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**REPORT OF THE AFRICAN COMMITTEE OF EXPERTS ON THE  
RIGHTS AND WELFARE OF THE CHILD**

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## REPORT OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD

### INTRODUCTION

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was established during the 37th Session of the Assembly of Heads of State and Government held in Lusaka in July 2001 in accordance with Article 32 of the African Charter on the Rights and Welfare of the Child (ACRWC);
  2. As stated in article 1 of the African Children's Charter, States Parties shall recognize the rights, freedoms and duties enshrined in the Charter and shall undertake to the necessary steps to adopt legislative or other measures as may be necessary to give effect to the provisions of the African Charter on the Rights and Welfare of the Child;
  3. The ACERWC is established to promote and protect the rights of the child and in particular to monitor the implementation of the African Children's Charter;
  4. Pursuant to its mandate under the Charter, the Committee has undertaken several activities including consideration of State Party reports on the implementation of the Charter, consideration of Communications (individual complaints), adoption of various documents and other activities as stated in this Report;
  5. Accordingly, the current report summarizes the Recommendations and Decisions of the 35th and 36th Ordinary Sessions of the Committee which were held virtually from 31 August to 08 September 2020 and from 23 November to 04 December 2020, as well as other activities undertaken between March 2020 and December 2020.
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**ACTIVITIES OF THE ACERWC DURING THE REPORTING PERIOD  
(March to December 2020)**

**ITEM I: STATUS of RATIFICATION, RESERVATION AND REPORTING ON THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC)**

1. The African Charter on the Rights and Welfare of the Child (African Children's Charter) currently is ratified by 50 Countries. Five Countries are yet to ratify the Charter, namely, Kingdom of Morocco, Sahrawi Arab Democratic Republic, Republic of Somalia, Republic of South Sudan and Republic of Tunisia. The DRC has deposited its ratification instrument on 08 December 2020. Four Countries have also made reservations on application of some of the provisions of the Charter, these Countries are Republic of Botswana, Arab Republic of Egypt, Islamic Republic of Mauritania and Republic of The Sudan. Out of the 50 Countries which have ratified the Charter, 41 countries have submitted at least their initial report, of which Burkina Faso, Federal Democratic Republic of Ethiopia, Republic of Kenya, Republic of Nigeria, Republic of Rwanda, Republic of South Africa, United Republic of Tanzania, Republic of Niger, and Republic of Senegal have submitted their periodic report. Countries which have never submitted any report to the ACERWC include: Republic of Botswana, Republic of Cape Verde, Central African Republic, Republic of Djibouti, Republic of Equatorial Guinea, Republic of the Gambia, and Mauritius.

**ITEM II: STATE PARTY REPORTS, CONCLUDING OBSERVATIONS AND RECOMMENDATIONS**

2. Article 43 of the African Children's Charter gives the ACERWC a mandate to receive and consider State Party Reports on the implementation of the African Children's Charter. In this regard, during the reporting period the ACERWC has received and considered State Party Reports from the following State Parties:

**Table 2:1- State Party Reports received and status of consideration during the reporting period**

<b>State Party</b>	<b>Report submitted</b>	<b>Status of consideration</b>
The Federal Democratic Republic of Ethiopia	Periodic Report	Yet to be considered- awaiting complementary report
The Republic of Guinea Bissau	Initial Report	Yet to be considered- the Government of Guinea Bissau informed the ACERWC that it will send its Delegation at the 37 <sup>th</sup> Session in November 2021

The Republic of Guinea	Periodic Report	Scheduled to be considered at the 37 <sup>th</sup> Ordinary Session in November 2021
The Republic of Kenya	Periodic Report	Considered at the 35 <sup>th</sup> Ordinary Session
The Republic of Seychelles	Initial Report	Yet to be considered- awaiting complementary report

#### **i. Consideration of the Periodic Report of the Republic of Kenya**

3. During its 35th Ordinary Session, the ACERWC considered the second Periodic Report of the Republic of Kenya on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of Kenya for the various legislative, administrative and other concrete measures it has undertaken towards the implementation of the provisions of the African Children's Charter. The Committee particularly notes with appreciation the progress made in the areas of immunization rates, nutrition, educational enrolment, and reduction of poverty. The Committee also applauds the Republic of Kenya for measures undertaken to safeguard the rights of the child during the COVID-19 pandemic. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country, particularly in the areas of violence against children, such as exploitation of children in prostitution, online child sexual exploitation, trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism and, child, marriage. The major recommendations of the Committee include, for the State Party to:

- Amend Section 49(3) of the Marriage Act to outlaw all exceptions on the minimum age of marriage, i.e. 18 years;
- Provide for a framework on disaggregated data on the prevalence of childhood disabilities in the country and develop a comprehensive strategy for the inclusion of children with disabilities;
- Take appropriate steps to ensure that adolescents have access to comprehensive and scientifically accurate sexuality education by integrating the subject in national school's curriculum as well as by developing and implementing programs to reach out of school adolescents;
- Ensure that children in all counties have equal access to child protection services, access to health, security, and educational resources including children living in rural areas and marginalised communities;
- Act against perpetrators of child abuse and exploitation in all sectors including in schools, care facilities and communities;
- Ensure access to universal and free birth registration to all children born in the territory without any form of discrimination; and increase the number of birth registration officers and registration centers especially in the rural areas;

- Ensure that young mothers receive the appropriate psychosocial support and conduct public education to address the issue related to stigmatization for young mothers in schools as well as in communities;
- Improve security for children especially in the North-Eastern region where students are being recruited to dangerous groups such as *al Shabab* and teachers being attacked leading to massive transfers without replacement.
- Work towards attaining the required 15% budgetary allocation to health in line with the Abuja Declaration;
- Take all appropriate measures to reduce the high rate of infant and under-five mortality;
- Adopt a National Policy on the Elimination of Child Labour;
- Put in place a National Plan of Action for combating Human Trafficking;
- Fully implement the National Policy on the eradication of FGM
- Amend the Penal Code and raise the minimum age of criminal responsibility in line with internationally acceptable standards;
- Ensure better coordination and monitoring of child-focused prevention and response services in the context of COVID-19; and ensure the continued provision of essential health services for children and emergency child protection interventions during the pandemic; and,
- Undertake a comprehensive national survey on the effects of COVID-19 on children to generate data for all county governments, ministries and partners to design appropriate interventions that protect all children in Kenya from the effects of the pandemic.

