

AFRICAN UNION

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EXECUTIVE COUNCIL

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**REPORT ON THE ACTIVITIES OF THE AFRICAN COURT
ON HUMAN AND PEOPLES; RIGHTS
(AfCHPR)**

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UNION AFRICAINE
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AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

**2016 ACTIVITY REPORT OF THE AFRICAN COURT
ON HUMAN AND PEOPLES' RIGHTS**

1 JANUARY – 31 DECEMBER 2016

**2016 ACTIVITY REPORT OF THE AFRICAN COURT
ON HUMAN AND PEOPLES' RIGHTS
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I. INTRODUCTION

1. The African Court on Human and Peoples' Rights (the Court) was established by virtue of Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as the Protocol), adopted on 9 June 1998, in Ouagadougou, Burkina Faso, by the then Organization of African Unity (OAU). The Protocol entered into force on 25 January 2004.

2. The Court, which became operational in 2006, is composed of eleven Judges and has its seat in Arusha, the United Republic of Tanzania.

3. Article 31 of the Protocol provides that “[t]he Court shall submit to each regular session of the Assembly, a report on its work. The report shall specify, in particular, the cases in which a State has not complied with the Court’s judgment”.

4. This Report is the 2016 Activity Report of the Court, submitted in the spirit of the above-cited article. The Report describes the activities undertaken by the Court during the period 1 January to 31 December 2016, in particular, the judicial, administrative and outreach activities undertaken by the Court, as well as the implementation of decisions of the Executive Council, relating to the functioning of the Court.

***Status of ratification of the Protocol and the deposit of the Article 34(6)
Declaration, accepting the competence of the Court to receive cases from
individuals and NGOs***

5. As at 31 December, 2016, the Protocol had been ratified by thirty (30) Member States of the African Union, namely: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Chad, Congo, Côte d'Ivoire, Comoros, Gabon, the Gambia, Ghana, Kenya, Libya, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Uganda, Rwanda, Sahrawi Arab Democratic Republic, Senegal, South Africa, Tanzania, Togo, and Tunisia. **See Table 1.**

6. During the period under review, the Republic of Chad acceded to the Protocol on 27 January, 2016, and deposited the instrument of ratification with the African Union Commission (AUC) on 8 February, 2016.

| Table 1: List of countries that have ratified/acceded to the Protocol | | | | |
|--|----------------------------------|--------------------------|--|------------------------|
| No. | Country | Date of Signature | Date of Ratification or Accession | Date of deposit |
| 1. | Algeria | 13/07/1999 | 22/04/2003 | 03/06/2003 |
| 2. | Benin | 09/06/1998 | 22/08/2014 | 22/08/2014 |
| 3. | Burkina Faso | 09/06/1998 | 31/12/1998 | 23/02/1999 |
| 4. | Burundi | 09/06/1998 | 02/04/2003 | 12/05/2003 |
| 5. | Cameroon | 25/07/2006 | 17/08/2015 | 17/08/2015 |
| 6. | Chad | 06/12/2004 | 27/01/2016 | 08/02/2016 |
| 7. | Congo | 09/06/1998 | 10/08/2010 | 06/10/2010 |
| 8. | Cote d'Ivoire | 09/06/1998 | 07/01/2003 | 21/03/2003 |
| 9. | Comoros | 09/06/1998 | 23/12/2003 | 26/12/2003 |
| 10. | Gabon | 09/06/1998 | 14/08/2000 | 29/06/2004 |
| 11. | The Gambia | 09/06/1998 | 30/06/1999 | 15/10/1999 |
| 12. | Ghana | 09/06/1998 | 25/08/2004 | 16/08/2005 |
| 13. | Kenya | 07/07/2003 | 04/02/2004 | 18/02/2005 |
| 14. | Libya | 09/06/1998 | 19/11/2003 | 08/12/2003 |
| 15. | Lesotho | 29/10/1999 | 28/10/2003 | 23/12/2003 |
| 16. | Malawi | 09/06/1998 | 09/09/2008 | 09/10/2008 |
| 17. | Mali | 09/06/1998 | 10/05/2000 | 20/06/2000 |
| 18. | Mauritania | 22/03/1999 | 19/05/2005 | 14/12/2005 |
| 19. | Mauritius | 09/06/1998 | 03/03/2003 | 24/03/2003 |
| 20. | Mozambique | 23/05/2003 | 17/07/2004 | 20/07/2004 |
| 21. | Niger | 09/06/1998 | 17/05/2004 | 26/06/2004 |
| 22. | Nigeria | 09/06/2004 | 20/05/2004 | 09/06/2004 |
| 23. | Rwanda | 09/06/1998 | 05/05/2003 | 06/05/2003 |
| 24. | Sahrawi Arab Democratic Republic | 25/07/2010 | 27/11/2013 | 27/01/2014 |
| 25. | Senegal | 09/06/1998 | 29/09/1998 | 30/10/1998 |
| 26. | South Africa | 09/06/1999 | 03/07/2002 | 03/07/2002 |
| 27. | Tanzania | 09/06/1998 | 07/02/2006 | 10/02/2006 |
| 28. | Togo | 09/06/1998 | 23/06/2003 | 06/07/2003 |
| 29. | Tunisia | 09/06/1998 | 21/08/2007 | 05/10/2007 |
| 30. | Uganda | 01/02/2001 | 16/02/2001 | 06/06/2001 |

of Countries – 54,

of Signature – 52,

of Ratification – 30,

of Deposit - 30

Source: African Union Website.

7. Of the 30 State Parties to the Protocol, only eight (8), namely: Benin, Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, Rwanda and Tanzania, have deposited the declaration accepting the competence of the Court to receive cases from individuals and non-governmental organizations (NGOs). During the period under review, the Republic

of Benin deposited the declaration on 8 February 2016. However, the Republic of Rwanda which deposited the declaration on 6 February 2013, submitted a notice, on 29 February 2016, to withdraw the said declaration. **See Table 2 below for State Parties that have deposited the Article 34 (6) declaration.**

| No. | Country | Date of Signature | Date of deposit |
|------------|---------------------|--------------------------|------------------------|
| | Benin | 22/05/2014 | 08/02/2016 |
| | Burkina Faso | 14/07/1998 | 28/07/1998 |
| | Côte d'Ivoire | 19/06/2013 | 23/07/2013 |
| | Ghana | 09/02/2011 | 10/03/2011 |
| | Malawi | 09/09/2008 | 09/10/2008 |
| | Mali | 05/02/2010 | 19/02/2010 |
| | Rwanda ¹ | 22/01/2013 | 06/02/2013 |
| | Tanzania | 09/03/2010 | 29/03/2010 |

Source: African Union Website

Total # Eight (8)

8. The current composition of the Court is attached to this Report as **Annex I**.

II. Activities undertaken by the Court

9. During the period under review, the Court undertook a number of judicial as well as non-judicial activities.

i) Judicial Activities

10. The judicial activities undertaken by the Court relate to the receipt and examination of judicial matters, through *inter alia*, case management, organisation of public hearings and delivery of judgments, rulings and orders.

