

# RULES OF PROCEDURE of the AFRICAN COMMISSION on HUMAN AND PEOPLES' RIGHTS



**African Commission on  
Human and Peoples'  
Rights**

No 31 Bijilo Annex Layout  
Kombo North District  
Western Region  
P.O.Box 673  
Banjul  
The Gambia

Tel: +220 441 05 05/6  
Fax: +220 441 05 04  
E-mail: [achpr@achpr.org](mailto:achpr@achpr.org)

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<sup>1</sup> The Rules of Procedure were adopted by the African Commission on Human and Peoples' Rights during its 2nd ordinary session held in Dakar (Senegal) from February 2 to 13, 1988 and it was revised during its 18th ordinary session held in Praia (Cabo-Verde) from October 2 to 11, 1995.

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# Preliminary Provisions

## Rule 1 Objective

1. These Rules regulate the organisation and establish the procedure of the African Commission on Human and Peoples' Rights in accordance with Article 42 (2) of the African Charter on Human and Peoples' Rights.
2. In the absence of a provision in these Rules or in case of doubt as to their interpretation, the Commission shall decide.

## Rule 2 Definitions

For the purpose of these Rules:

**"African Charter"** refers to the African Charter on Human and Peoples' Rights.

**"African Children's Charter"** refers to the African Charter on the Rights and Welfare of the Child.

**"African Commission"** or **"Commission"** refers to the African Commission on Human and Peoples' Rights.

**"African Court Protocol"** refers to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

**"African Court"** refers to the African Court on Human and Peoples' Rights.

**"Amendment to a proposed motion"** is an addition to, deletion from or revision of part of that motion.

**"Assembly"** refers to the Assembly of Heads of State and Government of the African Union.

**"Bureau"** refers to the Chairperson and Vice Chairperson.

**"Chairperson"** refers to the Chairperson of the African Commission on Human and Peoples' Rights.

**"Child Rights Committee"** refers to the African Committee of Experts on the Rights and Welfare of the Child.

**"Commissioner"** refers to a member of the African Commission on Human and Peoples' Rights.

**"Day"** shall be understood to be a natural day.

**"Executive Council"** refers to the Executive Council of the African Union.

**"Member State"** refers to a Member State of the African Union.

**"Secretary"** refers to the Secretary to the African Commission on Human and Peoples' Rights.

**"Serious or massive violations"** refers to grave human rights violations as distinguished by their

scale and importance.

**“Session”** refers to the statutory meetings of the Commission. This includes Ordinary and Extraordinary sessions.

**“Specialized Organs”** refers to specialized organs put in place by the United Nations and African Union.

**“State Party”** refers to African States that have ratified the African Charter on Human and Peoples’ Rights.

**“Subsidiary Mechanism”** refers to any mechanism established in accordance with Rule 23 of these Rules.

**“Third party”** refers to any other party than the complaining or defending parties.

**“Union”** refers to the African Union.

**“Vice-Chairperson”** refers to the Vice-Chairperson of the African Commission on Human and Peoples’ Rights.

**“Working Language”** refers to the working languages of the African Union.

# Part One

## GENERAL RULES

### CHAPTER I STATUS AND COMPOSITION

#### *Rule 3 Status*

The African Commission is an autonomous treaty body working within the framework of the African Union to promote human and peoples' rights and ensure their protection in Africa.

#### *Rule 4 Composition*

1. In conformity with Article 31 of the African Charter, the Commission shall consist of eleven (11) members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights, particular consideration being given to persons having legal experience.
2. The members of the Commission shall serve in their personal capacity.

### CHAPTER II MEMBERSHIP

#### *Rule 5 Term of office*

1. Members of the Commission are elected for six years and shall be eligible for re-election.
2. If a member of the Commission is re-elected at the expiry of his or her term of office, or elected to replace a member whose term of office has expired or will expire, the term of office shall begin from that expiry date.
3. In conformity with Article 39(3) of the African Charter, the member of the Commission elected to replace a member whose term has not expired, shall complete the term of his or her predecessor. However, if the remaining term of office is less than six months, there shall be no replacement.

#### *Rule 6 Order of precedence*

1. In the discharge of their duties, members of the Commission shall follow the Chairperson and the Vice-Chairperson according to their seniority in office. When there are two or more members of the Commission with equal seniority, precedence shall be given to the oldest.

2. A member of the Commission who is re-elected to a new term of office which is continuous with his/her previous term shall retain his/her precedence.

#### *Rule 7 Incompatibility*

1. The position of member of the Commission is incompatible with any activity that might interfere with the independence or impartiality of such a member or demands of the office such as a member of government, a Minister or under-secretary of State, a diplomatic representative, a director of a ministry, or one of his subordinates, or the legal adviser to a foreign office or any other political binding function or participate in any activity of the nature that will compromise the independence and impartiality.
2. The Bureau of the Commission shall ensure that the requirements in Rule 7(1) above are enforced in accordance with Articles 31(1 & 2) and 39(2) of the African Charter.
3. In the case of incompatibility, the Chairperson of the Commission shall inform the Chairperson of the African Union Commission, who shall declare the seat vacant.

#### *Rule 8 Cessation of function*

1. If in the unanimous opinion of the other members of the Commission, a member has stopped discharging his or her duty for any reason other than temporary absence, the Chairperson of the Commission shall inform the Chairperson of the African Union Commission, who shall declare the seat vacant.

2. A member of the Commission may resign from his or her position at any time. He or she shall do so through a written notification addressed to the Chairperson of the Commission who shall transmit it to the Chairperson of the African Union Commission.

3. The resignation shall take effect three months from the date of submission of the letter of resignation.
4. The Chairperson of the African Union Commission shall upon receipt of the notification, declare the seat vacant. The vacancy shall be effective from the date the resignation takes effect.
5. In the case of death of a member of the Commission, the Chairperson shall immediately inform the Chairperson of the African Union Commission who shall declare the seat vacant from the date of the death.
6. Every seat declared vacant in conformity with the present Rule shall be filled in accordance with paragraph 3 of Article 39 of the African Charter.

#### *Rule 9 Solemn declaration*

In conformity with Article 38 of the African Charter, before assuming office, every member of the Commission shall make the following solemn declaration at a public sitting of the Commission: *"I solemnly undertake to carry out my duties well and faithfully in all impartiality."*



### CHAPTER III BUREAU OF THE COMMISSION

#### *Rule 10 Composition of the Bureau*

The Bureau of the Commission shall be composed of a Chairperson and a Vice-Chairperson who shall perform the functions set forth in the African Charter and in these Rules of Procedure.

#### *Rule 11 Election of the Bureau*

1. The Commission shall elect from among its members a Chairperson and a Vice-Chairperson.
2. Election shall be held by secret ballot. Only members present shall vote. A member who obtains a simple majority of the votes of the members of the Commission present and voting shall be elected.

#### *Rule 12 Duration of the term of the members of the Bureau*

The members of the Bureau of the Commission shall be elected for a period of two years. They shall be eligible for re-election only once. None of them may, however, exercise his or her functions if he or she ceases to be a member of the Commission.

#### *Rule 13 Powers and functions of the Bureau*

1. The Bureau shall coordinate the promotion and protection activities of the members of the Commission.
2. The Bureau shall supervise the work of the Secretary, including the preparation and approval of the work-plan of the Commission.

3. The Bureau shall annually assess the performance of the Secretary. It shall submit its assessment to the Commission for its consideration and decision.

#### *Rule 14 Powers and functions of the Chairperson*

1. The Chairperson shall carry out the functions assigned to him or her by the Charter, the Rules of Procedure and the decisions of the Commission and the Assembly. In the exercise of his or her functions the Chairperson shall be under the authority of the Commission.
2. The Chairperson shall:
  - a. Represent and direct the work of the Commission;
  - b. Preside over the meetings of the Commission;
  - c. Submit the assessment report referred to in Rule 13(3) to the competent organs of the African Union Commission;
  - d. Supervise the preparation of the budget by the Secretariat and its adoption by the Commission;
  - e. Present and defend the budget before the relevant African Union bodies;
  - f. Present a report to the Assembly and to the Commission on the activities carried out during the intersession;
  - g. Perform any other functions that may be conferred upon him or her in the Rules of Procedure or other tasks entrusted to him or her by the Commission or the Assembly; and
  - h. Delegate, when necessary, to the Vice-Chairperson or, if the Vice-

Chairperson is not available, to another Commissioner, the abovementioned powers.

*Rule 15 Powers and functions of the Vice-Chairperson*

1. If the Chairperson is temporarily unable to perform his or her duties, the Vice-Chairperson, shall perform the duties of the Chairperson.
2. The Vice-Chairperson, acting in the capacity of the Chairperson, has the same powers and functions as the Chairperson.
3. The Vice-Chairperson shall perform any other function delegated to him or her by the Commission or the Chairperson of the Commission.
4. If both the Chairperson and the Vice-Chairperson are unable to carry out their duties at the same time, the duties of Chairperson shall be carried out by another Commissioner according to the order of precedence laid down in Rule 6.

