

AFRICAN UNION

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EXECUTIVE COUNCIL
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**REPORT ON THE ACTIVITIES OF THE AFRICAN COMMISSION
ON HUMAN AND PEOPLES' RIGHTS (ACHPR)**

AFRICAN UNION		UNION AFRICAINE
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39TH ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

**Submitted in Accordance with
Article 54 of the African Charter on Human and Peoples' Rights**

39TH ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

I. INTRODUCTION

1. This 39th Activity Report of the African Commission on Human and Peoples' Rights (the Commission), which is presented in accordance with Article 54 of the African Charter on Human and Peoples' Rights (the African Charter), covers the period from **May to November 2015**. It highlights, among others: the statutory meetings of the Commission; the status of State reporting; Resolutions adopted by the Commission; the human rights complaints before the Commission; Urgent Appeal letters; inter-session activities of Commissioners; the human rights situation on the continent; financial, staffing and operational matters; and implementation of the Recommendations of the Commission.

II. STATUTORY MEETINGS

2. Four statutory meetings were held during the reporting period, namely: (i) the 7th Meeting of the Joint Bureaux of the Commission and the African Court on Human and Peoples' Rights (the Court) held on 25 July 2015 in Nairobi, Kenya; (ii) the Fourth Joint Annual Meeting between the Commission and the Court held on 27 and 28 July 2015 in Nairobi, Kenya; (iii) the 18th Extraordinary Session held from 29 July to 7 August 2015 in Nairobi, Kenya; and (iv) the 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia.

**a) 7th Meeting of the Joint Bureaux of the Commission and the Court
(Nairobi, Kenya, 25 July 2015)**

3. In line with their respective Rules of Procedure, the Commission and the Court organised the 7th Meeting of the Joint Bureaux on 25 July 2015. The Joint Bureaux Meeting was held prior to the meeting of the two institutions, with the objective to prepare the 4th Joint Annual Meeting of the Commission and the Court and to discuss the status of implementation of the decisions of the 3rd Joint Annual Meeting of the two institutions.

**b) 4th Joint Annual Meeting between the Commission and the Court
(Nairobi, Kenya, 27 and 28 July 2015)**

4. The 4th Joint Annual Meeting between the Commission and the Court was held on 27 and 28 July 2015 in Nairobi, Kenya. The overall objective of the meeting was to strengthen the complementarity relationship between the two institutions. The two institutions also discussed the status of implementation of the decisions of the 3rd Joint Annual Meeting, preparations for the celebration of 2016 which has been declared African Year of Human Rights with Particular Focus on the Rights of Women, the status of the project to establish a Pan African Institute for Human Rights, the joint publications project and the issue of transfer of cases.

c) 18th Extraordinary Session – Nairobi, Kenya, 29 July to 7 August 2015

5. During the 18th Extraordinary Session, the Commission adopted **five (5)** Resolutions and considered **fifty-five (55)** Communications, as outlined in paragraph 29 below. Additionally, the Commission provided direction on **nine (9)** Communications on which the Secretariat had sought guidance.

6. The Commission considered and adopted the draft Protocol on the Right to Nationality and Concluding Observations on the periodic reports of the Sahrawi Arab Democratic Republic, Republic of Niger, Republic of Djibouti, Republic of Senegal and the Federal Democratic Republic of Ethiopia.

d) 57th Ordinary Session - Banjul, The Gambia, 4 to 18 November 2015

7. A total of five hundred and eighteen (518) delegates participated in the Session: one hundred and thirty eight (138) representing twenty four (24) Member States, two (2) representing AU Organs, eighteen (18) representing National Human Rights Institutions (NHRIs), seventeen (17) representing International and Inter-Governmental Organizations, two hundred and eighty (280) representing African and International Non-Governmental Organisations (NGOs), and sixty three (63) representing other observers and the media.

8. H.E. the Minister for Presidential Affairs, Secretary-General and Director of Public Administration of the Republic of The Gambia, Honourable Lamin Nyabally, opened the Session. Three (3) Commissioners who were all elected during the June 2015 Session of the Assembly of Heads of State and Government of the African Union were sworn in during this Session: one (1) Commissioner re-elected (Honourable Commissioner Kayitesi Zainabo Sylvie) and two (2) newly-elected Commissioners (Honourable Commissioner Jamesina Essie Leonora King and Honourable Commissioner Solomon Ayele Dersso).

9. A new Bureau was elected: Honourable Commissioner Faith Pansy Tlakula as the Chairperson of the Commission, and Honourable Commissioner Soyata Maiga as the Vice-Chairperson.

10. The following members of the Commission attended the Session: Honourable Commissioner Faith Pansy Tlakula, Honourable Commissioner Soyata Maiga, Honourable Commissioner Reine Alapini Gansou, Honourable Commissioner Kayitesi Zainabo Sylvie, Honourable Commissioner Yeung Kam John Sik Yuen, Honourable Commissioner Lucy Asuagbor, Honourable Commissioner Med S. K. Kaggwa, Honourable Commissioner Maya Sahli Fadel, Honourable Commissioner Lawrence Murugu Mute, Honourable Commissioner Jamesina E.L. King and Honourable Commissioner Dr Solomon Ayele Dersso.

11. Twenty-four State Parties were represented at the Session: Algeria, Angola, Burkina Faso, Côte d'Ivoire, Democratic Republic of Congo (DRC), Djibouti, Egypt, Eritrea, Ethiopia, The Gambia, Kenya, Lesotho, Libya, Malawi, Mauritania, Niger, Nigeria, Sahrawi Arab Democratic Republic (SADR), Senegal, Sierra Leone, South Africa, The Sudan, Swaziland and Uganda.

12. Representatives of 17 States Parties made statements on the human rights situation in their respective countries: Algeria, Angola, Burkina Faso, Côte d'Ivoire, Democratic Republic of Congo (DRC), Djibouti, Egypt, Ethiopia, Kenya, Lesotho, Malawi, Mauritania, Niger, Nigeria, Sahrawi Arab Democratic Republic (SADR), South Africa and Uganda.