### **ITEM III: CHILD PROTECTION ISSUES DURING AND BEYOND COVID-19**

#### **i. Guiding Note to Member States of the African Union on COVID-19 and its Implication on Children's Rights and Welfare**

4. The ACERWC notes that beyond its immediate impacts on children's health and that of their parents or caregivers, the social and economic disruptions caused by the Covid-19 outbreak harms children's rights and welfare. Reports indicate that millions of children in Africa are facing increasing threats to their safety and wellbeing, including gender-based violence, exploitation, and separation from families. Others were, and in some countries still are, 'temporarily' out of school due to the COVID-19, with the risk of permanent drop out, especially of children in vulnerable situations, such as, the girl child, children with disabilities, children who belong to economically disadvantaged parents and children living in rural areas to mention but a few. The pandemic has a devastating effect on family functioning by limiting sources of income for households, resulting in limited access to adequate nutritious food, health care, appropriate shelter and other basic needs, with an immediate and longer-term consequences on the life, survival and development of children.

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5. Against this backdrop, the ACERWC has developed Guiding Notes to Member States of the African Union which include the following child protection measures to be integrated in States' responses to the global pandemic of COVID-19. The Guiding Notes recommends Member States to:

- i. Establish child friendly information and communication procedures
- ii. Establish child friendly quarantine procedures and environment
- iii. Ensure every child's right to education
- iv. Ensure continued provisions of essential services which are crucial to life, survival and development of children
- v. Ensure that children enjoy their right to parental care and protection
- vi. Responses should be tailored with the special vulnerabilities of the concerned group of children

### **3.2. Member States response to child protection issues and Covid-19- Experience sharing forum**

6. During its 35th Ordinary Session, on 31 August 2020, the ACERWC organised an experience sharing forum with Member States on the measures they are taking to mitigate the impact of the pandemic on the rights and welfare of children. In this regard, the ACERWC heard the experiences of the Republic of Angola, the Arab Republic of Egypt, the Federal Democratic Republic of Ethiopia, the Federal Republic Nigeria, and the Republic of South Africa. The representatives of the respective countries highlighted the measures they have taken to establish child friendly information, communication and quarantine procedures; to ensure every child's right to education during and beyond the pandemic; to ensure continued provisions of essential services which are crucial to life, survival and development of children; to ensure that children enjoy their right to parental care and protection during the pandemic; and to ensure responses to Covid-19 are tailored with the special vulnerabilities of some group of children. In addition to Member States, the Committee received statements on the issue of children's rights and Covid-19 from the Special Representative to the Secretary General of UN on Violence against Children (SRSG-VAC); as well as CSOs. The deliberations highlighted that Covid-19 has resulted in school closure, increased violence and sexual abuse, increased child poverty, separation from parents, compromised right to health and right to life and survival.

## **ITEM IV: Commemoration the 30<sup>th</sup> Anniversary of the adoption of the African Charter on the Rights and Welfare of the Child**

### **4.1. The ACERWC's Call on Member States to Celebrate the 30<sup>th</sup> Anniversary of the African Children's Charter**

7. Reference is made to the Decision of the Executive Council (EX.CL/DEC.1084(XXXVI)) where the Council 'WELCOMES the initiative of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) to lead on the celebration of the 30th Anniversary of the adoption of the African Children's Charter in the year 2020; and URGES Member States of the African Union to take concrete steps to

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commemorate the Anniversary in 2020 and intensify their efforts to ensure the full implementation of the African Children's Charter'. In line with this Decision, and being cognizant of the remarkable progress in the protection of children's rights as well as the remaining and emerging challenges facing by children in Africa; the Committee developed and shared a set of recommendations and action points for Member States of the African Union to take into consideration as part of the commemoration of the 30<sup>th</sup> anniversary of the Charter.

8. The Action Points are:

- i. Conduct a national celebration of the 30th anniversary of the Charter in a participatory manner;
- ii. Ratify the African charter on the rights and welfare of the child;
- iii. Withdraw reservations entered in any provisions of the Charter;
- iv. Submit initial or periodic reports on status of implementation of the Charter;
- v. Undertake an assessment of the implementation of the Charter at country level;
- vi. Undertake a legislative audit to harmonise national laws and policies with the provisions of the Charter and ensure the existence of functional institutions for protection of children's rights;
- vii. Implement the recommendations and decisions of the ACERWC;
- viii. Allocate sufficient budgets for child rights works;
- ix. Launch campaigns and establish action plans to address thematic child rights challenges at country level;
- x. Collaborate with all stakeholders including the UN Agencies, CSOs and the Media;
- xi. Put mechanisms in place to ensure participation of children in matters affecting their interest.

**4.2. Continental Assessment of the Implementation of Africa's Agenda for Children- Agenda 2040**

9. In assessing the status of children's rights in Africa, the Committee intends to use the aspirations in the Africa's Agenda for Children 2040: Fostering an Africa Fit for Children (Agenda 2040) as a measurement tool. Agenda 2040 was adopted by the Committee during the commemoration of the 25th Anniversary of the Charter in 2015, and it was later adopted by the Executive Council of the African Union. The Agenda elaborates on the vision of Africa's Agenda 2063 for the Africa We Want, which recognises that Africa will promote the growth of the continent and secure its future by nurturing and nourishing its children, and requires that children should therefore be empowered through the full implementation of the ACRWC (Paragraph 53). In view of this, Agenda 2040 sets out Ten Aspirations, to be achieved by 2040 and identifies action steps, mostly to be taken by AU Member States, for the first period of the five-phased 25-year journey ahead. Thirty years after the adoption of the Charter and five years since the adoption of Agenda 2040, the Committee notes that both documents are due for evaluation, hence a continental assessment was done to take stock of the progress made in giving effect to the protections and aspirations therein.