11. From 1 January to 31 December, 2016, the Court registered fifty-nine (59) applications and two (2) Requests for advisory opinion. The number of applications registered by the Court since its establishment is one-hundred and twenty-four (124), while the number of requests for advisory opinion has increased to twelve (12).

12. During the period under consideration, the Court issued seventeen (17) Orders for Provisional Measures with respect to the following cases:

a) Application 001/2015 - Armand Guéhi v. The United Republic of Tanzania;

¹On 3 March, 2016, the Court received a notification from the AUC to the effect that the Republic of Rwanda has deposited with the AUC, a letter withdrawing from the Article 34(6) declaration it deposited in February 2013.

- b) Application 007/2015 - Ally Rajabu and 4 others v. The United Republic of Tanzania;
- c) Application 003/2016 - John Lazaro v. The United Republic of Tanzania;
- d) Application 004/2016 - Evodius Rutachura v. The United Republic of Tanzania;
- e) Application 015/2016 - Habiyalimana Augustino and Mburo Abdulkarim v. the United Republic of Tanzania;
- f) Application 017/2016 - Deogratius Nicholaus Jeshi v. The United Republic of Tanzania;
- g) Application 018/2016 - Cosma Faustin v. the United Republic of Tanzania;
- h) Application 021/2016 - Joseph Mukwano v. the United Republic of Tanzania;
- i) Application 024/2016 - Amini Juma v. the United Republic of Tanzania;
- j) Application 048/2016 - Dominick Damian v. the United Republic of Tanzania;
- k) Application 049/2016 - Chrizant John v. the United Republic of Tanzania;-
- l) Application 050/2016 - Crospery Gabriel & Ernest Mutakyawa v. the United Republic of Tanzania;
- m) Application 051/2016 - Nzigiymana Zabron v. the united Republic of Tanzania;
- n) Application 052/2016 - Marthine Christian Msuguri V. United Republic of Tanzania;
- o) Application 053/2016 – Oscar Josiah v. United Republic of Tanzania;
- p) Application 056/2016 – Gozbert Henerico v. United Republic of Tanzania;
and
- q) Application 057/2016 – Mulokozi Anatory v. United Republic of Tanzania.

13. The number of cases disposed of as at December 2016 now stands at thirty-four (34), **including** 4 cases transferred to the African Commission on Human and Peoples' Rights, in accordance with Article 6(3) of the Protocol, while ninety (90) cases are pending before the Court. In addition, over ten (10) cases were received but not registered because they were filed either against non-state actors or non-African States.

a) Sessions held

14. During the reporting period, the Court held four (4) Ordinary Sessions and one (1) Extraordinary Session, as follows:

- i) 40th Ordinary Session, from 29 February to 18 March, 2016, in Arusha, Tanzania;
- ii) 41st Ordinary Session, from 16 May to 3 June, 2016, in Arusha, Tanzania;
- iii) 42nd Ordinary Session, from 5 to 16 September, 2016, in Arusha, Tanzania;
- iv) 43rd Ordinary Session, from 31 October to 18 November, in Arusha, 2016;
- v) 7th Extraordinary Session, from 28 November to 2 December, in Arusha 2016.

b) Case Management

15. During the period under review, the Court delivered six (6) judgments, issued twenty-four (24) Orders,² examined and case managed ninety (90) Applications and four (4) Requests for Advisory Opinion, for further consideration.

16. Table 3 below shows the number of Judgments, Rulings and Orders issued by the Court during this period.

| Table 3 – Number of Judgments, Rulings and Orders issued | | | | |
|--|-----------------|--|-----------------------------|---|
| No. | Application No. | Applicant | Respondent | Remarks |
| 1. | 006/2013 | Wilfred Onyango & Others | United Republic of Tanzania | Judgment on the merits delivered on 18 March 2016 |
| 2. | 001/2012 | Frank David Omary & Others | United Republic of Tanzania | Judgment on Review delivered on 3 June 2016. |
| 3. | 002/2013 | African Commission on Human and Peoples' Rights v. Libya | Libya | Judgment in Default delivered on 3 June 2016. |

² The time set by the Court for the Respondent State to report on implementation with respect to 8 Orders for provisional measures had not lapsed as at the time of submitting the present Report.

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|-----|----------|--|---|---|
| 4. | 004/2013 | Lohé Issa Konaté v. Burkina Faso | Burkina Faso | Judgment on Reparations delivered on 3 June 2016. |
| 5. | 007/2013 | Mohamed Abubakari | United Republic of Tanzania | Judgment on the Merits delivered on 3 June 2016. |
| 6. | 001/2014 | <i>Actions pour la Protection des Droits de l'Homme</i> (APDH) | Republic of Côte d'Ivoire | Judgment on the Merits delivered on 18 November 2016 |
| 7. | 003/2014 | Ingabire Victoire Umuhoza | Republic of Rwanda | i) Order on Filing Matters on Procedure issued on 18 March 2016 ii) Ruling on Withdrawal of Declaration delivered on 3 June 2016 iii) Order on Procedure issued on 3 June 2016. |
| 8. | 001/2015 | Armand Guehi | United Republic of Tanzania | Order for Provisional Measures issued on 18 March 2016 |
| 9. | 002/2015 | <i>Collectif Des Anciens Travailleurs du Laboratoire (ALS)</i> | Republic of Mali | Order to strike out Application issued on 5 September 2016. |
| 10. | 007/2015 | Ally Rajabu and Others | United Republic of Tanzania | Order for Provisional Measures issued on 18 March 2016 |
| 11. | 016/2015 | Kayumba Nyamwasa and Others | Republic of Rwanda | Order on Continuance of Proceedings issued on 3 June 2016 |
| 12. | 017/2015 | Kennedy Gihana and Others | Republic of Rwanda | Order on Continuance of Proceedings issued on 3 June 2016 |
| 13. | 019/2015 | Femi Falana | African Commission on Human and Peoples' Rights | Order to strike out Application issued on 18 March, 2016. |
| 14. | 022/2015 | Rutabingwa Chrysanthe | Republic of Rwanda | Order on Continuance of Proceedings issued on 3 June 2016 |
| 15. | 023/2015 | Laurent Munyandikirwa | Republic of Rwanda | Order on Continuance of Proceedings issued on 3 June 2016 |
| 16. | 003/2016 | John Lazaro | United Republic of Tanzania | Order for Provisional Measures issued on 18 March 2016 |
| 17. | 004/2016 | Evodius Rutachura | United Republic of Tanzania | Order for Provisional Measures issued on 18 March 2016 |
| 18. | 015/2016 | Habiyalimana Augustono and Another | United Republic of Tanzania | Order for Provisional Measures issued on 3 June 2016 |
| 19. | 017/2016 | Deogratus Nicolaus Jeshi | United Republic of Tanzania | Order for Provisional Measures issued on 3 June 2016 |
| 20. | 018/2016 | Cosma Faustine | United Republic of Tanzania | Order for Provisional Measures issued on 3 June 2016 |