13. Statements on the human rights situation in various State Parties were also made by representatives from three (3) NHRIs and forty-six (46) NGOs, which have affiliate and observer status with the Commission respectively.

14. The following State Parties exercised their right to reply with regards to statements made concerning the human rights situation in their respective countries: Angola, Burkina Faso, DRC, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Mauritania, Nigeria, The Sudan, Swaziland and Uganda.

15. During the Session, the Commission granted Observer Status to eight (8) NGOs, bringing the total number of NGOs with observer status to **four hundred and ninety-three (493)**. The eight NGOs are:

- i) The West African Institute for Legal Aid (WAILA);
- ii) Mouvement de Jeunes pour le Réveil et le Développement;
- iii) Association Djazairouna;
- iv) Under the Same Sun Fund;
- v) Women Advocates Research and Documentation Center (WARDC);
- vi) Rehabilitation Centre for Victims of Domestic and Sexual Violence (RECESVID);
- vii) Initiative for Social and Economic Rights;
- viii) Economic and Social Rights Centre (HakiJamii).

16. During the Session, the Commission organised, in collaboration with its partners, the following panel discussions: Panel on the Effective Implementation of the Decisions of the Commission in practice; Panel on the Guidelines for State Reporting under the Maputo Protocol; and the Panel on Complementarity between International Human Rights Law and International Humanitarian Law. The Commission also informed participants at the Session of the status of preparations for the celebration of 2016 as African Year of Human Rights with Particular Focus on the Rights of Women. It also held meetings with some State delegates and institutions, in particular: the Vice President of the Republic of The Gambia; Delegates of the Republics of Senegal, Angola and Eritrea; and Delegates of the Pan African Parliament.

17. The Commission considered and adopted the following: the General Comment No. 3 on Article 4 of the African Charter on the Right to Life; the Report of the outgoing Chairperson of the Commission, the Report of the Working Group on Communications; the Report of the Advisory Committee on Budgetary and Staff Matters; and the Report of the Secretary to the Commission.

18. During the 57th Ordinary Session, the Commission adopted Concluding Observations on the periodic reports of the Federal Republic of Nigeria, the Republic of Uganda and the Republic of Malawi. The Commission adopted **eighteen (18)** Resolutions and considered twenty three (23) Communications as outlined in paragraph 29 below. The Commission also decided to refer one (1) case to the African Court on Human and Peoples' Rights (the African Court) and provided guidance on two (2) issues/questions pertaining to its Communications Procedure.

19. The Commission considered the human rights situation in Burundi.

III. STATE REPORTING

20. During the Session, the Commission considered the following State Reports: 5th and 6th Combined Report of the People's Democratic Republic of Algeria; 3rd and 4th Combined Report of Burkina Faso; Combined 8th - 11th Periodic Report of the Republic of Kenya; and the Initial and Combined Report of the Republic of Sierra Leone.

21. The Commission commends the countries that presented their periodic reports, in accordance with Article 62 of the African Charter.

22. The Commission notes with appreciation the high level representation and the diversity of some of the State delegations, which included, *inter alia*, representatives from various Ministries, Members of Parliament and National Human Rights Institutions. The Commission further notes with appreciation the gender representation in the delegations which presented the Reports of Kenya and Burkina Faso. The Commission notes with appreciation that the Republic of Sierra Leone was represented by a delegation led at the ministerial level.

23. The Commission notes with satisfaction that Burkina Faso is the third State Party, after Malawi and Nigeria, to fulfil its reporting obligations in accordance with Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).

24. The Commission reiterates its call on South Sudan to ratify the African Charter.

25. The status of submission of Periodic Reports to the Commission by Member States as at the 57th Ordinary Session stands as follows:

Status	State Party
Reports submitted to the Commission for consideration: 5	Algeria, Burkina Faso, Kenya, Namibia, Sierra Leone.
Up to date: 14	Algeria, Burkina Faso, Djibouti, Ethiopia, Kenya, Liberia, Mozambique, Namibia, Niger, Nigeria, Sahrawi Arab Democratic Republic, Senegal, Sierra Leone, Uganda.
1 Report overdue: 4	Côte d'Ivoire, Gabon, Malawi, The Sudan.
2 Reports overdue: 8	Angola, Botswana, Burundi, Cameroon, Democratic Republic of Congo, Libya, Rwanda, Togo.
3 Reports overdue: 5	Benin, Congo, Madagascar, Mauritius, Tanzania.
More than 3 Reports overdue: 16	Cape Verde, Central African Republic, Chad, Egypt, The Gambia, Ghana, Guinea, Kingdom of Lesotho, Mali, Mauritania, Seychelles, South Africa, Swaziland, Tunisia, Zambia, Zimbabwe.
Never submitted a Report: 6	Comoros, Eritrea, Guinea-Bissau, Equatorial Guinea, Sao Tomé and Príncipe, Somalia.

IV. RESOLUTIONS ADOPTED BY THE COMMISSION

26. The Commission adopted the following Resolutions during the reporting period:

	Resolution adopted
18th Extra-Ordinary Session	<ul style="list-style-type: none"> ✓ Resolution on the Extension of the Deadline for Presenting the Study on HIV, the Law and Human Rights ✓ Resolution on the Human Rights Situation in Burundi ✓ Resolution on Accessibility for Persons with Disabilities ✓ Resolution on the Development of Guidelines on Access to Information and Elections in Africa ✓ Resolution on the Expansion of the Mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa
57th Ordinary Session	<p>A. Resolutions on Special Mechanisms</p> <ul style="list-style-type: none"> ✓ Resolution on the Renewal of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa; ✓ Resolution on the Renewal of the Mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa; ✓ Resolution on the Renewal of the Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa; ✓ Resolution on the Renewal of the Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants;