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10. Assessing the status of children's rights in Africa the report has the following specific objectives:

- identify the progress achieved and the challenges faced by Member States in implementing the aspirations of Agenda 2040 at domestic level;
- determines priority areas that need intervention by Member States as well as other stakeholders that are widely and gravely affecting children in the continent,
- expose contemporary and emerging challenges that children are facing in Africa; and
- guide future endeavors towards the protection and promotion of children's rights in Africa

**Table 4.1- Key findings and recommendations of the continental assessment on implementation of Agenda 2040**

Aspiration	Key findings	Key Recommendations
<p><b>Aspiration 1-</b> The African Children's Charter, as supervised by the African Children's Committee, provides an effective continental framework for advancing children's rights</p>	<ul style="list-style-type: none"> <li>➤ State Parties to the Charter are lagging in their reporting obligations under the Charter although the same State Parties are up to date with their reporting obligations under the CRC</li> <li>➤ Four State Parties are yet to remove their reservations to some provisions of the Charter.</li> <li>➤ Engagement between ACERWC and RECs has been instrumental in the promotion and implementation of Agenda 2040.</li> </ul>	<ul style="list-style-type: none"> <li>➤ The period of submission of State Party Periodic Reports should be aligned with that of the CRC, i.e. to increase to reporting every 5 years after the submission of the initial report.</li> <li>➤ State Parties should comply with their reporting obligations</li> </ul>
<p><b>Aspiration 2:</b> An effective child-friendly national legislative, policy and institutional framework is in place in all State parties</p>	<ul style="list-style-type: none"> <li>➤ Not all States have a national or sectoral action plan and where those exist the means of execution and robustness of monitoring and evaluation are wanting. This is exacerbated by the lack of the establishment of ministries exclusively devoted to children.</li> <li>➤ Lack of functional mechanisms across a number of States to co-ordinate the implementation of inter-sectoral programmes for children.</li> </ul>	<ul style="list-style-type: none"> <li>➤ States Parties that have not yet enacted a comprehensive children's statutes should do so expeditiously.</li> </ul>

<p><b>Aspiration 3:</b> Every child's birth and other vital statistics are registered</p>	<ul style="list-style-type: none"> <li>➤ Universal, compulsory and free birth registration remains to be a challenge in most countries.</li> <li>➤ In some States children cannot derive their nationality from both mothers and fathers.</li> </ul>	<ul style="list-style-type: none"> <li>➤ State parties to focus on eliminating the reasons for non-registration of births, rather than strive only for statistical improvements; this includes addressing accessibility of CRVS entry points, costs (including travel costs), cultural factors, excluded and marginalised populations (those with a disability, nomadic and rural populations, children born to persons in an irregular migration situation, for instance).</li> <li>➤ Countries with discriminatory citizenship provisions or those whose nationality laws do not prevent statelessness to undertake the required legal revisions as a matter of urgency, with priority being given to reducing child statelessness.</li> </ul>
<p><b>Aspiration 4:</b> Every child survives and has a healthy childhood</p>	<ul style="list-style-type: none"> <li>➤ Only two States have met the budgetary targets in line with the Abuja or Dakar targets of allocation of 15 per cent of the national budget to health.</li> <li>➤ Most African countries still have an unmet need for family planning despite SRH services being critical to improving numerous health outcomes such as infant and child mortality rates and HIV prevention, among others.</li> <li>➤ While the Committee welcomes that immunisation coverage across Africa has greatly increased, it notes that coverage rates across the continent are far from meeting targets with vaccination coverage varying markedly across countries.</li> <li>➤ The Committee welcomes the finding that 15 countries had met or exceeded the goal of providing ARVs to at least 90 percent of</li> </ul>	<ul style="list-style-type: none"> <li>➤ Undertake measures to achieve universal health coverage, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all children and close gender and other gaps (e.g. urban versus rural).</li> <li>➤ 19 States should reduce the maternal mortality to below at least 500 per 100 000 live births.</li> <li>➤ Ensure that sexual and reproductive health services are accessible while ensuring such services are responsive to the needs of girls and boys and are free, confidential, and non-discriminatory.</li> </ul>

	<p>pregnant women living with HIV. Concern, however, remains with respect to the lack of accessibility in other States to prevent mother-to-child transmission of HIV.</p>	<ul style="list-style-type: none"> <li>➤ Ensure that testing of HIV for adolescents is increased.</li> <li>➤ States should allocate at least 15 per cent of the national budget to health, in line with the Abuja and Dakar budgetary targets.</li> </ul>
<p><b>Aspiration 5:</b> Every child grows up well-nourished and with access to the basic necessities of life</p>	<ul style="list-style-type: none"> <li>➤ Poverty, hunger, malnutrition and stunting continue to have negative impacts on health. While social security (including cash transfers) and anti-hunger programmes have been expanded in a number of countries, there is a need to ensure that data is collected to guide decisions to scale up social protection responses and ensure wider inclusion.</li> <li>➤ The average spending on social protection across Africa remained stagnant in recent years and emphasises the need to scale up data-informed interventions for children with meet the specific needs of boys and girls as well as children with disabilities or from other marginalised groups.</li> <li>➤ The Committee welcomes measures by some States to study and develop legislation and policies for children in need of alternative care, or special support. However, much work is to be done to ensure that children in need of care and protection are not unnecessarily institutionalised, family-based alternatives to institutionalisation are strengthened, and that mechanisms are put in place to ensure that families are strengthened and preserved.</li> <li>➤ The Committee is concerned that the legislation applicable to adoption in a number of countries does not yet reflect international standards and safeguards on adoption despite a number of States acceding to the Hague</li> </ul>	<ul style="list-style-type: none"> <li>➤ Social security programmes and social safety nets should be scaled up to reach more vulnerable people and on a greater scale than ever before.</li> <li>➤ States should work with development partners and other experts to refine targeting of measures to ensure the maximum attention for children's access to the basic necessities of life.</li> <li>➤ Reactions to child poverty, such as vagrancy, children living on the street, and child begging should be managed within a rights based framework, in a manner that ensures the dignity of every child, and his or her reintegration into society.</li> <li>➤ States shall accelerate care reform efforts by developing programmes to prevent separation and strengthen families, increase the availability of <i>family-based</i> alternative care options, and implement carefully planned and funded de-institutionalization efforts.</li> </ul>

