

AFRICAN UNION		UNION AFRICAINE
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<p style="text-align: center;">AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</p> <p style="text-align: center;">COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</p> <p style="text-align: center;">P.O Box 6274 Arusha, Tanzania - Telephone: +255 27 205 0111 Fax. +255 27 205 0112</p>		

THE 2010 ACTIVITY REPORT OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

INTRODUCTION

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

The first Bench of the Court was elected by the Executive Council of the African Union, and appointed by the Assembly of Heads of State and Government on 24 January 2006, in Khartoum, Sudan. They took the oath of office on 2 July 2006, at the session of the Assembly of Heads of State and Government of the African Union, which took place in Banjul, Republic of the Gambia; they assumed duty the same day. The composition of the Court was partially renewed by the decision-making organs of the African Union in July 2008 and July 2010 in accordance with Article 15 (1) and (2) of the Protocol. (See the annex to this report for the list of current members of the Court, specifying their nationality and respective terms of office).

The seat of the Court was established in Arusha, United Republic of Tanzania.

2. Article 31 of the Protocol provides that:

“The Court shall submit to each regular session of the Assembly, a report on its work during the previous year. The report shall specify, in particular, the cases in which a State has not complied with the Court's judgment”.

This present report, which covers the period from 1 January to 31 December, 2010, is prepared in pursuance of the above article. It covers the main activities carried out by the Court in 2010 and provides an appraisal as required for the period under review and the consequent recommendations. It is however necessary from the onset to report on the status of ratification of the Protocol, and adherence to the declaration acknowledging the jurisdiction of the Court to receive petitions submitted by individuals and non-governmental organizations, under Article 34(6) of the said Protocol.

I. STATUS OF RATIFICATION OF THE PROTOCOL ESTABLISHING THE COURT AND DEPOSIT OF THE DECLARATION ACCEPTING THE COMPETENCE OF THE COURT TO RECEIVE APPLICATIONS SUBMITTED BY INDIVIDUALS AND NON-GOVERNMENTAL ORGANIZATIONS

3. According to information obtained from the African Union Commission, the following 25 countries have so far ratified the Protocol to establish the Court: Algeria; Burkina Faso; Burundi; Côte d'Ivoire; Comoros; Gabon; the Gambia; Ghana; Kenya; Libya; Lesotho; Malawi; Mali; Mauritania; Mauritius; Mozambique; Niger; Nigeria; Uganda; Rwanda; Senegal; South Africa; Tanzania; Togo; and Tunisia.

It should be noted, in comparison, that all 53 Member States of the African Union have already ratified the African Charter on Human and Peoples' Rights that the Court is specifically mandated to interpret and ensure its application. The disparity between the number of States that have ratified the Charter and the number that have ratified the Protocol thus becomes evident. Note must also be made that since 2008, no State has ratified the Protocol.

4. Furthermore, according to information obtained from the African Union Commission, of the 25 Member States that have ratified the Protocol, only four, namely Burkina Faso, Mali, Malawi and Tanzania have deposited the declaration accepting the jurisdiction of the Court to deal with cases from individuals and non-governmental organizations.

II. MAIN ACTIVITIES CARRIED OUT BY THE COURT IN 2010

A. Holding of Court sessions

5. Attention is drawn to the fact that apart from the President of the Court, Judges work on a part-time basis, and as a result, the Court mainly functions through the system of sessions. It generally holds four ordinary sessions per year, and may also hold extraordinary sessions as and when necessary.

6. In the course of 2010, the Court held its sixteenth, seventeenth, eighteenth and nineteenth ordinary sessions. The sixteenth session met in Arusha, Tanzania, from 8 to 19 March 2010; the seventeenth session also convened in Arusha from 31 May to 11 June 2010; the eighteenth session met in Dar es Salaam, Tanzania, from 20 September to 1 October 2010; and the nineteenth session was held in Arusha from 29 November to 10 December 2010.

The main issues considered during the sessions are separately addressed in various sections and paragraphs of this report.