	<ul style="list-style-type: none"> ✓ Resolution on the Appointment of the Special Rapporteur on the Rights of Women; ✓ Resolution on the Renewal of the Mandate of the Chairperson of the Committee for the Prevention of Torture in Africa; ✓ Resolution on the Appointment of the Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa and Renewal of the Mandate of its Members; ✓ Resolution on the Renewal of the Mandate of the Chairperson and Members of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa; ✓ Resolution on the Renewal of the Mandate and Appointment of New Members of the Working Group on Indigenous Populations/Communities in Africa; ✓ Resolution on the Extension of the Mandate of the Working Group on Specific Issues Related to the Work of the African Commission; ✓ Resolution on the Renewal of the Mandate of the Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities; ✓ Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa; ✓ Resolution on the Appointment of the Chairperson and renewal of the mandate of the Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV; ✓ Resolution on the Renewal of the Mandate and Reconstitution of the Advisory Committee on Budgetary and Staff Matters; ✓ Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Communications. <p>B. Country Resolutions</p> <ul style="list-style-type: none"> ✓ Resolution on the urgency for undertaking a fact-finding mission to Burundi. <p>C. Thematic Resolutions</p> <ul style="list-style-type: none"> ✓ Resolution on the Drafting of Guidelines on Freedom of Association and Assembly in Africa; ✓ Resolution on the Appointment of a New Commissioner for the Transitional Justice Study in Africa
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V. HUMAN RIGHTS COMPLAINTS BEFORE THE COMMISSION

a) Communications considered

27. One hundred and eighty-two (182) Communications are currently before the Commission. The following Communications were considered during the reporting period:

Session	Communication - Name, Phase
18 th Extra-ordinary Session	<p>I. Seizure</p> <p>a) Seized</p> <ul style="list-style-type: none"> ✓ Communication 516/15- Peter Odiwuor Ngoge & Everlyene Iburata Ekea v. Kenya ✓ Communication 524/15 - Peter Ngoge & 3 Others v. Kenya ✓ Communication 525/15 - Peter Odiwuor Ngoge and 105 Others v. Kenya ✓ Communication 527/15- Peter Ngoge & Julius Anyango v. Kenya ✓ Communication 535/15 - Peter Ngoge & Joseph Njau v. Kenya ✓ Communication 539/15 - Salah Deen Madaney Mahmud Salim & Others (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 540/15 - M. Ahemad Ali Ali Abbas, Dr Efat Mohamad Ali Elbheri & Hafsa Ahmad Ali (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 541/15 - Yasser Mohammed Mohammed Hassanein & Anor. (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 543/15 - represented by European Alliance for Human Rights (AED) & 3 Others v. Egypt ✓ Communication 544/15 - represented by European Alliance for Human Rights (AED) & 3 Others v. Egypt ✓ Communication 555/15 - M. Hesham Mostafa Amin Amer (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 556/15 - M. Mohamed Bakry Haroun (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 557/15 - M. Hossam Hosni Abd Ellatif Ali (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 558/15 - Samia Shanan & Tarek Shanan (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 559/15 - Yasser Ahmed Ahmed Aboeita (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 560/15 - Mahmoud Hassan Ramadan Abdel-Nabi v. Egypt ✓ Communication 561/15 - Ibrahim Ahmed Mahmoud Mohammed Yaman (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 562/15 - Mohammed Aly Abdel Raouf Aly (represented by European Entente for Human Rights) v. Egypt ✓ Communication 564/15 - Community Law Centre, University of

	<p>Western Cape & Alliance Africa v. Nigeria</p> <ul style="list-style-type: none"> ✓ Communication 565/15 - Papa Sèye & Famille Sèye [represented by Canadian Centre for International Justice (CCJI)] v. Mauritania ✓ Communication 566/15 - Chiggle née Joana Nini Ntune v. Cameroon ✓ Communication 567/15 - Dr. Bushra Gamar Hussein Rahma (represented by African Centre for Justice and Peace Studies) v. The Sudan ✓ Communication 568/15 - Mohammed Morsi & 121 Others v. Egypt ✓ Communication 569/15 - Digbeejaye Koonjul v. Mauritius <p>b) Provisional Measures Issued</p> <ul style="list-style-type: none"> ✓ Communication 558/15 - Samia Shanan & Tarek Shanan (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 559/15 - Yasser Ahmed Ahmed Aboeita (represented by European Alliance for Human Rights) v. Egypt <p>c) Deferred Communications on Seizure</p> <ul style="list-style-type: none"> ✓ Communication 545/15 - Abdel Meguid Mahmoud & Anor. (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 546/15 - Ali Mohammed & Anor. (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 547/15 - Rabee Mohamed Abdel Moneim Abdel-Wahab & 2 Others (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 548/15 - represented by European Alliance for Human Rights (AED)v. Egypt ✓ Communication 549/15 - Abdul Gameel Abdel Nabi Alhaas & 5 Others (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 550/15 - Mohammed Emad El-Din Mohamed Ali Deeb & 3 Others (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 551/15 - represented by European Alliance for Human Rights (AED)v. Egypt ✓ Communication 552/15 - European Alliance of Egyptians for Democracy and Human Rights v. Egypt ✓ Communication 553/15 - Osama Abdel Dayem Fouad Kamel & 3 Others (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 554/15 - European Alliance of Egyptians for Democracy and Human Rights v. Egypt <p>II. Admissibility</p> <p>a. Admissible</p> <ul style="list-style-type: none"> ✓ Communication 432/12- Peter Odiwuor Ngoge v. Kenya ✓ Communication 455/13-Abubaker Ahmed Mohamed & 28 Others
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	<p>(represented by X and Y) v. Ethiopia</p> <p>b. Inadmissible</p> <ul style="list-style-type: none"> ✓ Communication 398/11- Ligue Camerounaise de Droits de L'Homme v. Cameroon ✓ Com 400/11- ROADDH & Others v. Côte d'Ivoire ✓ Communication 429/12- The Ngambela of Barotseland & Others v. Zambia ✓ Com 445/13- Human Rights Council & Others v. Ethiopia ✓ Communication 446/13- Jennifer William & Others (represented by Zimbabwe Lawyers for Human Rights) v. Zimbabwe ✓ Communication 467/14 Ahmed Ismael & 528 Others v. Egypt ✓ Communication 477/14- Crawford Lindsay Von Abo v. Zimbabwe <p>c. Deferred</p> <ul style="list-style-type: none"> ✓ Communication 452/13-Ali Askouri & Abdel Hakeem Nasr (on behalf of Persons Affected by the Construction of the Merowe and Kajbar Dams) v. The Sudan <p>III. Merits</p> <ul style="list-style-type: none"> ✓ Communication 346/07: Mouvement du 17 Mai v. DRC ✓ Communication 416/12-Jean Marie Atangana Mebara v. Cameroon <p>IV. Oral Hearing</p> <ul style="list-style-type: none"> ✓ Communication 392/10 -Théogène Muhayeyezu v. Rwanda ✓ Communication 426/12 - Agnes Uwimana-Nkusi & Saidata Mukakibibi (represented by Media Legal Defence Initiative) v. Rwanda <p>V. Relisted Communications</p> <ul style="list-style-type: none"> ✓ Communication 390/10- Aboubakar Abba v. Cameroon ✓ Communication 444/13- Thomas Makusu v. Kingdom of Swaziland <p>VI. Communication for withdrawal</p> <ul style="list-style-type: none"> ✓ Communication 349/07-Simon Weldehaimanot v. Eritrea ✓ Communication 464/14-Uhuru Kenyata & William Ruto (represented by REDRESS) v. Kenya
<p>57th Ordinary Session</p>	<p>I. Seizure</p> <p>a. Seized</p> <ul style="list-style-type: none"> ✓ Communication 528/15- Ngoge v. Kenya ✓ Communication 570/15 - Peter Odiwuor Ngoge & Leah Waithira Njenga v. Kenya ✓ Communication 572/15 - Antonio Nevil Rome, Gino Gustave &