	<p>Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in 2015 and calls on States to amend and/or adopt legislation accordingly.</p>	
<p><b>Aspiration 6:</b> Every child benefits fully from quality education</p>	<ul style="list-style-type: none"> <li>➤ It is of concern that 50 million children prior to the Covid-19 pandemic were out of school, with girls and other vulnerable children, including children living in conflict-affected areas, children with disabilities, refugee children, migrant children, internally displaced children, street connected children, and children from marginalised communities, among others excluded.</li> <li>➤ Girls across the continent continue to face barriers to education as a result of poverty, cultural norms and practices, poor infrastructure, violence, labour, time-intensive domestic chores, as well harmful traditional practices.</li> <li>➤ The allocation of expenditure to education remains inadequate across the continent.</li> <li>➤ The Committee notes with concern the disparities for school enrolment and attendance for children with disabilities, especially those in rural areas, notwithstanding that most African States have ratified or acceded to the CRPD.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Ensure equal access to all levels of education, including free and unimpeded access to 12 years of education for all boys and girls.</li> <li>➤ Address school-related gender-based violence through legal and policy frameworks and complemented with a strong monitoring and reporting procedures and take measures to ensure that negative cultural attitudes about girls attending school are eliminated; facilitate gender-responsive sanitation facilities, education instruction, curricula and textbooks which should be free from gender bias and promote equality in gender relations.</li> <li>➤ Adopt or amend legislation to end the exclusion from school of pregnant pupils and provide re-entry opportunities.</li> <li>➤ Provide cash transfers to parent(s)/caregivers to keep girls in school, including support for uniforms, books, shoes, and sanitary products.</li> </ul>
<p><b>Aspiration 7:</b> Every child is protected against violence, exploitation, neglect and abuse</p>	<ul style="list-style-type: none"> <li>➤ Violence against children is widespread across Africa in homes, schools, communities, workplaces, and even care and justice systems, with girls at particular risk of all forms of physical and emotional ill-</li> </ul>	<ul style="list-style-type: none"> <li>➤ Take immediate steps to outlaw all forms of violence (including corporal punishment in all settings (school and home included)), without exception and strengthen</li> </ul>

	<p>treatment, sexual abuse, neglect, and exploitation.</p> <ul style="list-style-type: none"> <li>➤ Not all States have prohibited domestic violence or corporal punishment, and there is a high degree of social acceptability.</li> <li>➤ While there has been some progress concerning the adoption of child labour and anti-trafficking legislation/provisions, there is a need to ensure they are in line with the ILO framework and the Palermo Protocol, respectively.</li> <li>➤ The prevalence of harmful cultural practices continue to violate the rights of girls across the continent.</li> <li>➤ There are over continued reports of the sexual exploitation of children by members of peacekeeping missions, peacekeepers, aid workers and military personnel, and of the impunity for these crimes.</li> <li>➤ Commendable efforts by AU-campaigns and initiatives to end violence against children in relation to FGM, ending child marriage, the Eradication of Child Labour, Forced Labour, Human Trafficking and Modern Slavery in Africa (2020-2030), the Regional Action Plan on Albinism in Africa (2017–2021), among others.</li> </ul>	<p>measures to identify, investigate and prosecute perpetrators by providing relevant actors with appropriate training and allocation of resources.</p> <ul style="list-style-type: none"> <li>➤ Strictly enforce and or enact laws to prevent forced and/or child marriage and generate social support for the enforcement of these laws.</li> <li>➤ States should ensure that they enact and or revise child labour and anti-trafficking legislation/provisions to ensure they are in line with the ILO framework and the Palermo Protocol, respectively. Child labour laws should be strictly enforced and cover the informal sector.</li> <li>➤ Enact regulations to ensure that the use of the media (radio and television) and social media address online abuse and exploitation of children.</li> <li>➤ Ensure that disaggregated data is collected on all forms of violence against children.</li> </ul>
<p><b>Aspiration 8:</b> Children benefit from a child-sensitive criminal justice system</p>	<ul style="list-style-type: none"> <li>➤ Significant gaps across the continent in ensuring a child-friendly and a rights-based approach to justice, with measures as well as programmatic responses.</li> <li>➤ Over executions of persons sentenced to death who were below the age of 18 at the time of the commission of the offence in two States.</li> <li>➤ The lack of juvenile/child-friendly courts, and access to same especially in rural areas also results in children being detained with adults.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Raise the minimum age of criminal responsibility in all State parties so that it is set at 12 years or above.</li> <li>➤ Information on children’s rights, including their right to access justice, should be made widely available.</li> <li>➤ Adopt child- and gender-sensitive standards and justice mechanisms which also ensure the effective participation of girls in relevant judicial and administrative proceedings, and guarantees their safety,</li> </ul>

	<ul style="list-style-type: none"> <li>➤ A number of States have adopted measures and procedures relating to children of incarcerated parents and caregivers. Most judicial systems across the continent, however, do not take into account the unique needs and best interests of children when imposing sentences and the need to ensure that non-custodial sentences.</li> </ul>	<p>privacy and dignity at all stages.</p> <ul style="list-style-type: none"> <li>➤ Ensure the availability of trained and specialised medical and psychosocial services for victims and witnesses.</li> <li>➤ Undertaking of efforts to expand access to diversion should be supported, and suitable monitoring mechanisms should be adopted to ensure the ongoing effectiveness of the diversion programmes that have been developed and institutionalised.</li> </ul>
<p><b>Aspiration 9:</b> Every child is free from the impact of armed conflicts</p>	<ul style="list-style-type: none"> <li>➤ Reports show that one in five children are affected by conflict across the continent.</li> <li>➤ The Committee welcomes the AU's Campaign on Silencing the Guns, those adopted in a number of States, as well as those youth-led initiatives which seek to ensure that no child is recruited or used.</li> <li>➤ While the majority of States Parties have prescribed 18 years or above as the minimum age of recruitment into armed forces, several States have failed to do so.</li> <li>➤ Accountability for violations in conflict situations remains a serious problem.</li> <li>➤ Most states have not adapted and implemented the AU Model Laws on Universal Jurisdiction providing for universal jurisdiction over genocide, crimes against humanity, war crimes and piracy, trafficking in narcotics and terrorism.</li> <li>➤ States to enact appropriate regulations and administrative procedures as previously expressed by the PSC to ensure effective control over the production, export, import, transit</li> </ul>	<ul style="list-style-type: none"> <li>➤ Address the root causes of conflict, in order to eliminate the impact of armed conflicts on children.</li> <li>➤ Adopt national prevention plans and develop and/or implement, as relevant, action plans concerning children in armed conflict which take into account the specific needs of girls.</li> <li>➤ States which have not done so should raise the minimum age of recruitment to 18 years old, without exception.</li> <li>➤ Ensure accountability for grave violations against children including through investigations, arrests and prosecutions</li> <li>➤ Ensure that children are not detained for their association with armed groups, in case of detention that they are treated primarily as victims.</li> <li>➤ Strengthen and/or adopt policies and programmes providing for special protection and assistance to separated and unaccompanied children,</li> </ul>