*Rule 16 Resignation, vacancy and replacement*

If a member of the Bureau of the Commission resigns from his or her position or ceases to be a member of the Commission, the remaining member shall represent the Bureau until the next session, when the Commission shall fill the position for the remainder of the term of office.

## **CHAPTER IV SECRETARIAT TO THE COMMISSION**

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*Rule 17 Composition, Structure and Status of the Secretariat*

1. Without prejudice to Article 41 of the African Charter, the Commission shall propose the organizational structure of the Secretariat and shall place it before the African Union for approval.
2. The Secretariat of the Commission is composed of the Secretary and the Commission's professional, technical and administrative staff.
3. The Secretary shall be appointed by the Chairperson of the African Union Commission pursuant to article 41 of the African Charter after consultation with the Chairperson of the African Commission.
4. The Status of the Secretary and the staff is governed by the African Union Staff Rules and Regulations.

*Rule 18 Functions of the Secretary to the Commission*

The Secretary to the Commission is responsible for the activities of the Secretariat under the supervision of the Chairperson. The Secretary shall specifically:

- a. Assist the Chairperson, the Bureau of the Commission and other members of the Commission in the exercise of their functions;
- b. Supervise and co-ordinate the work of the staff of the Secretariat;
- c. Keep proper records of the Commission, which must be properly organized for easy reference;
- d. Ensure confidentiality of the

- Commission's records where appropriate;
- e. Submit to the Chairperson and the members of the Commission all items that will be considered by the Commission;
  - f. In consultation with the Chairperson, prepare:
    - i. a draft agenda for each session;
    - ii. the Commission's strategic plan, annual work plan and annual budget;
    - iii. guidelines on missions for adoption by the Commission;
  - g. Present a written report to the Commission at the beginning of each session on the activities of the Secretariat since the preceding session;
  - h. Implement the decisions entrusted to him or her by the Commission or the Bureau;
  - i. Make available to the general public documents which are not confidential, including States Reports, by ensuring that they are posted on the website of the Commission;
  - j. Ensure the maintenance and regular updating of the website of the Commission;
  - k. Assess the performance of the staff of the Commission.

#### *Rule 19 Financial responsibility*

The expenses of the Commission, emoluments and allowances for Commissioners and the budget of the Secretariat, shall be borne by the

African Union, in accordance with criteria laid down by the African Union in consultation with the Commission.

#### *Rule 20 Financial Rules*

The implementation of provisions of Articles 41 and 44 of the Charter shall be governed by the African Union's financial rules.

#### *Rule 21 Estimate*

When the Commission considers a proposal entailing expenses, the Secretary shall prepare and present to the members of the Commission, as soon as possible, a report outlining the financial implications of the proposal.

#### *Rule 22 Confidentiality of the work of the Commission*

The staff of the Secretariat must observe the principle of confidentiality in all matters that the Commission considers confidential as stipulated under the Charter and these Rules.

## CHAPTER V SUBSIDIARY MECHANISMS

### *Rule 23 Special Rapporteurs, Committees and Working Groups*

1. The Commission may create subsidiary mechanisms such as special rapporteurs, committees, and working groups.
2. The creation and membership of such subsidiary mechanisms may be determined by consensus, failing which, the decision shall be taken by voting.
3. The Commission shall determine the mandate and the terms of reference of each subsidiary mechanism. Each subsidiary mechanism shall present a report on its work to the Commission at each ordinary session of the Commission.

### *Rule 24 Applicable rules for Subsidiary Mechanisms*

The Rules of Procedure of the Commission shall apply *mutatis mutandis* to the proceedings of its subsidiary mechanisms.

## CHAPTER VI SESSIONS

### *Rule 25 General principles*

1. The Commission shall hold Ordinary and Extraordinary Sessions, to enable it to satisfactorily carry out its functions in conformity with the African Charter.
2. Sessions of the Commission shall be held in public unless the Commission decides otherwise or if it appears from the relevant provisions of the Charter that the meeting shall be held in private.

### *Rule 26 Ordinary Sessions*

1. The Commission shall hold at least two Ordinary Sessions per year each lasting for about two weeks, unless the Commission decides otherwise.
2. The Ordinary Sessions of the Commission shall be convened on a date fixed by the Commission upon the proposal of its Chairperson and in consultation with the Chairperson of the African Union Commission.
3. In exceptional circumstances, the Chairperson of the African Union Commission may change the opening date of a session, in consultation with the Chairperson of the Commission.

### *Rule 27 Extraordinary Sessions*

1. The Commission shall also hold Extraordinary Sessions.
2. The Chairperson of the Commission shall convene Extraordinary Sessions:
  - a. At the request of the majority of the members of the Commission; or
  - b. At the request of the Chairperson of the African Union Commission.

3. Extraordinary Sessions shall be convened on a date fixed by the Chairperson of the Commission, in consultation with the Chairperson of the African Union Commission and the other members of the Commission.

*Rule 28 Place of meetings*

1. The sessions of the Commission shall be held at its headquarters, or in the territory of any other State Party which invites the Commission.
2. In the event that a State Party invites the Commission to hold a session in its country, that State Party shall sign an agreement with the Commission to host the session of the Commission, which agreement shall vest the State Party with the responsibility for all additional expenses incurred by the Commission as a result of the session being held outside its headquarters, in conformity with the relevant rules of the African Union.
3. A State Party offering to host a session of the Commission shall not be under any suspension of the African Union. Any country wishing to host a session of the Commission should commit itself to respecting the provisions of Article 62, and should comply with all the recommendations of the African Commission, where necessary.
4. The Commission may, in consultation with the Chairperson of the African Union Commission, hold a session at the headquarters of the African Union. The sharing of costs for such session shall be as agreed with the African Union Commission.

5. The Commission may hold joint sessions in consultation with the African Court on Human and Peoples' Rights, the Committee of Experts on the Rights and Welfare of the Child, or any other African regional human rights organ.

*Rule 29 Notification of the Opening Date of the Sessions*

1. The Secretary shall inform members of the Commission of the date and venue of each session. This notice shall be sent, in the case of an Ordinary Session, at least sixty (60) days before the Session unless exceptional circumstances require otherwise.
2. In the case of an Extraordinary Session, the notice shall be sent as soon as possible before the beginning of the session.

*Rule 30 Quorum*

Seven members of the Commission shall constitute the quorum, as specified in Article 42 (3) of the Charter.

*Rule 31 Private Sessions*

1. Private Sessions of the Commission shall be held in private and deliberations shall remain confidential.
2. During a Private Session, the Secretary to the Commission, members of the Secretariat and persons providing technical or secretarial assistance to the Commission shall be present unless the Commission decides otherwise.

3. The Commission shall ensure the confidentiality of all case files, including pleadings. This provision shall not be interpreted to prohibit the prompt sharing of pleadings with the parties to a Communication.
4. The Chairperson of the Commission may communicate to the public general information on deliberations in Private Sessions, subject to the exigencies of Article 59 of the Charter and any special directions by the Commission.

## CHAPTER VII AGENDA

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### *Rule 32 Provisional Agenda*

1. The Provisional Agenda for each Ordinary Session shall be drawn up by the Secretary in consultation with the Bureau of the Commission and in accordance with the provisions of the Charter and the present Rules of Procedure.
2. The Provisional Agenda shall include but not be limited to, items on "Communications from States" and "Other Communications" in conformity with the provisions of Articles 48, 49, and 55 of the Charter.
3. Pursuant to paragraph 1 of this Rule, the Provisional Agenda may also include items proposed by:
  - a. The Commission at a previous Session;
  - b. The Chairperson of the Commission or a member of the Commission;
  - c. A State Party to the African Charter;
  - d. Any African Union organ;
  - e. An organisation recognized by the African Union, a national human rights institution with affiliate status or a non-governmental organisation with observer status;
  - f. A specialized institution of the United Nations of which the State Parties to the African Charter are members.
4. The items to be included in the provisional agenda under subparagraphs d, e and f of paragraph 3 above shall be communicated to the Secretary, accompanied by supporting documents, not later than sixty (60) days before the opening of the Session at which these items are to be discussed.

5. The decision to include an item on the provisional agenda is taken by the Bureau of the Commission. If the request is accepted, the Secretary shall include the item on the Provisional Agenda of the session and inform the requesting party of this decision within one month.
6. The Provisional Agenda of an Extraordinary Session of the Commission shall include only the items in the notification issued by the Chairperson.