| | | | | |
|-----|----------|----------------|-----------------------------|--|
| 21. | 021/2016 | Joseph Mukwano | United Republic of Tanzania | Order for Provisional Measures issued on 3 June 2016 |
| 22. | 024/2016 | Amini Juma | United Republic of Tanzania | Order for Provisional Measures issued on 3 June 2016 |

17. All the decisions taken on the above matters have been communicated to the Parties, the AUC, as well as to all Member States, in accordance with Article 29 of the Protocol.

18. The Court is processing pending matters before it in accordance with the relevant provisions of the Protocol and the Rules of Court.

c) Public Sitings

19. From 1 January to 31 December 2016, the Court organised three (3) public sittings, to hear oral arguments from parties, as well as deliver judgments and rulings.

20. Table 4 below indicates the public sittings organised during the period under consideration.

| Table 4 – Public sittings organised from 1 January to 31 December, 2016 | | | | | |
|--|-------------------------------|-------------------------------------|--|--|-----------------------------|
| No. | Date of Public sitting | Purpose of public sitting | Application No. | Applicant | Respondent |
| 1. | 4 March 2016 | Receive oral arguments | 003/2014 | Victoire Ingabire Umohoza | Republic of Rwanda |
| 2. | 18 March 2016 | Delivery of judgment | 006/2013 | Wilfred Onyango Nganyi & Others | United Republic of Tanzania |
| 3. | 3 June 2016 | Delivery of Judgment | 001/2012 (Application for Review) | Frank David Omary & Others | United Republic of Tanzania |
| 4. | 3 June 2016 | Delivery of Judgment in default | 002/2013 | African Commission on Human and Peoples' Rights v. Libya | Libya |
| 5. | 3 June 2016 | Delivery of Judgment on Reparations | 004/2013 (Application for Reparations) | Lohé Issa Konaté v. Burkina Faso | Burkina Faso |
| 6. | 3 June 2016 | Delivery of | 007/2013 | Mohamed | United Republic of |

| | | | | | |
|----|------------------|---|----------|---------------------------|------------------------------------|
| | | Judgment | | Abubakari | Tanzania |
| 7. | 3 June 2016 | Delivery of Ruling on Withdrawal of Declaration | 003/2014 | Ingabire Victoire Umuhiza | Republic of Rwanda |
| 8. | 18 November 2016 | Delivery of Judgment | 001/2014 | APDH | <i>République de Côte d'Ivoire</i> |
| | | | | | |

d) Status of implementation of the Judgments of the Court

21. Under Article 31 of the Protocol, in submitting its activity report to the Assembly, the Court "...shall specify, in particular, the cases in which a State has not complied with the Court's judgment". The table below illustrates the extent of implementation of the Court's judgments, orders and rulings:

i) Implementation of decisions on the merits and orders for reparations

| No | App. No. | Applicant | Respondent | Date of Judgment/ Order | Order of the Court | Remarks and status of implementation |
|----|------------------|---|------------|--|--|--|
| 1. | 009 and 011/2011 | Tanganyika Law Society and Legal and Human Rights Centre and Reverend Christopher Mtikila | Tanzania | 14/6/2013 (Judgment on Merits) & 13/6/2014 (Ruling on Reparations) | (i) Take constitutional, legislative and other measures within a reasonable time to remedy the violations found by the Court and to inform the Court of the measures taken. (ii) Publish the official English summary, of the judgment of 14 June 2013, developed by the Registry of the Court, which must be translated into Kiswahili at the expense of the Respondent State and published in both languages, once in the official Gazette and once in a national newspaper with widespread circulation; (iii) Publish the judgment of 14 June 2013 in its entirety, | On 18 January 2016, Tanzania published the judgment of 14 June 2013 on an official government website. On 14 April 2016, the Court sent to the Government, a Revised Summary of the Judgment for purposes of publication in the Official Gazette and a newspaper with wide circulation. The government has not reported on the measures taken to publish the Revised Summary of the judgment. The government has |

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| | | | | | in English, on an official website of the Respondent State, and remain available for a period of one (1) year. (iv) Submit to the Court, within nine (9) months a report of measures taken to implement the orders. | also not taken the constitutional, legislative and other measures to remedy the violations found, as ordered by the Court. |
| 2. | 013/2011 | Norbert Zongo & Others | Burkina Faso | 5/6/2015 | <p>(i) Orders the Respondent State, to pay twenty-five (25) million CFAF to each spouse; fifteen (15) million CFA F to each son and daughter; and ten (10) million CFAF to each father and mother concerned;</p> <p>(ii) orders the Respondent State in addition to pay a token sum of one (1) CFAF to the MBDHP;</p> <p>(iii) Orders the Respondent State to pay the Applicants the sum of forty (40) million CFAF being the fees owed to their Counsel;</p> <p>(iv) Orders the Respondent State to reimburse the Applicants the out-of-pocket expenses incurred by their Counsel during their stay at the Seat of the Court in Arusha in March and November 2013, in the amount of three million one hundred and thirty-five thousand, four hundred and five CFAF and eighty cents (3,135,405.80);</p> <p>(v) Orders the Respondent State to pay all the amounts mentioned above within six months (from date of judgment), failing which interest will accrue for delayed payment, calculated at the rate applicable at the Central Bank of West African</p> | <p>The Counsel for the Applicants, by email of 26 May, 2016, informed the Court that Burkina Faso has:</p> <p>(i) paid the Applicants the sum of 233,135,409 (two hundred and thirty three million one hundred and thirty five thousand four hundred and nine) CFA francs, representing the amounts owed to the beneficiaries of Norbert ZONGO and his three companions;</p> <p>(ii) On 30 March 2015, the Prosecutor General of Faso filed a motion with the Examining Magistrate seeking to reopen proceedings in the Norbert ZONGO case;</p> <p>(iii) on 8 April 2015, an Order to re-open investigations was issued by the Examining Magistrate of the Ouagadougou High Court and in December 2015, three soldiers belonging to the former Presidential Security Regiment (RSP), namely Christophe KOMBACERE</p> |