	<p>Jean Paul Snorden Francois v. Mauritius</p> <ul style="list-style-type: none"> ✓ Communication 573/15 – Blaise Jean Joseph Migolet v. Gabon ✓ Communication 575/15 – Dr Mohamed Ibrahim Al-Beltagy v. Egypt ✓ Communication 576/15 – Saad Esmat Mohamed Al Hossieny & 6 Others (represented by AED) v. Egypt ✓ Communication 577/15 – Hassan Ishag Ahmed (represented by African Centre for Justice and Peace Studies & Others) v. The Sudan ✓ Communication 578/15 – Dr Hossam Aboubakr Elseddik Eishahhat Abouelezz v. Egypt ✓ Communication 579/15 – Hamdi Mahmoud Mohammed Shenawy (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 580/15 – Amer Mosaad Abdou Abdel Hameed and Another (represented by European Alliance for Human Rights) v. Egypt ✓ Communication 581/15 – Abdalla Mahmoud Mohamed Hajazi and Others (represented by John Jones Q.C and Others) v. Libya ✓ Communication 582/15 –X (Represented by Lawyers for Justice in Libya and REDRESS) v. Libya ✓ Communication 584/15 – Israa Mahfouz Mohamed Al Taweel v. Egypt <p>b. Provisional Measures Issued</p> <ul style="list-style-type: none"> ✓ Communication 575/15 – Dr Mohamed Ibrahim Al-Beltagy v. Egypt ✓ Communication 576/15 – Saad Esmat Mohamed Al Hossieny & 6 autres (représentés par AED) v. Egypt ✓ Communication 578/15 – Dr Hossam Aboubakar Elseddik Eishahhat Abouelezz v. Egypt ✓ Communication 580/15- Amer Mosaad Abdou Abdel Hameed & Anor. (represented by EAHR) v. Egypt ✓ Communication 581/15 – Abdalla Mahmoud Mohamed Hajazi and Others (represented by John Jones Q.C and Others) v. Libya ✓ Communication 584/15 – Israa Mahfouz Mohamed Al Taweel v. Egypt <p>II. Merits</p> <ul style="list-style-type: none"> ✓ Communication 319/06 – INTERIGHTS & Ditshwanelo v. Botswana ✓ Communication 325/06 – OMCT and LIZADEEL v. DRC ✓ Communication 341/07- Equality Now v. Ethiopia <p>III. To be referred to the African Court</p> <ul style="list-style-type: none"> ✓ Communication 472/14- Family of Late Audace Vianney Habonarugira v. Burundi <p>IV. Struck Out for Lack of Diligent Prosecution</p> <ul style="list-style-type: none"> ✓ Communication 456/13 – Barrister/Dr Emmanuel Joseph Uko v.
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	<p>South Africa</p> <ul style="list-style-type: none"> ✓ Communication 427/12 - SERAP (on behalf of Daniel Nsofor & Osayinwinde Agbomien) v. Nigeria ✓ Communication 421/12- Mutassim Billah Gaddafi (represented by International Human Rights Commission) v. Libya ✓ Communication 447/13 - Naima Oun & Family (represented by International Human Rights Commission) v. Libya ✓ Communication 448/13 - Mohamed Milud Daou & Family (represented by International Human Rights Commission) v. Libya ✓ Communication 449/13 - Saadi Khadafi (represented by International Human Rights Commission) v. Libya
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28. In addition, during the inter-session period between the 18th Extraordinary Session and the 57th Ordinary Session, the Commission was seized of two (2) Communications: **Communication 571/15** - Khalid Askar & 7 Others (represented by AED and Others) v. Egypt and **Communication 574/15** - Ammar Mohammed Badee Abdel-Maigied Sami and Dr Mohammed Badee Abedel-Magied Sami (represented by AED) v. Egypt; for which the Commission issued Provisional Measures on 5 October 2015 and 27 October 2015 respectively.