*Rule 33 Transmission and distribution of the Provisional Agenda*

1. The Secretary shall distribute the Provisional Agenda and the relevant working documents to the members of the Commission at least sixty (60) days before the opening of an Ordinary Session.
2. The Secretary shall transmit the provisional agenda and the essential documents of the session to State Parties, the Chairperson of the African Union Commission, affiliate institutions and observers at least forty-five (45) days before the opening of an Ordinary Session of the Commission.
3. The Secretary, in consultation with the members of the Commission in exceptional cases, may distribute the Provisional Agenda and essential documents relating to certain items on the Agenda thirty (30) days prior to the opening of an Ordinary Session.
4. The Secretary shall transmit by all appropriate means, including posting on the website of the Commission, the Provisional Agenda of the Session to State

Parties, the Chairperson of the African Union Commission, affiliate institutions and observers at least fifteen (15) days before the opening of an Ordinary Session of the Commission.

*Rule 34 Adoption of the Agenda*

1. At the beginning of each Session, the Commission shall adopt the agenda of the Session.
2. Proposals made under Rule 32(3) of the present Rules shall be included in the Agenda of the Session if a majority of the members present so decide.

*Rule 35 Revision of the Agenda*

The Commission may, during the Session, revise its Agenda.

## CHAPTER VIII LANGUAGE

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### *Rule 36 Working Languages*

1. The Working Languages of the Commission and all its subsidiary mechanisms are those of the African Union.
2. The proceedings of the Commission shall be conducted in any of the Working Languages of the African Union.
3. Any person addressing the Commission in a language other than one of the Working Languages shall ensure the interpretation into one of the Working Languages of the Commission. The interpreters of the Commission shall take this interpretation as the source language for their interpretation in the other Working Languages of the Commission.

## CHAPTER IX RECORDS AND REPORTS

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### *Rule 37 Records and reports of Sessions*

1. The Secretary shall keep recordings of the proceedings of the sessions of the Commission and of the meetings of its subsidiary mechanisms.
2. The Secretary shall prepare a Report of the proceedings of each session of the Commission.
3. The Report referred to in paragraph 2 of the present rule shall be adopted by the Commission before publication, including posting on the website.

### *Rule 38 Publication and distribution of Session Reports*

1. The Final Report of the Public Session shall be posted on the website unless the Commission decides otherwise.
2. The Final Report of the private sessions of the Commission shall be distributed to all members of the Commission.



## CHAPTER X CONDUCT OF BUSINESS

### *Rule 39 Additional powers of the Chairperson*

The Chairperson shall open and close each session, direct the discussions, ensure observance of the present Rules of Procedure, accord the right to speak, put questions to the vote and announce decisions.

### *Rule 40 Points of Order*

1. During a debate on any matter a member of the Commission may, at any time, raise a point of order and the Chairperson of the Commission, in accordance with the Rules of Procedure, shall immediately rule on the point of order. If a member of the Commission contests the ruling, it shall immediately be put to a vote. If the majority of the members of the Commission present uphold the Chairperson's ruling, it shall be maintained.
2. A member of the Commission raising a point of order cannot, in his or her comments, deal with the substance of the matter under discussion.

### *Rule 41 Adjournment of debates*

During the discussion on any matter, a member of the Commission may move for the adjournment of the debate. In addition to the proposer of the motion, one member of the Commission may speak in favour of and one against the motion after which the motion shall be immediately put to a vote.

### *Rule 42 Time limit accorded to speakers*

The Chairperson of the Commission may limit the time accorded to each speaker on any matter. When a speaker exceeds his or her allotted time, the Chairperson of the Commission shall call him or her to order.

### *Rule 43 Closing the list of speakers*

1. The Chairperson of the Commission may, before the beginning of a debate, read out the list of speakers and with the consent of the Commission, declare the list closed.
2. The Chairperson of the Commission may, however, accord the right of reply to any speaker if a speech delivered after the list has been closed makes this desirable.

### *Rule 44- Closure of debate*

1. A member of the Commission may, at any time during a debate, move for the closure of the debate on the item under discussion, even if the other members of the Commission or representatives have expressed the desire to take the floor. The authorization to take the floor on the closure of the debate shall be given only to two speakers for and against the closure, after which the motion shall immediately be put to a vote.
2. When the debate on an item is concluded, the Chairperson of the Commission shall declare the debate closed.

#### *Rule 45 Adjournment or closure of session*

During the discussion on any matter, a member of the Commission may move for the adjournment or closure of the sessions. No discussion on any such motion shall be permitted and it shall be immediately put to a vote.

#### *Rule 46 Order of the Motions*

The following motions shall have precedence in the following order over all the other proposals or motions before the Commission:

- a. Competence of the Commission;
- b. Point of order;
- c. Recusal of a Member of the Commission;
- d. Adjournment of the session;
- e. Adjournment of debate on the item under discussion;
- f. Closure of debate on the item under discussion.

#### *Rule 47 Submission of motion and amendment of substance*

Unless the Commission decides otherwise, the motions or amendments to motions on substantive matters made by members of the Commission shall be submitted in writing to the Secretary with supporting documents.

#### *Rule 48 Withdrawal and re-submission of a motion*

The sponsor of a motion may withdraw it before it is put to vote, provided that it has not been amended. Another member of the Commission may re-submit a motion thus withdrawn. When a member of the Commission moves for the re-submission of a motion, only one member of the Commission may speak in favour of and one against the motion, after which it shall immediately be put to a vote.

#### *Rule 49 Oral interventions*

1. No one may take the floor at a meeting of the Commission without the authorization of the Chairperson of the Commission. The Chairperson of the Commission shall grant the floor to speakers in the order in which it has been requested.
2. Oral intervention shall deal solely with the matter under discussion by the Commission and the Chairperson of the Commission shall call to order any speaker whose remarks are irrelevant.
3. The Chairperson of the Commission may limit the time accorded to speakers as well as the number of interventions in accordance with the present Rules of Procedure. The time limit for each speaker shall be determined by the Chairperson.

#### *Rule 50 Right of reply*

1. A right of reply may be granted by the Chairperson of the Commission to any member of the Commission or representative of a State Party who requests it.

2. A member of the Commission or representative of a State Party must, while exercising this right, respect the time limit fixed by the Chairperson for reply and take the floor preferably at the end of the sitting at which this right has been requested.
3. The right of reply shall be limited to one reply per party and all parties shall have the same length of time to reply.

## CHAPTER XI VOTING

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### *Rule 51 Right to vote*

1. Decisions of the Commission may be taken by consensus, failing which the decision shall be taken by voting.
2. However, at the request of a member, any proposal or motion shall be put to a vote.
3. Each member of the Commission shall have one vote. In the case of a tie in votes, the Chairperson of the Commission shall have a casting vote.

### *Rule 52 Required majority*

1. Except as otherwise provided by the African Charter or the present Rules of Procedure, decisions of the Commission shall be taken by a simple majority of the members present and voting.
2. For the purpose of the Rules of Procedure, the expression “members present and voting” shall mean members voting for or against. The members who shall abstain from voting shall be considered as non-voting members.

### *Rule 53 Method of voting*

1. Subject to the provisions of Rule 56 of the present Rules, the Commission, unless it otherwise decides, shall vote by show of hands, but any member may request a roll-call vote, which shall be taken in alphabetical order.

2. In all the votes by roll-call each member shall reply “yes” or “no” or “abstention”. The vote of each member participating in the ballot shall be recorded in the minutes.
3. The Commission may decide to hold a secret ballot.

*Rule 54 Explanation of vote*

Members may make brief statements only for the purpose of explaining their vote, before the beginning of the vote or once the vote has been taken.

*Rule 55 Rules to be observed while voting*

A vote shall not be interrupted except if a member raises a point of order related to the manner in which the voting is being done.

*Rule 56 Elections*

Elections shall be held by secret ballot unless the election is for a post for which only one candidate has been proposed and that candidate has been agreed upon by the members of the Commission.

## **CHAPTER XII MOTIONS AND PROPOSALS**

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*Rule 57 Division of proposals*

Proposals in a motion may be separated if a member so requests. The parts of proposals or amendments that have been adopted shall later be put to a vote as a whole. If all the operative parts of a motion have been rejected, the motion shall be considered to have been rejected as a whole.

*Rule 58 Order of voting on proposals*

1. If two or more proposals are made on the same matter, the Commission, unless it decides otherwise, shall vote on these proposals in the order in which they were submitted.
2. After each vote, the Commission may decide whether it shall put the next proposal to a vote.
3. However, motions which are not on the substance of a proposal shall be voted upon before the said proposals.

## CHAPTER XIII REPORTS OF THE COMMISSION

### *Rule 59 Activity Reports*

1. The Commission shall submit an Activity Report of its promotion, protection and other activities to each Ordinary Session of the Assembly.
2. The content of the Activity Report of the Commission to be presented to the Assembly by its Chairperson or his/her representative shall be determined by the Commission.
3. Once the Activity Report is considered by the Assembly, the Secretary shall publish it, including posting on the website, and shall transmit it to State Parties, African Union organs, National Human Rights Institutions and Civil Society Organizations.