| | | | | | | |
|----|----------|-------------|----------|------------|--|--|
| | | | | | <p>States (BCEAO), for the entire duration of the delay until full payment of the amounts owed;</p> <p><i>(vi) Orders</i> the Respondent State to publish within six (6) months of the date of the Judgment: (a) the summary of the Judgment in French drafted by the Registry of the Court, once in the Official Gazette of Burkina Faso and once in a widely read national Daily; (b) the same summary on the website of the Respondent State and retain the publication on the said website for one year;</p> <p><i>(vii) Orders</i> the Respondent State to reopen investigations with a view to apprehend, prosecute and bring to justice the perpetrators of the assassination of Norbert Zongo and his three companions; and</p> <p><i>(viii) Orders</i> the Respondent State to submit to it within six months, effective from date of judgment, a report on the status of compliance with all the Orders contained in the Judgment.</p> | <p>(Soldier), Corporal Wamasba NACOULMA and Sergeant Banagoulo YARO were indicted by the Prosecutor for the murder of Norbert ZONGO and his companions.</p> <p>The State has however, not reported on the publication of the summary of the judgment in the Official Gazette, a national daily with a wide readership and on the official website of the Country within a period of 6 months as ordered in the Judgment.</p> |
| 3. | 005/2013 | Alex Thomas | Tanzania | 20/11/2015 | <p>Take all necessary measures, within a reasonable time to remedy the violation found, specifically, precluding the reopening of the defence case and the retrial of the Applicant, and to inform the Court, within six (6) months from the date of the judgment, of measures</p> | <p>There has been no report from the Respondent State.</p> |

| | | | | | | |
|--|----------|-------------------------------------|----------|-------------------------|--|--|
| | | | | | taken. | |
| 4. | 006/2013 | Wilfred Onyango Nganyi and 9 Others | Tanzania | 18/3/2016 | <p>The Respondent to provide legal aid to the Applicants for the proceedings pending against them in the domestic courts.</p> <p>The Respondent to take all necessary measures within a reasonable time to expedite and finalise all criminal appeals by or against the Applicants in the domestic courts</p> <p>The Respondent to inform the Court of the measures taken within six months of this judgment</p> | There has been no report from the Respondent State. |
| ii) Implementation of Orders for Provisional Measures | | | | | | |
| | 006/2012 | ACHPR | Kenya | 15/03/2013 | <p>(i) To immediately reinstate the restrictions it had imposed on land transactions in the Mau Forest Complex;</p> <p>(ii) Report to the Court within a period of 15 days from the date of receipt, and measures taken to implement this Order</p> | The Respondent has not provided the Court with any comments on the Applicant's complaint of non-compliance with the Order. |
| | 002/2013 | ACHPR | Libya | 15/3/2013 and 31/7/2015 | <p>(i) Refrain from all judicial proceedings, investigations or detention that could cause irreparable damage to the Detainee, in violation of the Charter or any other international instrument to which Libya is a party;</p> <p>(ii) Allow the Detainee access to a lawyer of his own choosing;</p> <p>(iii) Allow the Detainee</p> | There has been no response from the Respondent State. |

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|--|----------|-------------------|----------|-----------|---|--|
| | | | | | visits by family members; (iv) Refrain from taking any action that may affect the detainee's physical and mental integrity, as well as his health; and (v) Report to the Court, within 15 days from the date of the order on measures taken to implement the order. | |
| | 001/2015 | Armand Guéhi | Tanzania | 18/3/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 30 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has notified the Court that it is in consultation with relevant national stakeholders on how to implement the Order of the Court. |
| | 007/2015 | Ally Rajabu | Tanzania | 18/3/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 30 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has notified the Court that it is unable to implement the Order of the Court. |
| | 003/2016 | John Lazaro | Tanzania | 18/3/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 30 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has notified the Court that it is unable to implement the Order of the Court. |
| | 004/2016 | Evodius Rutachura | Tanzania | 18/3/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court | The Respondent State has notified the Court that it is unable to implement the Order of the Court. |

| | | | | | | |
|--|----------|-------------------------------------|-----------------------------|----------|---|--|
| | | | | | within 30 days from the date of receipt of the order on measures taken to implement the order. | |
| | 015/2016 | Habiyaliman a Augustono and Another | Tanzania | 5/6/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 60 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has not sent a Report on the implementation of the Order of the Court. |
| | 017/2016 | Deogratus Nicolaus Jeshi | Tanzania | 5/6/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 60 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has not sent a Report on the implementation of the Order of the Court. |
| | 018/2016 | Cosma Faustine | Tanzania | 5/6/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 60 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has not sent a Report on the implementation of the Order of the Court. |
| | 021/2016 | Joseph Mukwano | Tanzania | 5/6/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the Application; (ii) To report to the Court within 60 days from the date of receipt of the order on measures taken to implement the order. | The Respondent State has notified the Court that it is unable to implement the Order of the Court. |
| | 024/2016 | Amini Juma | United Republic of Tanzania | 5/6/2016 | (i) To refrain from executing the death penalty against the Applicant pending the determination of the | The Respondent State has notified the Court that it is unable to implement the Order of |

| | | | | | | |
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| | | | | | Application; (ii) To report to the Court within 60 days from the date of receipt of the order on measures taken to implement the order. | the Court. |
|--|--|--|--|--|--|------------|

iii) Non-judicial activities

22. The main non-judicial activities undertaken by the Court during the period under review are described below:

a) Participation of the Court in the AU Summits

23. The Court took part in the 31st and 32nd Ordinary Sessions of the Permanent Representatives' Committee (PRC), the 28th and 29th Ordinary Sessions of the Executive Council, as well as the 26th and 27th Assembly of Heads of State and Government of the African Union, held in Addis Ababa, Ethiopia and Kigali, Rwanda.

b) Implementation of Executive Council Decisions

i) Study on the impact of Article 34(6) of the Protocol on the protection of human rights on the continent.