29. From the table above,, it shows that during the period between May and November 2015:

- The Commission was seized of thirty nine (39) Communications and ten (10) were deferred pending receipt of additional information;
- Ten (10) Communications were considered and decided at admissibility level, two (2) were declared admissible, seven (7) inadmissible and one (1) deferred pending receipt of additional information;
- Five (5) Communications were considered and decided at merits level;
- Two (2) Communications were relisted;
- Two (2) Communications for Oral hearings;
- Two (2) Communications were withdrawn
- One (1) Communication to be referred to the African Court;
- Six (6) Communications were struck out for lack of diligent prosecution;
- The Commission provided guidance on eleven (11) Communications on which the Secretariat had sought guidance.

b) Implementation of the Commission's Decisions

30. The Commission would like to indicate that during the reporting period it did not receive any information regarding the implementation of its decisions in accordance with Rule 112 of its Rules of Procedure of 2010.

c) Provisional Measures

31. The Commission received a response from the Republic of Burundi to the Provisional Measures requested on Communication 472/14- Family of Late Audace Vianney Habonarugira v. Burundi (12 June 2015).

VI. LETTERS OF URGENT APPEAL

32. The Commission sent Letters of Urgent Appeal to the following State Parties, regarding human rights issues alleged to have occurred in their respective countries:

- **The Gambia** - a joint Letter of Urgent Appeal regarding the safety and security of Mr Alagie Abdoulie Ceesay, Director of the community radio station Taranga FM, following reports alleging that on 2 July 2015, Mr Ceesay was arrested by two men in plain-clothes (20 July 2015).
- **Congo** - a Letter of Urgent Appeal regarding allegations of the arrest and detention, by Interpol officers in Brazzaville on 25 May 2015, of Mr Jean Léonard Mbarusha, a Rwandan national and a refugee in the Republic of Congo since 11 July 1997 (23 July 2015).
- **Egypt** - a Letter of Urgent Appeal concerning the request not to execute the Death sentences issued against Mr Muhamed Khairat El Shater, former President Mohamed Morsi and their co-defendants sentenced to death in the criminal proceedings that have been going on before the domestic courts of the Arab Republic of Egypt (24 August 2015).
- **Kingdom of Lesotho** - a Letter of Urgent Appeal regarding the alleged arrest and prolonged detention of about twenty-two (22) members of the Defence Force of Lesotho for planning a mutiny (8 September 2015).
- **The Sudan** - a Letter of Urgent Appeal regarding the killing, by an armed group, of Mr Abdullah Abdelkader, a judge and member of The Sudan Human Rights Monitor on 24 August 2015, as he was visiting his native town of El Abbasiya Tagali, in Southern Kordofan (18 September 2015).
- **Burundi**- a Letter of Urgent Appeal regarding the alleged torture and ill-treatment of persons suspected to have participated in demonstrations in Bujumbura between April and June 2015, in relation to the July 2015 election (5 October 2015).
- **Chad** - a Letter of Urgent Appeal regarding the sentence and execution by firing squad, at the end of August, of ten people suspected to be members of the terrorist group Boko Haram (9 October 2015).

- **Kenya**- a Letter of Urgent Appeal regarding the alleged disappearance on 27 September 2015 of Mr Dabassa Guyo Safaro, a refugee of Ethiopian origin who lived in Mololongo (7 November 2015).
- **Burundi** - a Letter of Urgent Appeal regarding the killing on 6 November 2015 of Mr Welli Nzitonda, son of Mr Pierre Claver Mbonimpa, a human rights defender in Burundi (13 November 2015).
- **Angola** - a Letter of Urgent Appeal regarding the arrest and detention of the following human rights defenders and young activists in Luanda during a meeting to discuss human rights violations and governance in Angola: Henrique Luaty Beirão, Manuel Nito Alves, Nuno Alvaro Dala, Nelson Dibango Mendes Dos Santos, Alfonso Jojo Matias, Sedrick de Carvalho, Fernando António Tomás, Chiconda Hitler, Italiano Arante Kivuvu, Benedito Dali, Albano Bingobingo, José Gomes Hata, Inocénio De Brito, Domingos da Cruz, and Osvaldo Correia Caholo (16 November 2015).

33. The following countries responded to the Letter of Urgent Appeal sent:

- **South Africa** - In response to the Letter of Urgent Appeal of 17 April 2015 (contained in the 38th Activity Report), the President of South Africa reiterated his condemnation of xenophobic acts and reaffirmed his country's commitment to ensure the safety and dignity of all persons living in South Africa, in accordance with the Constitution. The President also indicated the measures taken to investigate the circumstances which led to the xenophobic attacks and the steps taken to ensure that the perpetrators are brought to justice (25 May 2015).
- **Kingdom of Lesotho** - In response to the Letter of Urgent Appeal, the Government indicated that the continuous detention of the arrested members of the Defence Force of Lesotho (DFL) is in line with the law and that the allegations of abduction of members of the DFL were dismissed by the court as unfounded; no petition was filed in court regarding torture, except for the habeas corpus petition which does not specifically deal with torture; as such, the information received by the Commission regarding the alleged torture of some DFL members was aimed at tarnishing the image of Lesotho given that the authors of the allegations had a political agenda (28 October 2015).
- **The Gambia**- In response to the Letter of Urgent Appeal, Officials of Gambian Government informed the Commission, during its meeting with the Vice-President of the Republic of the Gambia that this is an ongoing case before courts and that the executive does not interfere in the judiciary. Therefore, nothing more can be said about this case.

VII. Letters of Appreciation

34. The Commission sent Letters of Appreciation to the following State Parties:
- **Kingdom of Swaziland** - a Letter of Appreciation to commend the decision of the Supreme Court of the Kingdom of Lesotho for granting, on Tuesday, 30 June 2015, an appeal lodged by counsel, Mr Thulani Maseko, and the magazine editor-in-chief, Mr Bheki Makhubu, against their two-year prison sentence for two counts of contempt of court, and ordering their immediate release (1 July 2015).
 - **Ethiopia** - a Letter of Appreciation regarding the release of five members of Zone Nine, in particular two bloggers: Zelalem Kiberet and Mahlet Fantahun; and three journalists: Edom Kassaye, Tesfalem Weldeyes and Asmamaw Hailegiorgis (1 August 2015).
 - **The Gambia** - a Letter of Appreciation regarding the presidential pardon granted by H.E. the President to more than two hundred (200) prisoners on the occasion of the 21st anniversary of the Revolution celebrated on 22 July 2015 (6 August 2015).