### *Rule 60 Mission Reports*

1. Upon completion of a Mission, the Secretary shall, within thirty (30) days, draft the mission report in conformity with the Commission's Guidelines on Mission Reports.
2. The Secretary shall send the draft Mission Report to all the members of the Commission's delegation who shall submit their comments within Thirty (30) days.
3. In the case of a mission for promotion activities, the Secretary shall, after the mission report has been commented upon by the members of the delegation referred to in paragraph 2 of the present Rules, submit the Report incorporating the observations of the members to the Commission for consideration and adoption at its next session.

4. The adopted mission report shall be sent to the State Party concerned for its comments, to be given within sixty (60) days from the day of receipt of the Report. After sixty days, the Report shall be published with the comments of the State Party, if any.
5. In the case of a mission for protection activities, the Mission Report shall be sent to the members of the delegation referred to in paragraph 2 of this Rules, as well as to other concerned parties, including any party to a Communication that was a subject of the Mission. The Commission shall consider the comments of these parties when finalizing the Report, especially with regard to any proposal for amicable settlement.
6. The Report of any protection mission as well as the comments from the State Party concerned and other concerned parties, where applicable, shall be annexed to the Activity Report of the Commission.

### *Rule 61 Distribution of reports and other official documents*

1. Reports, decisions, session documents and all other official documents of the Commission and its subsidiary mechanisms shall be documents for general distribution unless the Commission decides otherwise. Upon their adoption by the Commission, reports shall be published in accordance with Article 59(2) of the Charter.
2. Reports and additional information submitted by States Parties under Article 62 of the African Charter shall be documents for general distribution in the Working Languages of the

African Union and shall be posted on the Commission's website as soon as they are received at the Secretariat of the Commission;

3. The Secretary shall ensure the publication of the Commission's Activity Report and post it on the website of the Commission after consideration by the Assembly.

## **CHAPTER XIV RELATIONSHIPS WITH STATE PARTIES, INTERGOVERNMENTAL INSTITUTIONS, NATIONAL HUMAN RIGHTS INSTITUTIONS, NON-GOVERNMENTAL ORGANISATIONS, AND OTHER PARTNERS**

### *Rule 62 General Principle*

The Commission may invite any State Party, institution, organisation or person capable of enlightening it to participate in its sessions without voting rights.

### *Rules 63 Discussions on Human Rights Situations*

1. In conformity with Rule 32(3) of the present Rules of Procedure, any State Party, African Union organ, specialized agency or body of the United Nations or other organisation recognized by the African Union, national human rights institution with affiliate status, or non-governmental organisation with observer status, may request that the African Commission include in its agenda for an Ordinary Session a discussion on any human rights issue. Such a request shall be made sixty (60) days in advance of the session at which the discussion is to take place.
2. Where the discussion requires the presence of other partners and parties, the requesting party shall so indicate in the documents that it presents to the Commission pursuant to Rule 34(2) of the present Rules. If the Bureau of the Commission decides that the participation of additional partners and parties is necessary, it shall invite them to attend and transmit to them all relevant documentation

and information on the proposed discussion from the requesting party.

#### *Rule 64 Participation of States Parties*

1. The Commission or its subsidiary mechanisms may invite any State Party to participate in the discussion of any issue that shall be of particular interest to that State.
2. A State thus invited shall have no voting right, but may submit proposals which may be put to a vote at the request of any member of the Commission or of the subsidiary mechanism concerned.

#### *Rule 65 Participation of specialized agencies, intergovernmental organisations and United Nations bodies*

1. Specialized agencies, intergovernmental organisations and United Nations bodies may take part in the Public Sessions of the Commission.
2. The Commission may permit representatives of these bodies to make oral or submit written statements during its session.
3. Pursuant to Articles 45(1) and 46 of the African Charter, the Commission may invite these bodies to submit reports on the implementation of the African Charter in areas of common concern.
4. The Commission may take part in the activities of specialized agencies, intergovernmental organisations and United Nations bodies and agree through a Memorandum of Understanding on areas of common concern.

#### *Rule 66 Donors*

1. Subject to Article 41 of the Charter, the Commission may negotiate financial agreements with donors. These financial agreements shall be signed by the Secretary after approval by the Bureau. Original copies of such agreements shall be kept at the Secretariat of the Commission.
2. The Commission shall inform the African Union Commission of any proposal to accept funds from any donor including details of the amount of money to be provided, the project or projects for which the funds are sought and any condition of receipt of such funding.
3. Such agreements shall specify expected outcomes, monitoring and evaluation of the project funded by the donor.
4. The Secretary shall prepare and submit reports on the implementation of the agreement to the Commission at each Ordinary Session.
5. Donors may be invited to attend sessions of the Commission.

#### *Rule 67 National Human Rights Institutions*

1. National Human Rights Institutions established by States Parties and functioning according to internationally and regionally recognized norms and standards may be granted affiliate status with the Commission.
2. National Human Rights Institutions having affiliate status with the Commission shall enjoy the rights and perform the duties stipulated in the Resolution on the Granting of

Affiliate Status to National Human Rights Institutions in Africa.

3. The African Commission shall grant affiliate status to only one National Human Rights Institution in each State Party.
4. The African Commission may invite other National Human Rights Institutions that do not meet the criteria provided in paragraphs 1 and 2 of the present Rules to attend its sessions as observers.

*Rule 68 Non-governmental organisations*

1. Non-governmental organisations working in the field of human rights in Africa may be granted observer status with the Commission.
2. Non-governmental organisations having observer status with the Commission shall enjoy the rights and perform the duties stipulated in the Resolution on the Granting of Observer Status.
3. Non-Governmental organisations with observer status with the Commission shall fulfil their obligations stipulated under the Resolution referred to in paragraph 2 of the present Rules.



## Part Two

# PROMOTION ACTIVITIES

### CHAPTER I GENERAL PROVISIONS

#### *Rule 69 Program of promotion activities*

The Commission shall adopt and carry out a program of promotion activities to give effect to its mandate under the African Charter, in accordance with Article 45(1).

#### *Rule 70 Promotion missions*

1. The Commission shall carry out promotion missions, to States Parties.
2. Promotion missions shall be governed by the Commission's Guidelines for Missions as well as the Format for Pre-mission Reports.
3. For each promotion mission, the Commission shall develop terms of reference bearing in mind the human rights situation in the country.

#### *Rule 71 Other promotion activities*

1. The Commission shall undertake promotion activities other than promotion missions, including seminars, conferences, symposia etc.
2. These activities shall be undertaken either on its own or in collaboration with partners.

3. Where the Commission receives an invitation to participate in any promotion activity, the Secretary shall inform the Bureau immediately, and the latter shall decide on the course of action.

#### *Rule 72 Activity Reports of Commissioners*

At each Ordinary Session, each member of the Commission shall submit a written report of his or her promotion activities undertaken during the inter-session.

## CHAPTER II THE STATE REPORTING PROCEDURE UNDER ARTICLE 62 OF THE CHARTER

### *Rule 73 Contents of State Reports*

1. Pursuant to Article 62 of the African Charter and other relevant legal instruments which supplement them, including the Protocol to the African Charter on the Rights of Women in Africa in its Article 26, States Parties shall submit reports in accordance with the guidelines of the Commission, on the measures they have taken to give effect to the provisions of the African Charter and on the progress they have made. Reports shall indicate the challenges, if any, affecting the implementation of the African Charter and its relevant protocols.
2. The Secretary to the Commission shall send to States Parties the Guidelines on State Reports.

### *Rule 74 Transmission of State Reports*

1. Upon receipt of a State Report, the Secretary shall upload the Report on the Commission's website and indicate when the Report will be examined by the Commission.
2. Institutions, organizations or any interested party wishing to contribute to the examination of the Report and the human rights situation in the country concerned, shall send their contributions, including shadow reports, to the Secretary at least 60 days prior to the examination of the Report.
3. The Secretary may also invite specific institutions to submit information relating to the state report within a time limit that he/she may specify.

### *Rule 75 Consideration of Reports*

1. The Chairperson of the Commission shall, through the Secretary inform States Parties of the opening date and venue of the Session at which their respective reports shall be considered.
2. States Parties shall be represented in the sessions of the Commission at which their reports are to be considered.
3. Representatives of States Parties shall respond to the questions prepared by the Commission, and questions of the members of the Commission and provide when necessary, any other information requested during or after the session.
4. If a State Party fails to send a representative to the session of the Commission at which its report is to be examined, consideration of the report shall be rescheduled for the next session. If, at the said session, the concerned State Party, after due notification, fails to send a representative, the Commission shall consider the State Report.
5. During the consideration of the state report submitted by a State Party in accordance with Article 62 of the Charter, the Commission shall explore all the pertinent information relating to the human rights situation in the State concerned, including statements and shadow reports from National Human Rights Institutions and NGOs.

#### *Rule 76 Non-submission of Reports*

1. The Commission shall, at the beginning of each year, inform the States Parties which are not up to date with their obligations under Article 62 of the deadlines of their submission of their reports and the date at which they are expected to comply.
2. At the beginning of each Ordinary Session, the Secretary shall inform the Commission of all cases of non-submission of reports or of additional information requested by the Commission. In such cases, the Chairperson of the Commission may send a reminder, through the Secretary, to the State Party concerned;
3. The Activity Report of the Commission shall point out the status of initial and Periodic Report of States Parties.