24. The Court is finalizing the said study, in collaboration with other relevant stakeholders and AU Organs, including the PRC and the AUC, before submitting the same to the Executive Council. The Court is thus requesting the Executive Council to extend time for the submission of this study to June/July 2017, during the 31st Ordinary Session of the Executive Council, to allow more consultations between the Court and other relevant stakeholders.

ii) Establishment of a concrete reporting and compliance mechanism on the judgments of the Court

25. During the 26th Ordinary Session of the Executive Council held in January, 2015, the Court presented a study on the establishment of a concrete reporting and compliance mechanism to follow up on the implementation of the Court's judgments. In its decision, EX.CL/Dec.865(XXVI), the Executive Council took note of the Study. The recommendations from the said study are being considered by the AUC within the framework of the review of the Rules of Procedures of Policy Organs of the Union.

iii) *Preparation for the celebration of 2016 as African Year of Human Rights with focus on the rights of women (Project 2016)*

26. The Court is a leading member of the Committee established to ensure the success of the celebration, and to this end, has set up a three-member Court Committee to work with other relevant stakeholders and organs. In September 2015, the Court hosted a Consultative Meeting between the PRC and other AU organs with human rights mandate, to discuss, among other things, how to ensure a successful celebration of Project 2016. The Court was assigned two important activities to organise, that is, the publication of a Commemorative Magazine and the organization of a High Level Dialogue on Human Rights in Africa.

27. The High Level Dialogue which took place in Arusha, Tanzania, brought together over **three-hundred** human rights stakeholders on the continent, including Member States, AU Organs, National Human Rights Institutions, Bar Associations, the Academia, Civil Society Organizations, to have a frank and constructive dialogue on ways and means to enhance the promotion, protection and enjoyment of human rights on the continent. The Dialogue, was hosted by the African Court, under the aegis of the African Union, from 23 to 26 November, 2016. One of the principal outcomes of the High Level Dialogue was the consideration of a Draft Ten-Year Action and Implementation Plan on the Promotion and Protection of Human Rights in Africa. The said Plan is to undergo further consultations with stakeholders and Member States before being submitted to the Assembly in June/July 2017 for consideration and adoption.

28. Thus, the development of the Action Plan will involve all the relevant human rights stakeholders, in particular, Member States of the African Union. To this end, the Court sent a *Note verbale* to all Member States, inviting them to submit their contributions towards the development of the Plan. The interaction with stakeholders will continue and culminate later in 2017 with a validation workshop that will bring together all human rights stakeholders on the continent to further examine and enrich the draft plan.

29. As part of activities to celebrate Project 2016, the Court took part in a Joint Opening Ceremony on 21 October 2016 (African Human Rights Day), in Banjul, The Gambia, during the 59th Ordinary Session of the African Commission on Human and Peoples' Rights. The Joint Opening Ceremony was followed on 22 October 2016, with a High Level Human Rights Round-Table Discussion coordinated by the three African Union Organs with a human rights mandate, that is, the African Court, the African Commission and the African Committee of Experts on the Rights and Welfare of the Child.

30. On the side-lines of the 59th Ordinary Session of the African Commission, the Court also participated in a number of activities organized by various stakeholders.

iv) Commemoration of the Tenth Anniversary of the Court

31. The Court commemorated its Tenth (10th) Anniversary in 2016. As the premier judicial organ of the Union charged with the protection of human rights, a number of activities were earmarked throughout the year to commemorate this auspicious occasion, including the organization of a two-day International Symposium on the ten years of the African Court. The 10th Anniversary was an opportunity for the Court to take stock of its activities for the first decade of its existence, with a view to putting in place concrete measures to ensure a better execution of its mandate.

v) Declaration on the Commemoration of the Tenth Anniversary of the Court

32. The Declaration on the Commemoration of the Tenth Anniversary of the African Court is annexed to the present Report as **Annex II**, for consideration and adoption by the Assembly.

vi) Feasibility study on the establishment of a Trust Fund

33. The Court is in consultations with the PRC and the AUC, through the Office of the Legal Counsel, to determine finalization of this study.

c) Execution of the 2016 budget

34. The budget appropriated to the Court for 2016 stands at US\$ 10,386,101, comprising \$ 7,934,615 [76%] from Member States and \$ 2,451,486 [24%] from International Partners. The total budget execution as at end of 31 December 2016 is expected to amount to \$8,796,000 which represents a budget execution rate of 85%. It should be noted that as at 31 October 2016, the Court had received an approved subvention of \$ 7,823,931, instead of the amount \$ 7,934,615, approved in the 2016 budget.

d) Promotional activities

35. During the period under consideration, the Court undertook a number of promotional activities, aimed at raising awareness among stakeholders, about its existence and activities. The activities undertaken included, seminars as well as participation in meetings organised by other stakeholders.

e) Seminar

36. As part of activities to celebrate 2016 as African Year of Human Rights with particular focus on the rights of women, and commemorate its Tenth Anniversary, the Court, with support from the German International Cooperation (GIZ), organised a half-day seminar on International Women's Day, 8 March, 2016, in Arusha, Tanzania, on the theme, "The Rights of Women under the Maputo Protocol and Accessing the African Court on Human and Peoples' Rights". From 8-9 September, 2016, the Court also organised a two-day training in Arusha, Tanzania, for journalists drawn from across the continent. This was followed on 10 September 2016, by a one-day Seminar, organised by UNESCO, in collaboration with the African Court, on the theme, 'Strengthening Judiciary Systems and African Courts to protect Safety of Journalists and End Impunity'.

f) Other promotional activities

37. In addition to the above activities, the Court also participated in a number of promotional activities organized by other stakeholders, including: participation in the "Legality Week" in Mozambique, where a seminar was organised on the theme "The African Court on Human and People's Rights", as well as the delivery of a lecture on the African Court, at the University Wutive (UNITIVE) in Maputo, under the theme "Tent of Justice" Project. A member of the Court also made a presentation on the Court to a meeting organized by the Sudanese Bar Association, bringing together judges, lawyers and officials from the Ministry of Justice. The Court was represented at the International Committee of the Red Cross/Crescent International Moot Competition finals held in Arusha on November 18, 2016. The Court was also represented at the 11th Session of the Brandeis Institute for International Judges Forum, organised by the International Centre for Ethics, Justice and Public Life of the Brandeis University and the iCourts Centre for Excellence of International Courts, University of Copenhagen, from 27 June 2016 and 1 July 2016, on the theme "The Authority of international courts and tribunals: challenges and prospects". A Judge of the Court took part in an International Symposium organised by the Constitutional Court of Andorra, on the theme 'From Openness to Dialogue', in Andorra from 7 to 9 July 2016, as well as gave a lecture at the 47th Session of the Strasbourg International Institute of Human Rights from 13 to 16 July, 2016.

38. Between June and November 2016, Judges and Staff of the Court undertook Benchmarking visits funded by the World Bank, to Turkey, Singapore, Algeria and Namibia to understudy the electronic case management systems of these jurisdictions, with a view to identifying best practices that will assist the Court set up its own electronic case management system.