VIII. PROMOTION MISSIONS AND ADVOCACY VISITS

35. As part of its promotion mandate under Article 45 of the African Charter, the Commission conducted, during the reporting period, four promotion missions: The Sudan (22 - 28 May 2015), Djibouti (25 - 31 May 2015), Cape Verde (15 - 23 July 2015), and Senegal (14 - 21 September 2015).

36. The Commission also conducted advocacy visits to promote the enactment of a law on access to information, in accordance with the Model Law on Access to Information (Model Law), in Malawi (18 - 21 May 2015), Kenya (25 - 28 August 2015), Senegal (28 - 30 September 2015), and to advocate for the effective implementation of the Freedom of Information Act of 2011 in Nigeria (10 - 16 October 2015).

37. For reasons beyond its control, the Commission was unable to undertake a promotion mission to the Islamic Republic of Mauritania despite the authorization it received for the mission to take place from 12 to 21 October 2015.

38. The Commission expresses its gratitude to The Sudan, Djibouti, Cape Verde, Senegal, Kenya, Malawi and Nigeria for authorizing and facilitating the conduct of the various missions and visits in their respective countries. The Commission further expresses its appreciation to Mauritania, Mozambique and Rwanda for responding favourably to the Commission's requests for promotion missions. It also expresses gratitude to Swaziland for publicly undertaking to ensure that the request for a promotion mission is authorized.

39. The Commission encourages State Parties to constantly authorize the Commission to undertake promotion missions in their respective countries, and urges in particular States that have received requests for promotion missions to grant such requests.

IX. ACTIVITIES OF COMMISSIONERS

40. The activities undertaken by Commissioners in their capacities as Members of the Commission, and as Members of Special Mechanisms, consist of their participation in the statutory meetings of the Commission, undertaking promotion missions, promoting the African Charter and other African human rights instruments through seminars, conferences and workshops, as well as through meetings and other activities organised by their respective mechanisms. Commissioners also participated in various activities which were organized and funded by other actors, including State Parties and NGOs.

41. In addition to Press Releases issued by the Commission and its Special Mechanisms with regard to promotion missions conducted and meetings organized, the Commission also issued eleven (11) Press Releases on various human rights issues during the reporting period as follows: Press Release on the Situation of Human Rights Defenders and Freedom of Expression and Assembly in Burundi (2 May 2015); Press Release on the execution of Mohammad Bakri Mohammad Haroun and five others in the Arab Republic of Egypt (21 May 2015); Statement on Human Rights Defenders in Africa (27 May 2015); Statement on World Refugee Day (20 June 2015); Statement on the International Day in Support of Victims of Torture (26 June 2015); Press Release on the attempted assassination of Mr Pierre-Claver Mbonimpa, human rights defender in Burundi (5 August 2015); The Press Release on the Human Rights situation in Burkina Faso (18 September 2015); Press Release on the protection of women's sexual and reproductive health and rights on the occasion of the adoption of the 2030 Agenda for Sustainable Development (24 September 2015); Statement on the Occasion of the 25th International Day Of Older Persons (1st October 2015); Press Release calling on State Parties to abolish the death penalty, in particular for drug-related crimes, on the occasion of the 13th World Day against the Death Penalty (10 October 2015); Statement on the Africa Human Rights Day (21 October 2015).

42. The Activity Reports of Commissioners detailing their inter-session activities are available on the website of the Commission: www.achpr.org.

43. Pursuant to Article 45(1)(c) of the African Charter, the Commission also continues to collaborate with the Special Procedures Mandate Holders of the United Nations Human Rights Council with a view to ensuring better promotion and protection of human rights on the continent. In this regard, a meeting was held on the Addis Ababa Roadmap between the two institutions, as well as a thematic

dialogue between the African, Inter-American and UN human rights systems, prior to the 57th Ordinary Session on 3 November 2015 in Banjul, The Gambia.

X. THE HUMAN RIGHTS SITUATION ON THE CONTINENT

44. This section is introduced pursuant to Executive Council Decision EX.CL/Dec.639 (XVIII) calling upon the Commission to brief the Policy Organs on the human rights situation on the continent.

a) Positive developments

- i) Ratification of human rights related instruments by State Parties: ratification of the UN Convention on the Rights of Persons with Disabilities by the Democratic Republic of Congo;
- ii) Adoption, by the Togolese Parliament, of a bill on the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- iii) The review and adoption of laws with a view to enhance the enjoyment of human rights, including: the adoption by Nigeria of the Administration of Criminal Justice Act (2015), and the Violence Against Person's Prohibition Act 2015; as well as the on-going review of the Citizenship Act, the Witchcraft Act and the Prisons Act by Malawi, the law on access to information in Burkina Faso, the law on non-discrimination on grounds of sexual orientation in South Africa, the anti-corruption law in Lesotho, and the law to protect human rights defenders in Côte d'Ivoire;
- iv) The development of national human rights action plans in a number of State Parties;
- v) The activities conducted in many countries as part of the African Union Campaign to End Child Marriage;
- vi) Increased success in combating terrorism in the Lake Chad region through the efforts of the Multinational Joint Task Force, which has considerably degraded and diminished the capabilities of the terrorist group;
- vii) Measures taken by Mauritania to put an end to the practice of slavery, in particular the enactment of a law criminalising slavery, and the establishment of an agency to combat slavery;
- viii) The pardon granted by H.E. the President of Egypt to one hundred (100) imprisoned youths, presidential pardon granted by H.E. the President of The Gambia of more than two hundred (200) prisoners on the occasion of the 21st anniversary of the Revolution and the commutation of the death sentences of over 300 people to life imprisonment in Zambia;
- ix) Establishment of mechanisms to address human rights matters: establishment of a National Human Rights Commission and an Economic and Social Council in the DRC;