#### *Rule 77 Concluding Observations*

1. The Commission shall, after consideration of the report of a State Party, formulate Concluding Observations.
2. The Concluding Observations of the Commission shall comply with the Guidelines of the Commission on Concluding Observations.
3. The Concluding Observations shall be transmitted to the State Party concerned within thirty (30) days after the session at which the Observations were adopted. They shall form part of the Commission's activity report and be posted on the website of the Commission after the adoption of the Activity Report.

#### *Rule 78 Follow-up of implementation of Concluding Observations of State Reports*

1. In the Concluding Observations, the Commission shall specify, if necessary, the issues that require urgent attention on the part of the State Party. The date of the presentation of the next Periodic Report by the State Party shall be included in the Concluding Observations.
2. The Members of the Commission shall ensure the follow-up on the implementation of the recommendations from the Concluding Observations within the framework of their promotion activities to the States Parties concerned.
3. The Commission shall also transmit to the Assembly the observations mentioned in Rule 77(1), with copies of the reports it has received from the States Parties as well as the comments supplied by the latter, if any.

## Part Three

# PROTECTION ACTIVITIES

### CHAPTER I MATTERS OF EMERGENCY

#### *Rule 79 Decision on Matters of Emergency*

1. The Commission shall treat a situation as a matter of emergency under Article 58(3) of the African Charter, when:
  - a. it is one of serious or massive human rights violations;
  - b. it presents the danger of irreparable harm or requires urgent action to avoid irreparable damage;
2. When a situation of emergency arises during a session of the Commission, the decision to treat it as such shall be taken by the Commission.
3. When a situation arises during the Commission's inter-session period, the decision to treat it as a matter of emergency shall be taken by the Bureau of the Commission, which shall keep other members of the Commission informed and present a report on the situation at the next session of the Commission.

#### *Rule 80 Action on Matters of Emergency*

1. When the Commission has decided to treat a situation as one of emergency, it shall:
  - a. Draw the attention of the Chairperson of the Assembly of Heads of State and Government of the African Union to the matter in accordance with Article 58(3) of the Charter;
  - b. Draw the attention of the Peace and Security Council to the matter in accordance with Article 19 of the Protocol on Peace and Security Council;
  - c. Inform the Executive Council;
  - d. Inform the Chairperson of the African Union Commission of the matter.
2. The Commission as well as its subsidiary mechanisms under the Charter and present Rules, shall also take any appropriate action, including Urgent Appeals.

## CHAPTER II PROTECTION MISSIONS

### Rule 81 *General provisions*

1. If it deems it necessary and advisable, the Commission may carry out a protection mission to a State Party.
2. States Parties shall provide the Commission with an open invitation for protection missions and respond promptly to any request by the Commission for authorisation to undertake a protection mission.
3. Any protection mission agreed upon between the Commission and a State Party shall be conducted in accordance with the Commission's Guidelines for Missions.
4. The expenses incurred by a mission undertaken at the request of any AU organ shall be borne by such organ.

### Rule 82 *State Party's obligations*

During a protection mission of the Commission the State Party concerned shall:

- a. Commit itself not to take any kind of reprisal against any persons or entities who provide the mission with information, testimony or evidence;
- b. Guarantee the free movement of the members of the mission throughout the territory of the country, in this regard, provide corresponding facilities, including any necessary internal authorisation;
- c. Provide the mission of the Commission with any document that the latter may consider necessary for the preparation of its reports;

- d. Take necessary security measures to protect members of the delegation and also to guarantee the smooth running of the mission.

## CHAPTER III CONSIDERATION OF COMMUNICATIONS

### SECTION 1 GENERAL PROVISION

*Rule 83 Records of Communications under Articles 47, 48, 49 and 55 of the Charter*

1. The Commission shall receive or note as the case may be, Communications or notifications under Articles 47, 48, 49 and 55 of the Charter.
2. The Secretary shall maintain a record of each Communication, with a reference number, the names of the parties, the date of registration or notification, and the date of decision or closure of each Communication.

*Rule 84 Situation of serious or massive violation of human rights*

1. When the Commission considers that one or more Communications relate to a series of serious or massive human rights violations, it shall bring the matter to the attention of the Assembly of Heads of State and Government of the African Union and the Peace and Security Council of the African Union.
2. The Commission may also, in conformity with Article 5 of the African Court Protocol and Rule 118(3) of the present Rules of Procedure, refer the matter to the African Court.

*Rule 85 Other interventions*

The Commission may decide to solicit or accept interventions by parties other than the Complainant and the Respondent State that it considers could provide it with information relevant to making a decision on a Communication.

## SECTION 2 CONSIDERATION OF COMMUNICATIONS RECEIVED IN CONFORMITY WITH ARTICLE 47 OF THE CHARTER: COMMUNICATIONS-NEGOTIATIONS OF STATES PARTIES

*Rule 86 Submission of a Communication*

1. A Communication under Article 47 of the Charter shall be submitted to the Chairperson, through the Secretary of the Commission.
2. The Communication referred to above shall be in writing and shall contain a comprehensive statement of the facts as well as the provisions of the African Charter alleged to have been violated.
3. Notification of the Communication to the State Party concerned, the Chairperson of the African Union Commission and the Chairperson of the Commission shall be done through the most practical and reliable means.
4. The Secretary to the Commission shall, on behalf of the Chairperson, acknowledge receipt, by note verbale, receipt of the Communication and request the parties to keep the Commission informed of developments which could arise within the framework of ongoing negotiations.

### SECTION 3 CONSIDERATION OF COMMUNICATIONS RECEIVED UNDER ARTICLES 48 & 49 OF THE CHARTER: COMMUNICATIONS - COMPLAINTS OF STATES PARTIES

#### *Rule 87 Seizure of the Commission*

1. Any Communication under Articles 48 and 49 of the Charter may be submitted to the Chairperson of the Commission through the Secretary by an interested State Party.
2. The Communication shall contain information on the following or be accompanied particularly by:
  - a. Measures taken to resolve the issue pursuant to Article 47 of the African Charter including the text of the initial communication and any subsequent written explanation from the interested States Parties relating to the issue;
  - b. Measures taken to exhaust regional or international procedures of settlement or good offices;
  - c. Any other procedure of international investigation or international settlement to which the interested States Parties have resorted.
2. The Commission shall designate one or more of its members as Rapporteur for the Communication.
3. Rapporteurs, through the Secretary, may:
  - a. Request relevant information on matters connected with the Communication from the States Parties concerned. Such information shall be provided by both parties within ninety (90) days of receipt of such request;
  - b. Transmit any information obtained from one party to the other for comments. The parties shall be given ninety (90) days to respond to the observations made by the other party.
4. Prior to the session at which the Communication is to be considered, the Rapporteurs shall prepare a report on the admissibility of the Communication. Such report shall contain:
  - a. The relevant facts, including any information or comments obtained under paragraph 3 of this Rule;
  - b. The provision(s) of the African Charter alleged to have been violated in the Communication;
  - c. A recommendation on admissibility and on any other action to be taken, as the case may require.

#### *Rule 88 Consideration of the Communication*

1. Where, pursuant to Articles 48 and 49 of the African Charter, a Communication is brought before the Commission by a State Party, the Chairperson of the Commission, through the Secretary, shall give notice of such Communication to the State Party against which the complaint is made and shall invite it to submit to the Commission

its observations in writing on the admissibility of the Communication within ninety (90) days. The observations so obtained in writing shall be immediately communicated to the complaining State Party, which shall respond within ninety (90) days of receipt of the observations.

5. Before deciding upon the admissibility of the Communication, the Commission may invite the parties to submit further observations in writing and shall fix a time limit of ninety (90) days for the submission of these observations. The written observations or information shall be transmitted to the opposing party.
6. The Commission may also allow the parties to make additional observations orally.

*Rule 89 Decision on admissibility*

1. The Commission shall consider the report of the Rapporteurs, decide on the admissibility of the Communication, and shall inform the parties accordingly.
2. The Commission shall give reasons for its decision on admissibility.

*Rule 90 Amicable settlement*

1. When the Commission declares that a Communication is admissible, it shall place its good offices at the disposal of the interested States Parties with the objective of reaching an amicable settlement under the terms of the African Charter.
2. For the purpose of the Commission's good offices, the Bureau of the Commission shall establish contact with the relevant authorities of the States Parties.
3. The Bureau shall report its findings and recommendations to the Commission at the Commission's next session.
4. The Commission shall thereafter decide on the appropriate action

to take, which may include the following:

- a. appointing a Rapporteur;
- b. convening, in consultation with the States Parties concerned, meetings with the aim of achieving an amicable settlement of the dispute;
- c. Facilitating the drafting of a Memorandum of Understanding, when the parties accept the principle of an amicable settlement, containing the terms of settlement being proposed having regard to the progress made.