III. Host Agreement

39. The current temporary premises of the Court have become very small to accommodate the ever-growing number of staff and activities of the Court. The Government of the Host State has submitted to the African Union Commission, through the Court, architectural designs for the construction of the permanent premises of the Court. The said designs were discussed between architects from the Government of the Host State and those from the African Union Commission in August, 2015. On 17 March, 2016, the designs were presented to the Judges of the Court by both architects from the Government of the United Republic of Tanzania and from the AUC. There has been no development since the submission of the architectural designs.

40. The Court is working with both the Host State and the AUC to ensure the construction of the permanent premises starts as soon as possible.

41. On 21 April 2016, the Registry received a letter from the Legal Counsel of the African Union Commission, requesting the Court to review the host agreement and:

- i) Determine whether the rights, privileges and immunities enshrined in the host agreement are fully respected by the Host Government;
- ii) Review the host agreement and identify gaps in the protection of rights, privileges and immunities;
- iii) Engage with the host Government to discuss issues/challenges faced by the Organ/Institution as well as staff members in executing their functions pursuant to the enjoyment of rights and, privileges and immunities accorded to them in the Host Agreement.

42. On 24 May, 2016, the Registry of the Court held a meeting with representatives of the Ministry of Foreign Affairs, East Africa, Regional and International Cooperation of the United Republic of Tanzania. The issues discussed included security, residence visa for staff and dependants, refund of Value Added Tax (VAT) for goods and services purchased by the Court, construction of Permanent premises of the Court, and regular meeting of the Joint Facilitative Committee (JFC) set up by the Host State and the Court to monitor and ensure the smooth implementation of the Host Agreement.

IV. Assessment and Recommendations

i) Assessment

43. During the period under review, the Court made progress in the protection of human rights on the continent.

a) Positive Developments

44. The Court continues to engage with relevant organs of the African Union and other relevant stakeholders to enhance its effectiveness and the protection of human rights. Following the adoption of the Statute on the Establishment of a Legal Aid Fund by the 25th Ordinary Session of the Assembly in January 2016, the Court is working with the African Union Commission, the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights of the Child, to launch and operationalize the Fund, which seeks to facilitate legal assistance for indigent complainants/applicants who appear before any African Union organ with a human rights mandate.

45. In June 2016, the Chairperson of the African Union Commission invited the Overall Deans and Regional Deans to submit names for consideration for appointment to the Board of Trustees of the Fund. The African Court, African Commission and African Committee of Experts have already submitted to the AUC, the financial implications relating to the setting up of the Fund and are in consultation to submit the names of their representatives to the Board of Trustees of the Fund. It is hoped that the Fund will be operationalized in 2017.

46. The establishment of a legal aid fund, coupled with the setting up of a concrete reporting, monitoring and implementation mechanism to ensure compliance with the decisions of the Court, will go a long way to not only enhance access to the Court, but also provide adequate and effective remedies to victims of human rights violations.

47. The Court has seen a remarkable increase in the number of cases filed before it. Between 1 January and 31 December 2016, the Court registered a total of 59 Applications and 2 Requests for Advisory Opinion. As the Court continues to receive applications and deliver judgments, its visibility and citizens' confidence in it will be enhanced. With these positive indicators, there is good reason to remain optimistic that the number of cases filed before the Court will continue to increase.

48. This increase is a demonstration of the fact that more and more States, NGOs, individuals and civil society in general, are becoming aware of the existence and work of the Court.

49. To sustain this momentum and build the Court as a viable pillar in Africa's quest for socio-economic and political development, Member States and all other stakeholders should play their respective roles, including in particular, ensuring universal ratification of the Protocol and deposit of the requisite declaration, facilitating individual and NGOs' direct access to it, providing the Court with the necessary human and financial resources, and complying with orders, decisions and judgments of the Court.

50. There has also been an increasing use of the Court's advisory jurisdiction. To date, the Court has received 12 Requests for Advisory Opinion, from individuals, NGOs, an AU organ and a Member State of the Union.

51. To facilitate a good channel of communication between the Court and Member States, the Court, in August 2016, invited Member States to appoint Focal Points from the relevant Ministries that will be communicating with the Court on matters concerning them. The Court would like to note that very few States have responded to this request, and would like to appreciate the efforts of those that have already done so, and to encourage those that have not already done so to do so.

b) Challenges

52. The above positive developments notwithstanding, the Court continues to face a number of challenges, which may endanger the successes recorded thus far and threaten the effectiveness of the Court. These challenges include, the low level of ratification of the Protocol, slow rate of deposit of the declaration allowing individuals and NGOs direct access to the Court, lack of awareness of the Court, non-compliance with Court decisions, insufficient human and material resources and the fact that Judges work on a part-time basis.

53. One of the major challenges to the effectiveness of the Court in particular and the protection of human rights in Africa as a whole, is the low level of ratification of the Protocol, and the even lower number of Article 34(6) declarations deposited. Eighteen (18) years after the adoption of the Protocol, it has been ratified by only thirty (30) Member States of the African Union; and of these 30, only eight (8) have deposited the declaration required under Article 34(6) of the Protocol.

54. This low level of ratification and declaration has been raised repeatedly at the level of both the PRC and Executive Council, and at every occasion where the latter has

adopted the Activity Report of the Court, it has urged those Member States that have not already done so, to ratify the Protocol and deposit the declaration. During its 25th and 26th Ordinary Sessions held in June 2014 and January 2015, respectively, the Executive Council went a step further to “[URGE] Member States that have not yet ratified/acceded to the Protocol on the Court to do so, and REQUEST[ED] them to make a declaration in accordance with article 34 (6) of the Protocol before 1 January 2016”. At its 28th Ordinary Session held in January, 2016, the Executive Council again reiterated its call ‘on those [Member States] that have not already done so, to expedite the process [of ratifying the Protocol and to deposit the declaration]’.

55. It should be recalled that 2016 was declared African Year of Human Rights with particular focus on the Rights of Women. At the same time, 2016 marked the 10th Anniversary of the operationalization of the Court. These two celebrations provided an opportunity for the continent to take stock of the progress made, as well as the challenges encountered in the field of human rights. Universal ratification of the Protocol and depositing of the declaration during these auspicious occasions, would have manifested the commitment of AU Member States to the theme of 2016 as African Year of Human Rights, as well as to the importance of human rights as an important pillar in the socio-economic and political development of the continent.

56. Another challenge the Court faces is non-compliance with its decisions. In spite of repeated reminders from the Court and over four Executive Council Decisions, Libya continues to refuse to comply with the Court’s Orders for Provisional Measures issued in respect of a matter brought against her. The Court notes the request made by the Applicants to the AUC for a fact-finding mission to Libya in this regard.

