Court shall be made by a majority of the Members of the Panel present.
4. In the event of a tied vote, the Presiding Judge shall have a casting vote.
5. Any Member of the Court who heard the case may deliver a separate or dissenting opinion.

Rule 61 Judgment

1. In accordance with article 28(6) of the Protocol, every judgment of the Court shall state the reasons on which it is based.
2. The judgment shall indicate the names of Judges who have taken part in the deliberations.
3. The judgment shall be signed by all the Judges and certified by the Presiding Judge and the Registrar. It shall be read in open Court, due notice having been given to the parties.
4. Subject to article 28(3) of the Protocol, the judgment of the Court shall be final.
5. The judgment of the Court shall be binding on the parties.

Rule 62 Contents of Judgments

A judgment shall contain:

- a) the date on which it was delivered;
- b) the names of the parties;
- c) the names of the representatives of the parties;
- d) a summary of the proceedings;
- e) the submissions of the parties, and as may be required, those of the Commission's representatives;
- f) a statement of the facts of the case;
- g) the legal grounds;

- h) the operative provisions of the judgment;
- i) the decision, if any, on costs;
- j) the number of Judges constituting the majority;
- k) a statement as to the authentic text of the judgment.

Rule 63
Judgment on Reparation

The Court shall rule on the request for the reparation, submitted in accordance with Rule 34 (5) of these Rules, by the same decision establishing the violation of a human and peoples' right or, if the circumstances so require, by a separate decision.

Rule 64
Notification of Judgment

1. In accordance with article 29 of the Protocol, the Court shall duly notify the parties to the case, the Commission, the Assembly, the African Union Commission and any person or institution concerned of the judgment by certified true copies thereof.
2. The Executive Council shall also be notified of the judgment and shall monitor its execution on behalf of the Assembly.
3. The original copy of the judgment, duly signed and sealed, shall be conserved in the archives of the Court.

Rule 65
Publication of Judgments

Final judgments of the Court shall be published in accordance with Rule 25(2)(i), under the authority of the Registrar.

Rule 66
Application for Interpretation of a Judgment

1. Pursuant to article 28(4) of the Protocol, any party may, for the purpose of executing a judgment, apply to the Court for interpretation of the judgment within twelve months from the date the judgment was delivered unless the Court, in the interest of justice, decides otherwise.
2. The application shall be filed in the Registry. It shall state clearly the point or points in the operative provisions of the judgment on which interpretation is required.
3. Upon the instruction of the Court, the Registrar shall transmit the application for interpretation to any other parties concerned and shall invite them to submit their written comments, if any, within the time limit established by the President. The President shall also fix the date for the hearing of the application, in the event the Court decides to hold one. The Court's decision shall take the form of a judgment.
4. When considering an application for interpretation, the Court shall be composed of the same Judges who delivered judgment on the substantive case. However, where it is not possible for any Judge to participate in the proceedings, such Judge shall, if necessary, be replaced.
5. An application for interpretation shall not stay the execution of the judgment unless the Court decides otherwise.

Rule 67
Request for Review of a Judgment

1. Pursuant to article 28(3) of the Protocol, a party may apply to the Court to review its judgment in the event of the discovery of evidence, which was not within the knowledge of the party at the

time the judgment was delivered. Such application shall be filed within six (6) months after that party acquired knowledge of the evidence so discovered.

2. The application shall specify the judgment in respect of which revision is requested, contain the information necessary to show that the conditions laid down in sub-rule 1 of this Rule have been met, and shall be accompanied by a copy of all relevant supporting documents. The application as well as the supporting documents shall be filed in the Registry.

3. Upon the instructions of the Court, the Registrar shall transmit a copy of the application to any other party/parties concerned and shall invite them to submit written observations, if any, within the time limit set by the President. The President shall also fix the date of the hearing should the Court decide to hold one. The Court shall rule on the admissibility of such application and its decision shall take the form of a judgment.

4. If the application is declared admissible, the Court shall, after consultation with the parties, determine the time limit for all future proceedings on the substance of the application it may deem necessary.

5. An application for review shall not stay the execution of a judgment unless the Court decides otherwise.

PART V: ADVISORY PROCEDURE

Rule 68

Request for Advisory Opinion

1. Requests for advisory opinions pursuant to article 4 of the Protocol may be filed with the Court by a Member State, by the African Union, by any organ of the African Union or by an African Organization recognized by the African Union. The request shall be on legal matters and shall state with precision the specific questions on which the opinion of the Court is being sought.

2. Any request for advisory opinion shall specify the provisions of the Charter or of any other international human rights instrument in respect of which the advisory opinion is being sought, the circumstances giving rise to the request as well as the names and addresses of the representatives of the entities making the request.
3. The subject matter of the request for advisory opinion shall not relate to an application pending before the Commission.

Rule 69
Transmission of Request for Advisory Opinion

Subsequent to the receipt of a request for advisory opinion, the Registrar shall transmit copies thereof to Member States, the Commission and to any other interested entity.

Rule 70
Written Submissions

1. The Court shall establish the time limit for the filing of written submissions by States Parties and by any other interested entity.
2. Any other States Parties may submit written submissions on any of the issues raised in the request. Any other interested entity may be authorized by the Court to do the same.

Rule 71
Oral Proceedings

After consideration of the written submissions, the Court shall decide whether or not there should be oral proceedings, and if so, shall fix a date for such hearing.

Rule 72
Application of Provisions Relating to Contentious Procedure

The Court shall apply, *mutatis mutandis* the provisions of Part IV of these Rules to the extent that it deems them to be appropriate and acceptable.

Rule 73
Advisory Opinion

1. The delivery of an advisory opinion shall take place in open Court. However, where the circumstances so require, the Court may decide otherwise.
2. Pursuant to article 4(2) of the Protocol, the Court's advisory opinion shall be accompanied by reasons, and any Judge who has participated in the hearing of an advisory request shall be entitled to deliver a separate or dissenting opinion.
3. A copy of the advisory opinion will be transmitted to Member States, the Commission and any other interested party.

PART VI: MISCELLANEOUS

Rule 74
Amendments

1. These Rules may be amended only by the Court.
2. A proposal to amend any Rule of the Court shall be submitted in writing to the President who shall, accordingly, direct the Registrar to notify all Judges.
3. The proposed amendment shall contain the Rule to be amended and its proposed replacement, if any.
4. Members of the Court shall be notified of the date and venue of the meeting at which the proposed amendment shall be discussed, ninety (90) days prior to the date of the said meeting.

5. No amendment of a Rule shall be passed unless it is supported by not less than seven Judges of the Court

***Rules 75
Adoption***

These Rules shall be adopted by not less than seven Judges of the Court and signed by the President.

***Rule 76
Entry into Force and Authentic Text***

These Rules, the texts of which in the working languages of the Court are equally authentic, shall enter into force on 2 June 2010.

Done at Arusha, United Republic of Tanzania, this second Day of
June in the Year Two Thousand and Ten.

(Signed) Jean Mutsinzi

President

Signed (Aboubakar Diakité)

Registrar

* These Internal Rules shall replace the Interim Rules of Procedure of 20 June 2008, following the harmonization of the Interim Rules of the Court and the Commission carried out during joint meetings in July 2009 in Arusha, October 2009 in Dakar and April 2010 in Arusha.

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