- x) Successful general or presidential elections in Ethiopia, Tanzania, Côte d'Ivoire, Egypt and Guinea;
- xi) Adoption of concrete measures to prevent and combat acts of xenophobia in South Africa;
- xii) Efforts made by Liberia, Guinea and Sierra Leone to fight against the Ebola virus;
- xiii) The operationalization of the Extraordinary African Chambers in the Senegal court system and the prosecution of Hissène Habré, the former President of Chad;
- xiv) Increasing engagement by State Parties with civil society organizations in the promotion and protection of human rights, including in the drafting of State reports to the Commission, Universal Periodic Reports.

b) Areas of concern

- i) The low number of ratification of important regional human rights instruments, and South Sudan's continuing non-ratification of the African Charter;
- ii) The low number of African countries that have adopted comprehensive Access to Information laws;
- iii) The incessant killings, terrorist attacks, displacements and other human rights violations committed against civilian populations by the Boko Haram terrorist group in the Lake Chad region straddling Nigeria, Cameroon, Chad and Niger;
- iv) The continuing situations of conflicts and acts of armed groups endangering the lives of civilians in a number of countries, including in DRC, CAR and in the Southern Kordofan and Blue Nile States of The Sudan;
- v) The deteriorating security and human rights situation, cases of arbitrary arrest and detention, abduction and killing of human rights defenders and political opponents, in particular in Burundi, DRC and Congo;
- vi) The increasing number of electoral violence in particular violation of the right to freedom of expression and assembly, cases of torture and arbitrary arrest and detention, extrajudicial killings, as well as trends of brutality and excessive use of force by law enforcement officers during demonstrations, particularly in Burundi, Congo and DRC;
- vii) The use of torture and ill-treatment by law-enforcement and security forces and, sometimes by armed militia groups or private actors remains widespread in Africa;
- viii) The human rights violations in Burkina Faso following the coup d'état carried out by some members of the former presidential security regiment on 16 September 2015;
- ix) The twin, but opposite problems of desertification and flooding, which adversely impact the rights of affected populations to life, dignity, property, and to engage in economic activities;

- x) The failure by many States to make the necessary linkages between HIV and human rights, and the consequent absence of human rights-centred HIV responses and lack of protective legal environments for people living with HIV in most State Parties;
- xi) The high level of new HIV infections among adolescent girls and young women, lack of screening programmes, lack of centres for the prevention of mother-to-child transmission, and lack of ARVs in some African countries;
- xii) The persistently high maternal and infant mortality rates, lack of equipment suited to the needs of premature children, lack of a free health care policy for pregnant women and children under five years in some African countries;
- xiii) The continuing root causes of migration, such as unemployment among the youth, poverty in households and poor governance, which result in the death of thousands of migrants, in particular the tragedies that have occurred in the Mediterranean Sea;
- xiv) The increasing number of refugees and internally displaced persons as a result of political instability acts of terrorism and conflict in some African countries;
- xv) The continuous practice of slavery on the African continent;
- xvi) The precarious living conditions of Sahrawi refugees worsened by the recent floods in the Sahrawi refugee camps in Algeria which caused significant material damage;
- xvii) Overcrowding, poor conditions of detention, and inadequate prison and community-based rehabilitation as well as poor health services;
- xviii) The enactment of restrictive counter-terrorism laws with some provisions that restrict the work of civil society;
- xix) The increasing restrictions of freedom of expression, the limitations access to information and the harassment of journalists and human rights defenders;
- xx) The ineffectiveness of the special criminal court in CAR due to the lack of human and material resources;
- xxi) The human rights situation in Libya;
- xxii) The continuous practice of female genital mutilation, in particular in Cameroon, DRC, Guinea Conakry, Liberia, Mali, Mauritania and Sierra Leone despite efforts to curb the practice;
- xxiii) The increased poverty amongst indigenous populations/Communities and inadequate mechanisms to address the social and economic disparity and the double marginalization and discrimination of indigenous children, youth and women;
- xxiv) The lack of attention by States to areas of concern already identified in previous Activity Reports of the Commission: torture; conditions of prisons and other places of detention; use of death sentences and extra-judicial killings; gender discrimination; forced marriages and other harmful traditional practices;

- xxv) The failure to report, by Parties to Communications, in particular Respondent States, on the implementation of the Commission's decisions on Communications.

XI. ADMINISTRATIVE AND FINANCIAL SITUATION

a) Communication

45. Progress has been made in communication with AUC. The Commission received technical assistance in the areas of IT, Travel and Procurement.

b) Construction of the Commission's Headquarters

46. A meeting was held on the margin of the 57th Ordinary Session with the Vice President of the Republic of the Gambia to discuss the Construction of the Commission's Headquarters. The Commission was informed that the Government of The Gambia has set up an Inter-Ministerial Committee to deal with the matter and the costing of the building is being evaluated at the level of the Government of The Gambia.

c) Funding

47. The funding status remains the same as reported in July.

d) Staffing

48. The recruitment process has been initiated. The Commission expresses its appreciation to the AUC for the efforts made to recruit personnel at the Secretariat of the Commission, in particular through the publication of the positions of Deputy Secretary, Legal Officers, Translator/Interpreter, Administrative Assistant and Assistant Documentation Officer. As indicated in previous reports, the Commission still experiences a shortage of staff, in particular Revisers and Interpreters, given the high cost of relying on professional freelancers, as well as Arabic-speaking and Portuguese-speaking Legal Officers, given the increasing number of complaints submitted in these languages whereas the Secretariat lacks Legal Officers with mastery of these languages.

XII. IMPLEMENTATION OF DECISIONS

a) Withdrawal of the observer status granted to the NGO called Coalition of African Lesbians (CAL)

49. Executive Council Decision Ex.CL/921(XXVII) requested the Commission to withdraw the observer status granted to CAL and to review its criteria for granting observer status.