57. While welcoming the efforts made by Burkina Faso and Tanzania to implement the Court’s judgments, the Court notes that the two countries are yet to fully comply with the orders of the Court in those judgments, and further notes Tanzania’s unwillingness to comply with the Court’s Orders for Provisional Measures.

58. From the administrative point of view, inadequate human and financial resources have affected the smooth functioning of the Court. The uncertainty regarding the availability of funds has delayed the recruitment of new staff and adversely impacted on the Court’s ability to effectively discharge its mandate.

59. A further difficulty facing the Court is the shortage of office space. The submission of the architectural designs by the Government of the Host State is an important step towards the construction of the permanent premises of the Court. It is important for the African Union Commission and the Government of the Host State, in

consultation with the Court, to hasten the finalization of the designs and commence the construction of the premises.

ii) Recommendations

60. Based on the above, the Court submits the following recommendations for consideration and adoption by the Assembly of the Union:

- i) The Member States of the Union that have not yet acceded to the Protocol establishing the Court and/or deposited the Declaration under Article 34(6) thereof, should do so as requested in Executive Council Decisions EX.CL./Dec.842(XXV) of June 2014 and EX.CL/Dec.865(XXVI) of January, 2015;
- ii) Member States should initiate activities at national level and in collaboration with other States, and civil society organisations, to celebrate 2016 as African Year of Human Rights with particular focus on the Rights of Women in Africa;
- iii) The Court should work closely with the PRC and the AUC to finalize the study on the establishment of a Trust Fund for the Court, as well as the study on the impact of Article 34(6) on the protection of human rights on the continent, and submit a report to the June/July 2017 Ordinary Session of the Executive Council;
- iv) The AUC should expedite the setting-up of the Legal Aid Fund for African Union Organs with a Human Rights Mandate;
- v) The PRC and the AUC should expedite the process of Review of the Rules of Procedure of the Policy Organs of the Union and collaborate with the African Court towards the establishment of a Compliance and Follow Up mechanism on the implementation of the decisions of the Court, within the framework of the review process;
- vi) Member States should remain engaged in the process of developing the Ten-Year Action Plan on the promotion and protection of human rights in Africa;
- vii) Member States of the Union should cooperate with the Court and comply with its decisions;

- viii) The AUC should consider authorizing a fact-finding mission to Libya to investigate the situation of Mr. Al Islam Gadhafi and encourage Libya to fully comply with the orders of the Court as well as the Judgment of the Court on this matter;
- ix) Member States that have not done so should appoint Focal Points, within the relevant Ministries, to facilitate communication between the Court and Member States;
- x) The Assembly of the Union should authorize the necessary resources to enable the Court to recruit more staff for the Registry of the Court;
- xi) The Assembly should adopt, as part of the celebration of 2016 as African Year of Human Rights and commemoration of the 10th Anniversary of the African Court, a declaration on the Commemoration of the 10th Anniversary of the Court.

**ANNEX I - COMPOSITION OF THE AFRICAN COURT ON HUMAN AND
PEOPLES' RIGHTS AS AT 31 DECEMBER 2016**

| No. | Name | Term | | Country |
|-----|-------------------------------------|----------|--------|---------------|
| | | Duration | Expiry | |
| 1. | Justice Sylvain Oré | 6 | 2020 | Côte d'Ivoire |
| 2. | Justice Ben Kioko | 6 | 2018 | Kenya |
| 3. | Justice Gérard Niyungeko | 6 | 2018 | Burundi |
| 4. | Justice El Hadji Guissé | 6 | 2018 | Senegal |
| 5. | Justice Rafâa Ben Achour | 6 | 2020 | Tunisia |
| 6. | Justice Solomy Balungi Bossa | 6 | 2020 | Uganda |
| 7. | Justice Angelo Vasco Matusse | 6 | 2020 | Mozambique |
| 8. | Justice Ntyam Ondo Mengue | 6 | 2022 | Cameroon |
| 9. | Justice Marie-Thérèse Mukamulisa | 6 | 2022 | Rwanda |

**DRAFT DECISION ON THE 2016 ACTIVITY REPORT OF THE
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
Doc. EX.CL/999(XXX)**

The Executive Council;

1. **TAKES NOTE** of the Activity Report of the African Court on Human and Peoples' Rights (the Court) for the period 1 January –31 December, 2016, and the recommendations therein;
2. **TAKES NOTE** that 2016 marks the Tenth (10th) Anniversary of the operationalization of the Court;
3. **CONGRATULATES** the Court on its Tenth Anniversary and for the contribution it has made during the first ten years of its existence, to the African human rights jurisprudence in particular and the protection of human and peoples' rights on the continent as a whole;
4. **RECALLS** its Decision EX.CL/Dec.842(XXV) of June 2014, declaring 2016 as African Year of Human Rights with particular Focus on the Rights of Women, and its requests for the Court, the AUC and the PRC to make arrangements to ensure the successful celebration of these two auspicious occasions;
5. **NOTES** with satisfaction the contribution of the Court, in collaboration with other African Union organs and institutions, in the successful celebration of the Year 2016 as African Year of Human Rights with particular focus on the Rights of Women, including in particular, the successful hosting of the 5th Annual High Level Dialogue on the theme '*Reflecting, Celebrating and Advancing Human and Peoples' Rights in Africa*', from 23-26 November, 2016, in Arusha, Tanzania;
6. **NOTES** with concern the insufficient resources allocated to the Court ,which may affect its independence and effectiveness, and to this end, **Calls on** the Court, the PRC and the AUC, to expeditiously finalize the study on the establishment of a Trust Fund for the Court, and submit a report thereof during the June/July 2017 Ordinary Session of the Executive Council;
7. **URGES** the PRC and the AUC to work closely with the Court and provide it with the necessary resources it needs to effectively discharge its mandate without interference, including providing guidance and advise on resource mobilization techniques, in a manner consistent with the nature and the mandate of the Court;