5. In the case of acceptance of the draft Memorandum of Understanding, the States Parties concerned shall sign the agreement under the auspices of the Commission.
6. The Rapporteur shall then prepare a draft report, which shall be submitted to the Commission for adoption at its next session.
7. When adopted, the report shall be sent to the States Parties concerned and communicated to the Assembly.
8. The Commission, through the Rapporteur shall then follow-up on monitoring the implementation of the terms of the agreement and report on the said implementation to each subsequent Ordinary Session of the Commission until the settlement is concluded. Such a report shall form part of the Activity Report of the Commission to the Assembly



#### *Rule 91 Failure to settle the dispute amicably*

1. If the amicable settlement of the dispute fails, the Commission shall request the States Parties concerned to provide, within a period of thirty (30) days, their written submissions.
2. The Commission shall communicate any information obtained from one party to the other for comments. The States Parties concerned shall be given thirty (30) days to respond.
3. The Rapporteur shall prepare a report containing the facts, findings and recommendations for consideration by the Commission.
4. Before adopting the report of the Rapporteur, the Commission may convene a hearing at which it may allow the parties to make additional oral observations.

#### *Rule 92 Decision of the Commission*

1. Within twelve months of receipt of a Communication, the Commission shall adopt a decision, prepare a report and make recommendations, pursuant to Article 53 of the African Charter following the notification referred to in Article 48 of the African Charter and the present Rules of Procedure.
2. The report of the Commission on the Communication shall be communicated to the States Parties concerned through the Secretary.
3. The report of the Commission on the communication shall be submitted as part of the Commission's Activity Report to the Assembly.

### **SECTION 4 CONSIDERATION OF COMMUNICATIONS RECEIVED IN CONFORMITY WITH ARTICLE 55 OF THE AFRICAN CHARTER: OTHER COMMUNICATIONS**

#### *Sub-Section 1 General Provisions*

#### *Rule 93 Seizure of the Commission*

1. A Communication submitted under Article 55 of the African Charter may be addressed to the Chairperson of the Commission through the Secretary by any natural or legal person.
2. The Secretary shall ensure that Communications addressed to the Commission contain the following information:
  - a. The name, nationality and signature of the person or persons filing it; or in cases where the Complainant is a non-governmental entity, the name and signature of its legal representative(s);
  - b. Whether the Complainant wishes that his or her identity be withheld from the State;
  - c. The address for receiving correspondence from the Commission and, if available, a telephone number, facsimile number, and email address;
  - d. An account of the act or situation complained of, specifying the place, date and nature of the alleged violations;
  - e. The name of the victim, in a case where he or she is not the Complainant;
  - f. Any public authority that has taken cognisance of the fact or situation alleged;

- g. The name of the State(s) alleged to be responsible for the violation of the African Charter, even if no specific reference is made to the article(s) alleged to have been violated;
- h. Compliance with the period prescribed in the African Charter for submission of the Communication;
- i. Any steps taken to exhaust domestic remedies, or if the applicant alleges the impossibility or unavailability of domestic remedies, the grounds in support of such allegation; and
- j. An indication that the complaint has not been submitted to another international settlement proceeding as provided in Article 56(7) of the African Charter.

- 3. In cases where the victim has not asked for anonymity and is represented by an NGO or other agent, the victim shall be the Complainant of record and the fact of representation or agency shall be recognized.
- 4. Where a Communication does not contain some of the documents and information listed in paragraph 2 of the present Rule, the Secretary shall request the Complainant to furnish the same.
- 5. When the Secretary is satisfied that all necessary information has been furnished, it shall transmit the file to the Commission which shall make a decision on seizure on the Communication.

#### Rule 94 Representation

- 1. States Parties shall be represented before the Commission by their representatives.
- 2. Natural or legal persons may either appear in person or be represented by their appointed representative before the Commission.

#### Rule 95 Order of consideration of Communications

Unless otherwise decided, the Commission shall consider Communications in the order in which they have been received by the Secretary.

#### Rule 96 Joinder and disjoinder of Communications

- 1. If two or more Communications against the same State Party address similar facts, or reveal the same pattern of violation of rights, the Commission may join them and consider them together as a single Communication.
- 2. Notwithstanding paragraph 1 of the present Rule, the Commission may decide not to join the Communications if it is of the opinion that the joinder will not serve the interest of justice.
- 3. Where in accordance with paragraph 1 of the present Rule, the Commission decides to join two or more Communications, it may subsequently, where it deems appropriate, decide to disjoin the Communications.

*Rule 97 Working Groups and Rapporteurs on Communications*

1. The Commission shall appoint a Rapporteur for each Communication from among its members.
2. The Commission may also establish one or more working groups to consider questions of seizure, admissibility and the merits of any Communication(s) and to make recommendations to the Commission.
3. The Commission shall consider the recommendations of the Rapporteur(s) and/or the Working Group(s) and make a decision.

*Rule 98 Provisional Measures*

1. At any time after the receipt of a Communication and before a determination on the merits, the Commission may, on its initiative or at the request of a party to the Communication, request that the State concerned adopt Provisional Measures to prevent irreparable harm to the victim or victims of the alleged violation as urgently as the situation demands.
2. If the Commission is not in session at the time that a request for Provisional Measures is received, the Chairperson, or in his or her absence, the Vice-Chairperson, shall take the decision on the Commission's behalf and shall so inform members of the Commission;
3. After the request for Provisional Measures has been transmitted to the State Party, the Commission shall send a copy of the letter requesting Provisional Measures to the victim, the Assembly, the Peace and Security

Council, and the African Union Commission.

4. The Commission shall request the State Party concerned to report back on the implementation of the Provisional Measures requested. Such information shall be submitted within fifteen (15) days of the receipt of the request for Provisional Measures;
5. The granting of such measures and their adoption by the State Party concerned shall not constitute a prejudgment on the merits of a Communication.

*Rule 99 Procedure for hearings on Communications*

1. At the initiative of the Commission or at the request of one of the parties, a hearing may be held on a Communication.
2. During hearings, the Commission shall permit oral presentations by the parties on new or additional facts or arguments or in answer to any questions that it may have concerning all issues relating to the Communication.
3. During a hearing on a Communication or at any stage prior to the conclusion of the matter, the following may be considered:
  - a. The verification of the facts;
  - b. Initiation of a friendly settlement;
  - c. Consideration on the merits; or
  - d. Any other matter pertinent to the Communication.

4. A party requesting a hearing, shall do so at least ninety (90) days before the beginning of the session in which the Communication is going to be considered.
5. The Rapporteur of the Communication, in consultation with the Bureau of the Commission, shall decide upon the request.
6. The Secretary shall inform both parties of the decision on the granting of a hearing within 15 days of the decision referred to under paragraph 5 of the present Rule.
7. If the request for a hearing is accepted, the notification of the hearing shall include the dates and venue of the session, and period of the session during which the hearing is likely to take place.
8. Hearings on Communications before the Commission shall be held in camera. Unless the Commission decides otherwise, no person shall be admitted, other than:
  - a. The parties to the Communication or the representatives duly mandated;
  - b. Any person being heard by the Commission as a witness or as an expert;
  - c. The persons referred to in Rule 33 (2) or any person whom the Commission may decide to invite under Article 46 of the African Charter.
9. When it considers it in the interest of the proper conduct of a hearing, the Commission may limit the number of parties' representatives or advisers who may appear.
10. The parties shall inform the Commission at least ten days before the date of the opening of the hearing of the names and functions of the persons who will appear on their behalf at the hearing.
11. The Chairperson or his or her representative shall preside over the hearing, and shall verify the identity of any persons before he/she is heard.
12. Any member of the Commission may put questions to the parties or to the persons heard with the permission of the Chairperson.
13. Parties to the communication or their representatives may, with the permission of the Chairperson, put questions to any person heard.
14. The Secretary is responsible for the production of verbatim records of hearings before the Commission. Such records are internal working documents of the Commission. If a party to the communication so requests, the Commission shall provide a copy of such records unless, in the view of the Commission, doing so could create a danger to persons heard.
15. The State Party to the Communication shall make an undertaking not to victimise or to take any reprisals against the Complainant and/or any person representing them or their family members, or witnesses because of their statements before the Commission.
16. The Commission may receive *amicus curiae* brief on communication. During the hearing of a Communication in which *amicus curiae* brief has been filed, the Commission, where necessary shall permit the author of the brief or the representative to address the Commission.