	or retransfers in order to prevent illegal manufacture of, and illicit trafficking in, SALW or their diversion to non-authorized actors, such as terrorist groups.	including measures to ensure that they are reunified with their families.
<b>Aspiration 10:</b> African children's views matter	<ul style="list-style-type: none"> <li>➤ Several State Parties across the regions have created child parliaments to ensure the involvement of children in parliamentary processes, however many still do not have this engagement process.</li> <li>➤ The majority of State Parties have not developed nation-wide parenting education programs to educate parents on how to involve children in family decision-making processes on all matters that concern them.</li> <li>➤ A few countries have considered the views of children and young people in the monitoring and accountability of all laws, policies and programmes affecting children.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Establish mechanisms for engaging with children at the national level, in order that legislation, policy, planning and service delivery and implementation can reflect children's own concerns, experiences and suggestions</li> <li>➤ Governments should raise awareness among adults and children about children's right to express their opinions and its implications for children to be involved in decisions that concern them</li> <li>➤ Governments should also undertake education and preparation for parenthood programs to promote more democratic forms of communication between children and adults through, for example, intergenerational dialogues</li> </ul>

### 4.3. Regional Workshops on the Status of Children's Rights

11. In the context of the 30<sup>th</sup> Anniversary of the African Children's Charter, from 23 to 27 November 2020, the ACERWC held a series of Regional Workshops where Member States from the five regions, representatives of RECs, National Human Rights Institutes and CSOs participated. Following the discussions, the ACERWC has issued outcome statements on the situation of children rights in each regions of the African Union. The Outcome Statements identify common trends, major achievements and challenges, including way forward on matters of children's rights and welfare in the respective regions.

Table 4.2- Participation of Member States

Region and	Countries Represented
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Central African Region	The Republic of Burundi, The Republic of Chad, The Republic Gabon, The Democratic Republic of Congo
East Africa Region	The Republic of Kenya, The Republic of Madagascar, The Republic of Mauritius, The Republic of the Seychelles, The Republic of the Sudan
North Africa Region	The People's Democratic Republic of Algeria; The Arab Republic of Egypt; The Islamic Republic of Mauritania
Southern Africa Region	Republic of Angola, The Republic of Botswana, Kingdom of Lesotho, Republic of Malawi, Republic of South Africa, The Republic of Zambia, The Republic of Zimbabwe
West Africa Region	Burkina Faso, The Republic of Gambia, The Republic of Ghana, The Republic of Niger, The Federal Republic of Nigeria; The Republic of Togo

## ITEM V: COMMUNICATIONS

12. In line with its mandate under article 44 of the Charter, the Committee has received 16 Communications, out of which 9 are finalised; six on merit and three on admissibility. Considering pending Communications, while appreciating State Parties which are complying with their obligations in engaging the Committee and responding on the complaints in due time, the Committee notes that some State Parties are falling to respond on the Communications despite various official requests on the matter.

13. The table below provides the status of pending Communications before the ACERWC.

<b>Communication name</b>	<b>Status</b>
Communication N <sup>o</sup> : 0011/Com/001/2018 against the Republic of the Sudan (Submitted on 26 Aug 2018)	Under amicable settlement- The Republic of the Sudan is demonstrating a high level of political will to address the matter amicably under the auspices of the ACERWC.
Communication No: 0012/Com/001/2019 against the United Republic of Tanzania (Submitted on 17 June 2019)	The United Republic of Tanzania has sent responses on admissibility of the Communication. The Communication was declared admissible, the United Republic of Tanzania is yet to submit its arguments on the merit of the Communication.
Communication No: 0013/Com/001/2020 against the Republic of Mali (Submitted on 13 January 2020)	Despite various official Notes Verbal, the Republic of Mali is yet to submit its response on admissibility of the Communications, the deadline of which is due over several months.
Communication No: 0014/Com/002/2020 against the Republic of South Africa (Submitted on 14 January 2020)	The Republic of South Africa informed the ACERWC that it will send its response on the Communication. At the time of writing this report (December 2020), the Republic of South Africa is

	yet to submit its responses on admissibility of the Communication.
Communication No: 0015/Com/003/2020 against the Republic of the Sudan (Submitted on 24 Feb 2020)	Government was invited to submit arguments on admissibility and to take urgent provisional measure within 15 days. No response has been received from the Republic of the Sudan.
Communication No: 0016/Com/004/2020 against the Republic of the Sudan (Submitted on 24 June 2020)	The Republic of the Sudan informed the ACERWC that it will send its response on the Communication. At the time of writing this report (December 2020), the Republic of the Sudan yet to submit its responses on admissibility of the Communication.

## ITEM VI: ACTIVITIES ON CHILDREN IN CONFLICT SITUATION

### 6.1. Briefing to the Peace and Security Council on the impact of Covid-19 on children in conflict situation

14. In line with the Executive Council Decision, EX.CL/Dec.712 (XXI), adopted during the 21st Ordinary Session held in Addis Ababa from 9 to 13 July 2012, wherein it requested the PSC to take into account the rights of children in its agenda and cooperate actively with the ACERWC; and the decisions and pronouncements of the PSC since 2014, the ACERWC has briefed the AU PSC twice in the year 2020.