50. In response, following extensive deliberations, the Commission decided to undertake a detailed legal analysis on this matter, including considering issues relating to the Commission's relationships with its various stakeholders, the notion of African values, the legal basis for the grant of Observer Status by the Commission, and the implications of withdrawing or retaining the observer status of NGOs.

51. In that regard, it was also made known to the Commission that the request to withdraw the registration of CAL is now the subject matter of a request for an Advisory Opinion before the African Court on Human and Peoples' Rights.

b) Fact-finding Mission to Burundi

52. The Peace and Security Council of the African Union (AU), meeting at its 551st Meeting held on 17 October 2015 on the situation in Burundi, requested the Commission to urgently undertake an in-depth investigation into the violation of human rights in Burundi and present a report within 45 days (*IV, PSC/PR/COMM. (DLI)*).

53. In response, the Commission decided to undertake a fact-finding mission to the Republic of Burundi from 7 to 13 December 2015. As such, the Commission sent a Note Verbale to the Government of Burundi requesting for an authorization to undertake the mission. The Commission also communicated the composition of the delegation and the terms of reference of the mission.

54. The Commission sent a letter to the Peace and Security Council requesting for an extension of the deadline for submitting the report, given that the initial deadline cannot be met as a result of the holding of the 57th Ordinary Session.

XIII. DATES AND VENUE OF THE 58TH ORDINARY SESSION OF THE COMMISSION

55. The 58th Ordinary Session of the Commission will take place from 6 to 20 April 2016 at a venue to be decided.

56. The Commission expresses its appreciation to the Republic of The Gambia for hosting the 57th Ordinary Session, to State Parties that have already hosted Sessions of the Commission, and to the Republic of Niger for offering to host one of the future Ordinary Sessions of the Commission. The Commission also seizes this opportunity to urge States Parties that have never hosted Ordinary Sessions of the Commission to consider doing so.

XIV. RECOMMENDATIONS

57. Having regard to the foregoing, the Commission recommends as follows:

To State Parties:

- i) Implement the decisions of the Commission on Communications and report on the measures taken, respond to Letters of Urgent Appeal from the Commission, take concrete action to address the areas of concern which are highlighted in the Commission's Activity Reports and Resolutions, in compliance with Executive Council Decision EX.CL/887(XXVI)1 and Executive Council Decision EX.CL/856(XXV);
- ii) Sign, ratify, domesticate and implement all regional and international human rights instruments, and make the declaration under Article 34(6) of the Court's Protocol;
- iii) Expedite the process of enactment of Access to Information Laws, in accordance with regional and international standards on access to information as embodied in the Model Law on Access to Information for Africa;
- iv) Repeal of criminal defamation and other laws limiting freedom of expression, in line with the African Court' decision on Application No. 004/2013- Lohé Issa Konaté v. Burkina Faso;
- v) Adopt laws and policies to protect young girls and prohibit child marriage, early marriage and forced marriage;
- vi) adopt legislations and policies which effectively protect the rights of PLHIV vulnerable persons and those at risk and enhance their access to appropriate HIV care, treatment and support;
- vii) Take the necessary measures to reduce the maternal and infant mortality rates;
- viii) Adopt an anti-torture legislation and ensure that the definition of torture in the very minimum conforms to that provided under the Convention Against Torture and also ensure that the definition includes acts perpetrated by private entities;
- ix) Authorize promotion missions to their respective countries, by giving a permanent/open authorisation;
- x) Ensure allocation of adequate resources to NHRIs for the promotion and protection of the rights enshrined in the African Charter, and create these National Institutions where they do not exist;
- xi) Take the necessary measures to strengthen regional and international cooperation towards putting an end to terrorism in Africa;
- xii) Take the necessary measures to put an end to all harassment, arbitrary arrest, ill-treatment and criminal charges against journalists and human rights defenders for exercising their activities;
- xiii) Ensure respect for international human rights law, international humanitarian law and international refugee law in efforts to combat terrorism;
- xiv) Submit on time observations on Communications before the Commission and inform the Commission of measures taken or to be taken to implement the decisions of the Commission in their respective Communications;

- xv) Be more involved in preventing the forced displacement of populations within and outside their borders;
- xvi) Adopt policies and laws to protect and promote the rights of indigenous populations and communities from marginalization, discrimination and poverty;
- xvii) Take action to address in their respective countries, the areas of concern that are highlighted in the Activity Reports of the Commission;
- xviii) Present their Periodic Reports in compliance with Article 62 of the African Charter, Article 26 of the Maputo Protocol, the Commission's Guidelines for National Periodic Reports, the State Party Reporting Guidelines for Economic, Social and Cultural Rights (the Tunis Guidelines), and the Guidelines for State Reporting under the Maputo Protocol;
- xix) Work with the Commission in organising human rights promotion and protection activities in their respective countries as part of celebrations for 2016 declared African Year of Human Rights with Particular Focus on the Rights of Women activities;
- xx) Consider hosting one of the Sessions of the Commission, in compliance with Executive Council Decision EX.CL/856(XXV).

To the Republic of South Sudan:

- i) Ratify the African Charter and the Protocols to the African Charter, in addition to other regional and international human rights instruments.

To the AUC:

- i) Address the operational challenges confronting the Commission and its Secretariat;
- ii) Expedite recruitment for the advertised positions of Deputy Secretary, Legal Officers, Translator/Interpreter, Administrative Assistant and Assistant Documentation Officer, as well as the remaining positions.

To the Assembly of Heads of State and Government:

- i) Urge State Parties to honour their obligations under the African Charter;
- ii) Encourage State Parties to comply with the decisions of the Commission;
- iii) Encourage States to ratify and implement the various human rights conventions;
- iv) Take note of the Provisional Measures issued by the Commission and the response, or lack thereof, from the concerned State Parties;
- v) Address, in an expeditious manner, the issue of migrants, refugees and internally displaced persons, by dealing with the root causes of this population movement with tragic consequences.

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