### Rule 100 Witnesses and experts

1. The Commission shall determine, at its own initiative, or at the request of one of the parties, when to call independent experts and witnesses of the parties to the Communication whom it considers necessary to hear in a given case. A request to call a witness by one of the parties shall not be rejected unless the Commission has good reasons to believe that such a request constitutes an abuse of process. The invitation to the hearing shall indicate:
  - a. The parties to the Communication;
  - b. A summary of the facts or issues in relation to which the Commission desires to hear the witness or expert.
2. Any such person may, if they do not have sufficient knowledge of the working languages of the Commission, be authorised by the Chairperson to speak in any other language to be interpreted in one of the Working Languages of the Commission.
3. After establishing the identity of the witnesses or experts the Chairperson of the Commission shall request them to take the following oath:
  - a. For witnesses *"I swear/affirm that I will speak the truth, the whole truth and nothing but the truth."*
  - b. For the experts *"I swear/affirm that my statement will be in accordance with my knowledge, findings and sincere belief."*
4. The State Party to the communication shall give an undertaking not to

victimise or persecute the witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission.

### Rule 101 Inability of a member of the Commission to take part in the examination of a Communication

1. A member of the Commission shall not be present and take part in the consideration of a Communication if he or she:
  - a. is a national of the State Party concerned;
  - b. has any personal interest in the case;
  - c. is engaged in any political or administrative activity or any professional activity that is incompatible with his or her independence or impartiality;
  - d. has participated in any capacity in any decision at the national level in relation to the Communication; or
  - e. has expressed publicly opinions that might be interpreted as reflecting lack of impartiality with respect to the Communication.
2. Any question that may arise under paragraph 1 above shall be decided by the Commission without the participation of the member concerned.

### *Rule 102 Withdrawal of a Member*

If, for any reason, a Member of the Commission considers that he or she should not take part or continue to take part in the consideration of a Communication, he or she shall inform the Chairperson of his or her decision to withdraw.

### *Rule 103 Preliminary objection*

1. A party who intends to raise a preliminary objection at the stage of admissibility or before the Commission takes a decision on the merits of the Communication, shall do so not later than thirty (30) days after receiving notification to submit on admissibility or on the merits. The Commission shall communicate the objection to the other party within fifteen (15) days.
2. A party who intends to respond to a preliminary objection raised by the other party shall submit a written response not later than thirty (30) days after the Secretary to the Commission has transmitted the objection to that party.
3. If no response to a preliminary objection is received within the stipulated period, the Commission shall proceed with the consideration of the preliminary objection on the basis of the available information.
4. When the Commission receives a preliminary objection, it shall first of all determine this objection before any other question relating to the Communication.

### *Rule 104 Legal aid*

1. The Commission may, either at the request of the author of the communication or at its own initiative, facilitate access to free legal aid to the author in connection with the representation of the case;
2. Free legal aid shall only be facilitated where the Commission is convinced:
  - a. That it is essential for the proper discharge of the Commission's duties, and to ensure equality of the parties before it; and
  - b. The author of the Communication has no sufficient means to meet all or part of the costs involved;
3. In case of urgency or when the Commission is not in session, its Chairperson may exercise the powers conferred on the Commission by this Rule. As soon as the Commission is in session, any action that has been taken under this paragraph shall be brought to its attention for confirmation.

## *Sub-Section 2 Procedure On Admissibility*

### *Rule 105 Submissions of observations*

1. When the Commission has decided to be seized of a Communication pursuant to the present Rules, it shall promptly transmit a copy of the complaint to the Respondent State. It shall simultaneously inform the Complainant of the decision on seizure, and request the Complainant to present evidence and arguments on admissibility within two months.
2. Upon receipt of the Complainant's observations on admissibility, the Secretary shall transmit a copy to the respondent state and request the latter to make a written submission, containing its arguments and evidence on admissibility, within two months of its receipt of the Commission's request. The Secretariat shall, within a week of receipt of the state's submission, provide the Complainant with a copy.
3. Upon receiving the observations of the Respondent State on Admissibility, the Complainant may comment on the observations within one month of receipt.
4. In conformity with Rule 88(6), the Commission, while determining Admissibility may ask the parties to present supplementary observations in an oral hearing.

### *Rule 106 Admissibility of Communications*

The Communications shall comply with the requirements of Admissibility under Article 56 of the Charter which are cumulative.

### *Rule 107 Decision on Admissibility*

1. Once it has considered the positions of the parties, the Commission shall make a decision on the admissibility of the Communication and the Secretary shall inform the parties accordingly.
2. Once a Communication has been declared admissible, the Commission shall inform the parties and defer the Communication to the next session for consideration on the merit.
3. The Commission's decisions on the inadmissibility of Communications shall be notified to the parties and attached to its Activity Report.
4. If the Commission has declared a Communication inadmissible this decision may be reviewed at a later date, upon the submission of new evidence, contained in a written request to the Commission by the author.

### *Sub-Section 3 Procedure for the Consideration of Communications on the Merits*

#### *Rule 108 Proceedings*

1. Once a Communication has been declared admissible, the Commission shall set a period of sixty (60) days for the Complainant to submit observations on the merits. These observations shall be transmitted to the State Party concerned for the submission of its observations within sixty (60) days;
2. Any written statements submitted by the State Party concerned shall be communicated, through the Secretary, to the Complainant, who may submit any additional written information or observations within thirty (30) days. This time limit cannot be extended.

#### *Rule 109 Amicable settlement*

1. At any stage of the examination of a Communication, the Commission, on its own initiative or at the request of any of the parties concerned, may offer its good offices for an amicable settlement between the parties.
2. The amicable settlement procedure shall be initiated, and may only continue, with the consent of the parties.
3. If it deems it necessary, the Commission may entrust to one or more of its members the task of facilitating negotiations between the parties.
4. The Commission may terminate its intervention in the amicable settlement procedure at the request of one or both parties, within a period of six months, renewable

once, when an amicable settlement is not reached.

5. When the Commission receives information from parties that an amicable settlement has been reached, the Commission shall ensure that such amicable settlement:
  - a. Complies with or respects the human rights and fundamental freedoms enshrined in the African Charter and other applicable instruments;
  - b. Indicates that the victim of the alleged human rights violation or, his/her successors, as the case may be, have consented to the terms of the settlement and are satisfied with the conditions;
  - c. Includes an undertaking by the parties to implement the terms of the settlement.
6. When the Commission is satisfied that the requirements of paragraph 5 have been complied with, it shall prepare a report which shall contain:
  - a. A brief statement of the facts;
  - b. An explanation of the settlement reached;
  - c. Recommendations by the Commission for steps to be taken by the parties to ensure the maintenance of the settlement;
  - d. Steps to be taken by the Commission to monitor the parties' compliance with the terms of the settlement.
7. If the terms of the amicable settlement are not implemented within six months, or when the terms do not comply with the requirements under paragraph 5



of the present Rule the Commission shall at the request of the Complainant continue to process the Communication in accordance with the relevant provisions of the Charter and the relevant Rules in the present Rules.

#### *Rule 110 Decision on the merits*

1. The Commission, after deliberation on the submissions of both parties, shall adopt a decision on the merits of the Communication.
2. The Commission shall deliberate on Communications in private, and all aspects of the discussions shall be confidential.
3. The decision of the Commission shall be signed by the Chairperson and the Secretary, shall remain confidential and shall not be transmitted to the parties until its publication is authorized by the Assembly.
4. The decision of the Commission shall be posted on the Commission's website after its publication is authorized by the Assembly.

#### *Rule 111 Review of the decision of the Commission on the merits*

1. Once the Commission has taken a decision on the merits, it may, on its own initiative or upon the written request of one of the parties, review the decision.
2. In determining whether to review its decision on the merits, the Commission shall satisfy itself of the following:
  - a. that the request is based upon the discovery of some fact of such a nature as to be a decisive

factor, which fact was not known to the Commission and the party requesting the review, provided that such ignorance was not due to negligence;

- b. that the application for review is made within six months of the discovery of the new fact;
  - c. any other compelling reason or situation that the Commission may deem appropriate or relevant to justify review of a Communication, with a view to ensure fairness, justice and respect for human and peoples' rights.
3. No application for review may be made after three years from the date of the decision.

#### *Rule 112 Follow-up on the recommendations of the Commission*

1. After the consideration of the Commission's Activity Report by the Assembly, the Secretary shall notify the parties within thirty (30) days that they may disseminate the decision.
2. In the event of a decision against a State Party, the parties shall inform the Commission in writing, within one hundred and eighty (180) days of being informed of the decision in accordance with paragraph one, of all measures, if any, taken or being taken by the State Party to implement the decision of the Commission.
3. Within ninety (90) days of receipt of the State's written response, the Commission may invite the State concerned to submit further information on the measures it has taken in response to its decision.

4. If no response is received from the State, the Commission may send a reminder to the State Party concerned to submit its information within ninety (90) days from the date of the reminder.
5. The Rapporteur for the Communication, or any other member of the Commission designated for this purpose, shall monitor the measures taken by the State Party to give effect to the Commission's recommendations on each Communication.
6. The Rapporteur may make such contacts and take such action as may be appropriate to fulfill his/her assignment including recommendations for further action by the Commission as may be necessary.
7. At each Ordinary Session, the Rapporteur shall present the report during the Public Session on the implementation of the Commission's recommendations.
8. The Commission shall draw the attention of the Sub-Committee of the Permanent Representatives Committee and the Executive Council on the Implementation of the Decisions of the African Union, to any situations of non-compliance with the Commission's decisions.
9. The Commission shall include information on any follow-up activities in its Activity Report.