15. The first briefing was made on the impact of COVID-19 pandemic on the security and welfare of children in Africa at the 924th meeting of the PSC held on 12 May 2020. Following the briefing, where, among others, the PSC:

- i. Commends Member States for introducing online education platforms with a view to ensuring continuity of education and encourages them to also consider nationwide educational radio programmes in all national official languages, and to also urgently develop innovative means and ways of ensuring continuity of supplementary feeding programmes for children in need;
- ii. Encourages Member States to adopt a comprehensive approach to healthcare and, in this context, to continue to pay attention and allocate adequate resources to ongoing public health programmes such as immunization and vaccination of children against other killer diseases, as well as to continue to give absolute priority to the most vulnerable children that are living in conflict situations, refugee and internally displaced children and children living with disabilities;
- iii. Encourages Member State to ensure that measures related to social distancing, quarantines, and lockdowns are child-friendly, with a view to reducing the vulnerabilities of children, particularly girls. In the same context, Council also encourages Member States to implement the Guiding Note that has been provided by the ACERWC during the response to COVID-19, as well

- as in the post COVID-19 era, in mitigating the long-term impact of the pandemic on children; and
- iv. Condemns child exploitation, crimes and abuses, including child marriages and harmful practices such as female genital mutilation and encourages Member States to take stern measures against perpetrators and to end child marriages in line with the AU Campaign to End Child Marriages;
16. The second briefing was made on the protection of children in conflict situations in Africa at the 965<sup>th</sup> meeting of the PSC held on 19 November 2020, where, among others the PSC:
- i. Acknowledges the increasingly asymmetrical nature of armed conflicts on the Continent, particularly the rise of violent extremism and terrorist attacks, as well as emerging unconventional threats to peace and security in the Continent resulting in increased vulnerability of children to displacement, separation from their parents, families and communities, exploitation and other forms infringing on their rights and welfare; calls on parties to conflict to unconditionally adhere to the AU and UN appeals for ceasefire to create corridors for efforts to assist those doubly affected by persistent conflicts and the novel coronavirus pandemic;
  - ii. Strongly condemns the recruitment of child soldiers, armed militias and the use of children as suicide bombers in the Continent; and calls for the Member States to double their efforts to investigate and prosecute all violations against children's rights and welfare followed by effective punitive measures against all perpetrators without fear, favor and prejudice;
  - iii. Reiterates its call to the Chairperson of the AU Commission to appoint a Special Envoy on Children in Situations of Conflict per Assembly Decision [Assembly/AU/Dec.718(XXXII)] adopted during the 32nd Ordinary Session of Heads of State and Government of the AU held in Addis Ababa from 10 – 11 February 2019, to ensure particular attention is paid to issues of children's rights and welfare in conflicts and crises in Africa; and
  - iv. Decides to dedicate two sessions each year to receive briefings by ACERWC and related partners on the plight of children in armed conflicts and crises in the Continent, and progress made in the implementation of past decisions.

## **6.2. General Comment on Article 22 of the African Children's Charter on Children in Conflict Situation, Tension and Strife**

17. With a view to explain the elements of Article 22 of the African Children's Charter, the ACERWC has developed and adopted a General Comment on Children in situations of conflict, tension and strife. The added value of the General Comment was presented to the Peace and Security Council at its 965<sup>th</sup> meeting held on 19 November 2020.

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18. Appreciating the initiative of the ACERWC in this regard, the PSC, in its communique pronounces that it '[t]akes note of the recently adopted ACERWC General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child: Children in situations of Conflicts, which serves as a tool for normative guidance to Member States in relation to their respective obligations towards children protection in the context of armed conflict in Africa in accordance with international Human Rights and International Humanitarian Law; and welcomes, in particular, raising the age of recruitment in the army in line with the respective obligations under international law'. To make the General Comment a living document, the ACERWC has developed a policy brief which provides succinctly the value add of the General Comment and how member states can make use of it in ensuring protection of children in situations of conflicts.

## **6.2. Stock-taking study on child protection in conflict situations: assessing African Union's responses**

19. In the context of the theme of the year 2020, Silencing the Guns in Africa, the ACERWC commissioned a study assessing the responses of the African Union and its mechanisms to matters of children in conflict situation. The study provides a preliminary picture of the AU's efforts in child protection in conflict situations; assesses APSA mechanisms, including RECs/ RMs to assess their integration of child protection; identifies gaps and provides recommendations to address these problems;

20. Study analyzes the following APSA pillars and mechanisms that support the pursuit of peace and security in the continent: Peace and Security Council, Panel of the Wise & FemWise, Continental Early Warning System, African Standby Force and AU Statutory Bodies such as the ACHPR, AfCHPR and APRM, and the RECs/RMs.

21. Major recommendations on the findings of the study include:

### **i. For AUC to:**

- Appoint a Special Envoy on Children in Conflict Situations.
  - Finalize the AU Policy on Mainstreaming Child Protection in the African Peace and Security Architecture (APSA).
  - Develop a Child Protection Policy Framework and Guidelines for PSOs to complement the PoC Guidelines; and finalize the Draft AU PSOs Doctrine (2019) and PoC Guideline (2010).
  - Provide resources and funding for the AU Inter-Departmental Working Group on Child Protection to enable coordination with RECs and Member States.
  - Develop child-sensitive indicators for conflict analysis and early warning.
  - Develop an Index and Reporting Guidelines on Child Protection in Conflict Situations: In line with the AU Assembly decision of the Assembly to establish a continental child protection monitoring, reporting
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and accountability mechanism, PSOs should report to the PSC through the AUC Chair on their efforts in Child Protection.

- Strengthen AU-RECs/ RMS partnerships to develop Regional Strategies on Child Protection in Conflict Situations, by jointly developing a Continental Strategy on Child Protection and roadmap for protection of children in conflict situations.

**ii. For AU PSOs to**

- Establish child protection units at Mission Fully-functional Child Protection Units, and Child Protection Focal Points, and Child Friendly Centres in all AU missions are required at mission level.
- Strengthen clear complaint handling procedures, e.g. Board of Inquiries; Victims' Rights Advocate (VRAs).
- Institutionalize the generation of child protection data at mission level, through the Child Protection Situation Room (CPSR) to utilize the child-sensitive indicators of early warning, conflict analysis and monitoring that would have been developed jointly the CEWS.