8. **RECALLS** Assembly Decision Assembly/AU/Dec.589(XXVI) of January 2016, which among others, adopted the Statute on the Establishment of a Legal Aid Fund for African Union Human Rights Organs, and **Calls Upon** the AUC, in collaboration with the organs concerned to work towards the expeditious operationalization of the Fund;
9. **NOTES WITH CONCERN** the continued refusal by Libya to comply with the Orders of the Court, and **REITERATES** its decisions taken at its 25th, 26th and 27th Ordinary Sessions, urging Libya to inform the Court of the concrete measures it has taken to implement the said Orders;
10. **WELCOMES** the measures taken by both Burkina Faso and Tanzania to comply with the judgments of the Court, and urges both States to take necessary measures to ensure full compliance and report to the Court accordingly;
11. **NOTES WITH CONCERN** that, eighteen (18) years after its adoption, only thirty (30) Member States of the African Union have ratified the Protocol and only eight (8) of the 30 State Parties, have deposited the declaration required under Article 34 (6) of the Protocol;
12. **CONGRATULATES** the thirty (30) Member States that have ratified the Protocol, namely; Algeria, Benin, Burkina Faso, Burundi, Cameroon, Chad, Côte d'Ivoire, The Comoros, Congo, Gabon, The Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, South Africa, Sahrawi Arab Democratic Republic, Senegal, Tanzania, Togo, Tunisia and Uganda;
13. **FURTHER CONGRATULATES** the seven (7) State Parties that have deposited the declaration under Article 34(6) of the Protocol, namely: Benin, Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali and the United Republic of Tanzania, and encourage the Republic of Rwanda to reconsider its decision to withdraw the said declaration;
14. **INVITES** those Member States that have not already done so, to accede to the Protocol and deposit the declaration required under Article 34 (6) of the Protocol; and in this regard, **URGES** the States concerned to accede to the Protocol and deposit the declaration as part of activities and their commitment to celebrate 2016 as African Year of Human Rights with particular focus on the Rights of Women and to commemorate the 10th Anniversary of the Court;

15. **FURTHER INVITES** Member States that have not already done so, to appoint Focal Points for the Court from the relevant Ministries, to facilitate communication between the Court and Member States;
16. **EXPRESSES ITS APPRECIATION** to the Government of the United Republic of Tanzania for the facilities it has placed at the disposal of the Court, and for the architectural designs for the construction of the permanent premises of the Court that have already been prepared, and **URGES** the Government of the United Republic of Tanzania and the African Union Commission, in collaboration with the Court, to take steps to ensure the speedy construction of the premises;
17. **REQUESTS** the Court, in collaboration with the PRC and the AUC, to report at the next Ordinary Session of the Executive Council in June/July 2017, on the implementation of this Decision.

**DECLARATION ON THE COMMEMORATION OF THE TENTH 10TH ANNIVERSARY
OF THE OPERATIONALIZATION OF THE AFRICAN COURT
ON HUMAN AND PEOPLES' RIGHTS**

WE the Heads of State and Government of the African Union, meeting at the 28th Ordinary Session of the Assembly, held in Addis Ababa, Ethiopia, from 23 to 31 January 2017;

Recalling Executive Council Decision EX.CL. Dec. 903 (XXVIII), requesting the African Court on Human and Peoples' Rights (the Court) to "present, in collaboration with the AU Commission and the PRC, at the July 2016 Ordinary Session of the Assembly, through the Executive Council, a Declaration on the Commemoration of the 10th Anniversary of the Operationalization of the African Court on Human and Peoples' Rights";

Recalling the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol) on 9 June 1998, in Ouagadougou, Burkina Faso;

Noting that the Protocol was established to enhance the protective mandate of the African Commission on Human and Peoples' Rights (the Commission) in particular, and the enjoyment and protection of human and peoples' rights on the continent generally;

Noting further the entry into force of the Protocol on 25 January 2004, the election of the first Judges of the Court in January 2006, and the swearing-in of the said Judges in July 2006, during the 7th Ordinary Session of the Assembly, held in Banjul, The Gambia, from 1 to 2 July 2006;

Noting Also that 2016 marks the Tenth (10th) Anniversary of the operationalization of the African Court on Human and Peoples' Rights; and has been declared African Year of Human Rights with particular focus on the rights of women;

1. **CONGRATULATES** the Court, as it commemorates its Tenth Anniversary, for the laudable role it has played, in collaboration with other relevant stakeholders, particularly Member States, National Human Rights Institutions, Bar Associations and Civil Society Organisations and other partners, in enhancing the protection of human and peoples' rights in Africa;
2. **RECALLING in particular** the contribution of the Court in the development of the African human rights jurisprudence;
3. **REITERATES** our commitment made in the Banjul Declaration on the 25th Anniversary of the African Charter on Human and Peoples' Rights, adopted during the 7th Ordinary Session of the Assembly in July 2006, and in this regard, **RE-AFFIRMS** our full support to the Court, and commit ourselves to provide the necessary human and financial resources to allow the Court to discharge its

functions effectively and efficiently, as well as to fully cooperate with and render all the necessary assistance to the Court;

4. **FURTHER REITERATES** our intention to strengthen the protection of human rights in particular, and the justice system on the continent as a whole, including the fight against impunity;
5. **CONCERNED** that almost two decades after the adoption of the Protocol, only 30 Member States have ratified it and only 8 have deposited the declaration under Article 34(6) thereof;
6. **CONGRATULATES** the 30 State Parties that have ratified the Protocol, that is, Algeria, Benin, Burkina Faso, Burundi, Cameroon, Chad, Congo, Côte d'Ivoire, Comoros, Gabon, The Gambia; Ghana, Kenya, Libya, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Uganda, Rwanda, Sahrawi Arab Democratic Republic, Senegal, South Africa, Tanzania, Togo and Tunisia;
7. **FURTHER CONGRATULATES** further the seven (7) State Parties that have deposited the declaration under Article 34(6) of the Protocol, namely: Benin, Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali and the United Republic of Tanzania, and encourage the Republic of Rwanda to reconsider its decision to withdraw the said declaration;
8. **REITERATES** Executive Council decisions EX.CL./Dec.842(XXV) of June 2014 and EX.CL/Dec.865(XXVI) of January, 2015, **urging** those States that have not already done so, to take all necessary measures to ratify the Protocol and deposit the Article 34(6) declaration, as we commemorate the Tenth Anniversary of the Court and celebrate African Year of Human Rights with particular focus on the rights of women;
9. **RECALLS** the adoption of the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, in Malabo, Equatorial Guinea (Malabo Protocol) in June, 2014, which seeks to fight impunity on the continent;
10. **NOTES WITH CONCERN** that more than two years after the adoption of the said Protocol, only nine (9) Member States have signed and none have ratified it;
11. **CONGRATULATES** the 9 States that have signed the Protocol, that is, Benin, Chad, Congo, Ghana, Guinea Bissau, Kenya, Mauritania, Sierra Leone and Sao Tomé and Príncipe;
12. **URGES** all Member States of the African Union to manifest their commitment to the protection of human rights, justice and the fight against impunity, by taking urgent and necessary measures to ratify the Malabo Protocol;

13. **REDEDICATES** ourselves to ensuring respect for human and peoples' rights, justice and the fight against impunity as pre-requisites for the attainment of our common vision of a united and prosperous Africa.

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