#### *Rule 113 Extension of time*

1. Subject to the provisions of Rule 111, when a deadline is fixed for a particular submission, either party may apply to the Commission for extension of the period stipulated.
2. The Commission may grant an extension which shall not exceed one (1) month, and shall not grant more than one extension per party for any given submission.

## Part Four

# RELATIONSHIPS WITH THE AFRICAN COURT

### CHAPTER I GENERAL PROVISIONS

#### *Rule 114 Complementarity with the African Court*

1. Pursuant to Article 2 of the Protocol, the Court shall complement the protective mandate of the Commission as provided for in Articles 30 and 45 (2) of the African Charter.
2. The complementarity relationship between the Commission and the Court is set out and organized by Articles 5, 6(1) & (3), 8 and 33 of the Protocol.

#### *Rule 115 Consultations with the Court*

1. In pursuance of Article 2 of the Protocol, the Commission shall meet with the Court at least once a year and whenever necessary to ensure good working relationship between the two institutions.
2. The Bureau of the Commission may meet the Bureau of the Court as often as necessary to undertake any functions assigned to them by the two institutions.
3. The conclusions of the meetings of the Bureaus shall be considered and if adopted by the Commission, shall be included in the Activity Report.

4. The Commission shall consult with the Court before the modification of any of its Rules relating to their relationship.

#### *Rule 116 Interpretation of the Charter by the Commission*

1. If the Commission is requested to interpret the Charter under Article 45(3), it shall immediately inform the President of the Court.
2. A copy of the interpretation of the Charter by the Commission shall be sent to the President of the Court as soon as it is adopted.

#### *Rule 117 Advisory Opinion*

The Commission may request to be heard by the Court upon being notified by the Court of a request for an Advisory Opinion pursuant to Article 4(1) of the Protocol.

#### *Rule 118 Seizure of the Court*

1. If the Commission has taken a decision with respect to a communication submitted under Articles 48, 49 or 55 of the Charter and considers that the State has not complied or is unwilling to comply with its recommendations in respect of the communication within the

period stated in Rule 112(2), it may submit the communication to the Court pursuant to Article 5 (1) (a) of the Protocol and inform the parties accordingly.

2. If the Commission has made a request for Provisional Measures against a State Party in accordance with Rule 98, and considers that the State has not complied with the Provisional Measures requested, the Commission may pursuant to Article 5 (1) (a) of the Protocol, refer the communication to the Court and inform the Complainant and the State concerned.
3. The Commission may, pursuant to Rule 84(2) submit a communication before the Court against a State Party if a situation that, in its view, constitutes one of serious or massive violations of human rights as provided for under Article 58 of the African Charter, has come to its attention.
4. The Commission may seize the Court at any stage of the examination of a communication if it deems necessary.

#### *Rule 119 Admissibility under Article 6 of the Protocol*

1. Where, pursuant to Article 6 of the Protocol, the Commission is requested to give its opinion, on the admissibility of a communication pending before the Court or where the Court has transferred a communication to the Commission, it shall consider the admissibility of this matter in accordance with Article 56 of the Charter and Rules 105, 106 and 107 of the present Rules.

2. Upon conclusion of the examination of the admissibility of the communication referred to it under Article 6 of the Protocol, the Commission shall immediately transmit its opinion or its decision on the admissibility to the Court.

#### *Rule 120 Representation of the Commission before the Court*

When the Commission decides to submit a communication to the Court, pursuant to Article 5(1) (a) of the Protocol and Rule 118, it may appoint one or more Commissioners to represent it before the Court. The Commissioner(s) so designated shall be assisted by one or more Legal Officer(s) of the Commission's Secretariat and/or experts who shall be designated or appointed by the Commission.

#### *Rule 121 Content of the application and file to the Court*

1. When, in pursuance of Article 5 (1) (a) of the Protocol and Rule 120 of the present Rules, the Commission decides to bring a communication before the Court, it shall submit an application seizing the Court in accordance with the Court Rules, accompanied by a summary of the communication and the communication file.
2. The summary shall include the names of the representatives of the Commission, the facts of the

communication and all the relevant provisions of the African Charter which have been violated.

3. Where necessary, the summary shall include
  - a. The date on which the Commission adopted its decision, or adopted and sent the request for Provisional Measures;
  - b. The facts which reveal serious or massive violations;
  - c. The date on which the decision of the Commission was transmitted to the State Party concerned;
  - d. Information relating to the deadline stipulated under Rule 113 of the present rules ; and
  - e. The parties to the proceedings before the Commission, if applicable.
4. The communication file along with the summary to be transmitted to the Court shall contain all the evidence, documents or information concerning the communication including documents relating to any attempts to secure a friendly settlement, and the Commission's decision.

*Rule 122 Transmission of communications to the Court and notification of the parties*

1. The Secretary of the Commission shall transmit to the Court the application signed by the Chairperson, the certified copy of the communication file and the summary referred to in Rule 121 of the present rules in conformity with the Rules of Procedure of the Court. At the request of the Court,

the Commission shall transmit the original of the communication file.

2. The Secretary shall also immediately notify the Parties who were before the Commission about the referral of the communication to the Court and shall transmit copies of the communication file and the summary thereof.

*Rule 123 Lis Pendens*

The commission shall not consider any communication relating to a communication still pending before the court, unless the communication has been formally withdrawn.

## Part Five

# RELATIONSHIP WITH OTHER AFRICAN UNION ORGANS, INSTITUTIONS, AND PROGRAMMES

### *Rule 124 General rule*

1. The Commission, in fulfilling its mandate, shall establish formal relations of cooperation, including meetings as necessary, with all African Union organs, and institutions and programmes that have a human rights element in their mandate.
2. The Bureau of the Commission may, in addition, meet with the bureaux of these organs, institutions and programmes as often as may be required to ensure their good working relationship.

### *Rule 125 Relationship with the policy organs of the African Union*

1. When submitting its Activity Report in accordance with Article 54 of the African Charter, the Commission may request the Assembly to take necessary measures to implement its decisions.
2. The Commission shall bring all its recommendations to the attention of the Sub-Committee on the Implementation of the Decisions of the African Union of the Permanent Representatives Committee.

### *Rule 126 Cooperation with the African Union Commission*

1. Prior to the appointment of the Secretary or any staff member of the Commission's Secretariat, the African Union Commission shall consult with the Bureau of the Commission.
2. After transmitting the report on the evaluation of the performance of the Secretary in accordance with Rule 13(3) and 14(2) (c) of the present Rule of Procedure, the Chairperson of the African Union Commission may invite the Bureau of the African Commission for discussion.

## Part Six

# FINAL PROVISIONS

### *Rule 127 Interpretation*

In conformity with Article 45(3) of the Charter, the Commission shall interpret the Charter.

### *Rule 128 Amendment of the Rules of Procedure*

The present Rules of Procedure may be amended by the Commission.

### *Rule 129 Transitional provisions*

Upon the entry into force of the Protocol on the Statute of the African Court of Justice and Human Rights, all references in the present Rules to provisions of the African Court Protocol or the African Court shall be deemed, where applicable, to refer to the relevant provisions of the Protocol on the Statute of the African Court of Justice and Human Rights or to the African Court of Justice and Human Rights, respectively.

### *Rule 130 Non-retroactivity*

The present Rules of Procedure shall not have any retrospective effect.

### *Rule 131 Suspension*

The Commission may suspend temporarily, the application of any Rule of the present Rules of Procedure, on condition that such a suspension shall not be incompatible with any applicable decision of the Commission or the Assembly or with any relevant provision of the Charter and that the proposal shall have been submitted 24 hours in advance.

### *Rule 132 Entry into force of the Rules of Procedure*

The present Rules of Procedure shall enter into force three months after their adoption by a simple majority of members of the Commission present and voting at a session where the Rules are scheduled to be adopted.

*Address of the African Commission:*

No 31 Bijilo Annex Layout, Kombo North  
District, Western Region

PO Box 673, Banjul

The Gambia

Tel: +220 441 0505

+220 441 0506

Fax: +220 441 0504

Email: [secretary@achpr.org](mailto:secretary@achpr.org)

Website: [www.achpr.org](http://www.achpr.org)

*Address of the African Court:*

Dodoma Road

PO Box 6274,

Arusha

Tanzania

Tel : +255 732979509/9551

Fax : +255 732979503

Email : [registrar@africa-court.org](mailto:registrar@africa-court.org)

[presidentoffice@african-court.org](mailto:presidentoffice@african-court.org)

Website: [www.african-court.org](http://www.african-court.org)

*Address of the AU Commission*

Roosevelt Street (Old Airport area)

W21 K19

PO Box 3224, Addis Ababa

Ethiopia

Tel: +251 115 517700

Fax: +251 115 517844

Website: [www.africa-union.org](http://www.africa-union.org)



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