**ITEM VII: CONSULTATION WITH THE GOVERNMENT OF THE DRC ON THE SITUATION OF CHILDREN IN THE KASAI REGION**

22. During its 35<sup>th</sup> Ordinary Session, held on 31 August- 08 September 2020, the Delegation of the Government of the DRC has briefed the ACERWC on the situation of children affected by the conflict in DRC, specifically in Kasai Region. Following the briefing, the Committee appreciated the DRC as the sheer presence of the delegation is an expression of political will from the side of the Government to working with the Committee. The discussion reveals the various challenges that children in DRC who are affected the protracted conflicts are facing. Challenges include: food insecurity, lack of quality education, lack of health services, limited birth registration services, recruitment of children into armed forces, and lack of accountability for child rights violations.

23. The Committee called on the Government to build governance institutions that will ensure accountability for children's rights. The Committee further decided to undertake a fact-finding mission on the situation of children in DRC, particularly in the Kasai region, to observe the situation of children on the ground, hence assist the Government of DRC on better protection of children and implementation of the Charter.

**ITEM VIII: ESTABLISHMENT OF WORKING GROUPS**

24. Drawing its mandate from Article 38 (1) of the African Children's Charter, which gives the ACERWC the mandate to establish its own Rules of Procedures, in accordance with Rule 58 of the Revised Rules of Procedure, which prescribes for the ACERWC to establish Special Mechanisms and assign specific tasks or mandates to either an

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individual Member or Group of Members concerning the preparation of its sessions or the execution of special programs, studies and projects; the Committee, at its 35<sup>th</sup> and 36 Ordinary Sessions, established the following Working Groups:

- ii. Working group on the implementation of the decisions of the ACERWC;
- iii. Working group on children's rights and climate change;
- iv. Working group on children's rights and business; and
- v. Working Group on children with disability.

25. The Committee has also adopted the ToRs and Standard of Operation of the Working Groups. Accordingly, the undertakings of the Working Groups will be duly reported to the Executive Council forming part of the activity report of the Committee.

#### **ITEM IX: SELECTION OF THE THEME FOR THE DAY OF THE AFRICAN CHILD (DAC) 16 JUNE 2022**

26. The Committee selected the theme for the Day of the African Child (DAC) for the year 2022 to be '*Eliminating Harmful Practices Affecting Children: Progress on Policy and Practice since 2013*'.

#### **ITEM X: RELOCATION OF THE SECRETARIAT OF THE ACERWC to the Kingdom of Lesotho**

27. Pursuant to the Decision of the Executive Council, EX.CL/Dec.1010 (XXXIII), where the Council Decides for the Kingdom of Lesotho to host the Secretariat of the ACERWC, the host agreement has been signed by the Kingdom of Lesotho and the African Union on 06 February 2020. Hence, at the time of writing this report, December 2020, preparations are underway to relocate the Secretariat and its Staff to Maseru before the end of the year 2020.

#### **RECOMMENDATIONS**

28. In conclusion, the African Committee of Experts on the Rights and Welfare of the Child would like to draw the attention of the Executive Council on the following issues:

- To congratulate the Democratic Republic of Congo for ratifying the African Charter on the Rights and Welfare of the Child;
  - To urge the five Member States which have not yet ratified the African Children's Charter to expedite the ratification of the Charter;
  - To congratulate State Parties which have submitted their reports on the implementation of the African Children's Charter and urge State Parties, which have not yet reported to the Committee to comply with their reporting obligations;
  - To encourage State Parties which have entered reservation on the provisions of the African Children's Charter to consider withdrawing the same;
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- In the context of the 30<sup>th</sup> anniversary of the adoption of the African Children's Charter, to encourage Member States to assess the implementation of the Charter at country level; undertake a legislative audit to harmonise national laws and policies with the provisions of the African Children's Charter and ensure the existence of functional institutions for protection of children's rights; implement the recommendations and decisions of the ACERWC; allocate sufficient budgets for child rights works; and collaborate with all stakeholders including the UN Agencies, CSOs, children's organisations and the media to ensure full implementation of the African Children's Charter;
  - To appreciate Member States for the measures they have undertaken in commemorating the 30<sup>th</sup> Anniversary of the African Children's Charter and recommends the activities around the commemoration to continue in the year 2021 along with the theme of the Day of the African Child for the Year 2021-'30 years after the adoption of the Charter: accelerate implementation of Agenda 2040 for an Africa fit for children';
  - To welcome the ACERWC's Guiding Note on COVID-19 and its implication on Children's Rights and Welfare and to recommend Member States to: establish child friendly information and communication procedures in the fight against Covid-19; ensure the continuity of every child's right to education, provisions of essential services and parental care and protection for all children in their territory; and ensure Covid-19 responses are tailored with the special vulnerabilities of children.
  - To welcome the ACERWC's report on the assessment of the implementation of Africa's Agenda for Children (Agenda 2040), and encourages Member States to work towards full implementation of the Aspirations within Agenda 2040;
  - To adopt the theme for the Day of the African Child for the year 2022 to be "*Eliminating Harmful Practices Affecting Children: Progress on Policy and Practice since 2013*";
  - To appreciate the Republic of Kenya for submitting its Periodic Report on the implementation of the African Children's Charter, and encourage the same to work towards the full implementation of the ACERWC's Concluding Observations and Recommendations;
  - To reiterate the importance of the Communications procedure of the ACERWC established pursuant to Article 44 of the African Children's Charter, and call on the concerned Member States to comply with their obligations under the Charter by responding to the Committee's requests and implementing the Committee's decisions;
  - To welcome the decision of the Peace and Security Council to dedicate two sessions each year to receive briefings by ACERWC and related partners on the plight of children in armed conflicts and crises in the Continent, and progress made in the implementation of past decisions;
  - To encourage the concerned Member States to implement the recommendations of the Peace and Security Council on matters of protection
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- of children in conflict situation; in particular to strongly condemns the recruitment of child soldiers, armed militias and the use of children as suicide bombers; and calls on Member States to double their efforts to investigate and prosecute all violations against children's rights and welfare followed by effective punitive measures against all perpetrators without fear, favor and prejudice;
- To reiterate the Assembly Decision [Assembly/AU/Dec.718(XXXII)] adopted during the 32nd Ordinary Session of Heads of State and Government of the AU held in Addis Ababa from 10 – 11 February 2019 and call on the Chairperson of the AU Commission to urgently appoint a Special Envoy on Children in Situations of Conflict;
  - To welcome the ACERWC's General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child on Children in situations of Conflicts, strife and tension, which serves as a tool for normative guidance to Member States in relation to their respective obligations towards children protection in the context of armed conflict; and encourages Member States to make use of the principles provided within the General Comment;
  - To welcome the ACERWC's assessment on the responses of the African Union and its mechanisms to matters of children in conflict situation, call on the AUC, the APSA pillars and mechanisms to implement the recommendations, and ensure integration of child protection within their activities;
  - To welcome the establishment of the ACERWC's Working Groups on the implementation of the decisions; Working Group on children's rights and climate change; Working Group on children's rights and business; and Working Group on children with disability; and encourage Member States to support and cooperate with the mandate and activities of these Offices.
  - To congratulate the Kingdom of Lesotho and the AUC for finalising the relocation of the Secretariat of the ACERWC; encourage the host country to continue providing the required pursuant to the host agreement; and call on the AUC to finalise the recruitment of staff and transfer of resources for the smooth operation of the newly established Office in Maseru, the Kingdom of Lesotho.
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## DRAFT DECISION OF THE ACERWC

### The Executive Council,

1. **TAKES NOTES** of the Report of the African Committee of Experts on the Rights and Welfare of the Child;
  2. **ADOPTS** the Report and commends the Committee for the work done in monitoring the implementation of the African Charter on the Rights and Welfare of the Child and thanks all those members whose terms of office ends in February 2021 for serving the Committee with dedication and loyalty;
  3. **WELCOMES** the activities undertaken by the ACERWC to celebrate the 30<sup>th</sup> Years of Anniversary of the adoption of the African Children's Charter in the year 2020;
  4. **APPRECIATE** Member States for the measures they have undertaken in commemorating the 30<sup>th</sup> Anniversary of the African Children's Charter; and
  5. **RECOMMENDS** the activities around the commemoration to continue in the year 2021 along with the theme of the Day of the African Child for the Year
  6. **FURTHER RECOMMENDS** Member States to assess the implementation of the Charter at country level; undertake legislative audits to harmonise national laws and policies with the provisions of the African Children's Charter and ensure the existence of functional institutions for protection of children's rights; implement the recommendations and decisions of the ACERWC; allocate sufficient budgets for child rights work; and collaborate with all stakeholders including the UN Agencies, CSOs, children's organisations and the media to ensure full implementation of the African Children's Charter;
  7. **WELCOMES** the ACERWC's Guiding Note on COVID-19 and its implication on Children's Rights and Welfare; and **RECOMMENDS** Member States to: establish child friendly information and communication procedures in the fight against Covid-19; ensure the continuity of every child's right to education, provisions of essential services and parental care and protection for all children in their territory; and guarantee that post COVID-19 national recovery plans embed the four cardinal principles of child rights at the center namely: survival, life and development, nondiscrimination, best interests of the child and child participation.
  8. **CONGRATULATES** the Democratic Republic of Congo for ratifying the African Charter on the Rights and Welfare of the Child; and **URGES** Member States that have not yet ratified the African Children's Charter, to consider ratifying the Charter with urgency;
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9. **APPRECIATES** State Parties which have submitted their reports on the implementation of the African Children's Charter; and **URGES** State Parties, which have not yet reported to the Committee to comply with their reporting obligations;
  10. **ENCOURAGES** State Parties that have entered reservation on the provisions of the African Children's Charter to consider withdrawing the same;
  11. **APPRECIATES** the Republic of Kenya for submitting its Periodic Report on the implementation of the African Children's Charter, and **ENCOURAGES** the same to work towards the full implementation of the ACERWC's Concluding Observations and Recommendations;
  12. **ADOPTS** the theme for the Day of the African Child (DAC) 2022 to be on: 'Eliminating Harmful Practices Affecting Children: Progress on Policy and Practice since 2013' and **REQUESTS** Member States to commemorate the DAC and report on the implementation of the recommendations of the Committee;
  13. **WELCOMES** the ACERWC's report on the assessment of the status of implementation of Africa's Agenda for Children (Agenda 2040); and **ENCOURAGES** Member States to work towards full implementation of the Aspirations within Agenda 2040;
  14. **REITERATES** the importance of the Communications procedure of the ACERWC established pursuant to Article 44 of the African Children's Charter, and **CALLS ON** the concerned Member States to comply with their obligations under the Charter by responding to the Committee's requests and implementing the Committee's decisions;
  15. **WELCOMES** the decision of the Peace and Security Council to dedicate two sessions each year to receive briefings from ACERWC and related partners on the plight of children in armed conflicts and crises in the Continent; and **ENCOURAGES** the concerned Member States to implement the recommendations of the Peace and Security Council;
  16. **REITERATES** the Assembly Decision [Assembly/AU/Dec.718(XXXII)] adopted during the 32nd Ordinary Session of Heads of State and Government of the AU held in Addis Ababa from 10 – 11 February 2019, and **CALLS ON** the Chairperson of the AU Commission to urgently finalise the appointment of a Special Envoy on Children in Situations of Conflict;
  17. **WELCOMES** the ACERWC's General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child regarding Children in situations of Conflicts, tension and strife, and **ENCOURAGES** Member States to make use of it as a tool for normative guidance in relation to their respective obligations towards protection of children in the context of armed conflict, tension and strife;
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18. **WELCOMES** the ACERWC's assessment on the responses of the African Union and its mechanisms to matters of children in conflict situation, and **CALLS ON** the AUC, the APSA pillars and mechanisms to implement the recommendations, and ensure integration of child protection within their policies and activities;
  19. **WELCOMES** the establishment of the ACERWC's Working Groups on the implementation of the decisions; Working Group on children's rights and climate change; Working Group on children's rights and business; and Working Group on children with disability; and **ENCOURAGES** Member States to support and cooperate with the mandate and activities of these Offices.
  20. **CONGRATULATES** the Kingdom of Lesotho and the AUC for signing the host agreement and ensuring the relocation of the Secretariat of the ACERWC;
  21. **ENCOURAGES** the host Country to continue providing the required support pursuant to the host agreement; and **CALLS ON** the AUC to finalise the recruitment of staff and transfer of resources for the smooth operation of the newly established Office in Maseru, the Kingdom of Lesotho.
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# Report of the African Committee of Experts on the Rights and Welfare of the Child

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