B. The composition and organization of the Court

i) Swearing-in of new members of the Court

7. The Executive Council of the African Union elected, and the Assembly of Heads of State and Government appointed, five Judges, at the African Union Summit held in Kampala, Uganda, from 19 to 27 July 2010. The Judges appointed are:

- Judge Fatsah Ouguergouz (Algeria);
- Judge Augustino S.L. Ramadhani (Tanzania);
- Judge Duncan Tambala (Malawi);
- Judge Elsie Mwanwuri Thompson (Nigeria); and
- Judge Sylvain Ore (Côte d'Ivoire).

Among these Judges, four are new to the Court.

Under Article 16 of the Protocol, "After their election, the judges of the Court shall make a solemn declaration to discharge their duties impartially and faithfully". Pursuant to Rule 4(2) of the Rules of the Court, the latter shall hold a public sitting to swear in the new Judges.

Pursuant to these provisions, the Court held a sitting at the opening ceremony of its Eighteenth Ordinary Session in Dar es Salaam, Tanzania, on 20 September 2010. The ceremony was graced with the presence of H.E. Jakaya Mrisho Kikwete, President of the United Republic of Tanzania.

ii) Election of the Bureau of the Court

8. Pursuant to Article 21(1) of the Protocol "The Court shall elect its President and Vice-President for a period of two years. They may be re-elected only once". At the commencement of its Eighteenth Ordinary Session in Dar es Salaam, Tanzania, from 20 September to 1 October 2010, the Court thus elected its bureau as follows:

President of the Court: Judge Gérard Niyungeko (Burundi)

Vice-President of the Court: Judge Sophia A.B. Akuffo (Ghana)

C. Presentations to the policy organs of the African Union

i) The 2010 Draft Budget of the Court

9. In September 2009, the Court submitted the 2010 draft budget of the Court to the African Union Commission.

A delegation of the Court then travelled to Addis Ababa, Ethiopia, to present and defend the draft budget before various decision-making organs of the African Union, which were meeting from 25 January to 2 February 2010.

Finally, by decision EX.CL/Dec. 524 (XVI), the Executive Council approved the budget of the Court which stands at 7,939,375 US dollars, comprising 6,169,591 US dollars as operational budget and 1,569,784 US dollars as programme budget.

ii) The 2009 Activity Report of the Court

10. The Court submitted its 2009 Activity Report to the African Union Commission in December 2009.

In keeping with Article 31 of the Protocol, the Annual Activity Report of the Court was submitted to the Assembly of Heads of State and Government. The President of the Court presented the report to the Executive Council, acting in lieu of the Assembly; he laid emphasis on the activities undertaken, the difficulties encountered and made recommendations.

The presentation of the report gave rise to Decision EX.CL/Dec.552 (XVI) of January 2010 in which the Executive Council of the African Union duly noted, inter alia, the activities undertaken by the Court in 2009, particularly the work accomplished by the Court in judicial matters, and called on Member States which have not yet done so, to ratify the Protocol establishing the Court and to make the declaration accepting the jurisdiction of the Court to receive applications directly from individuals and Non-Governmental Organizations in compliance with the Protocol establishing the Court.

D. Execution of the 2010 budget of the Court

11. The budget allocated to the Court as contributions from Member States for 2010 by decision EX.CL/Dec. 524 (XVI) stands at US\$6,169,591. Overall expenditure, as at 30 November 2010 amounts to US\$3,870,846. It follows that the rate of execution of the budget is 62.70%.

That rate of execution of the Court's budget is mainly due to the fact that some administrative positions were yet to be filled, while personnel expenses accounted for the largest portion of the regular budget.

In addition to the budgetary allocations from contributions by Member States, the Executive Council approved the Court's budget from contributions by foreign partners. The contribution under the European Union Support Programme to the African Union stood at US\$863,309. Overall expenditure as at 30 November 2010 was US\$278,523 or an execution rate of 32.30%. That low rate of execution stems mainly from the delay in kick-starting the implementation of the project (May 2010) and the absence of a procurement officer.

The contribution by the German Technical Cooperation (GTZ) amounted to US\$906,475. This contribution is however managed by GTZ itself. As at 30 November 2010, the Court had directly benefited from expenditure to the tune of US\$308,910.

E. Preparation of the 2011 budget of the Court

12. On 12 August 2010, the President of the Court forwarded the 2011 draft budget of the Court to the African Union Commission. The draft regular budget stood at US\$6,478,071, while the programme budget was US\$4,753,275. Hence, the total amount of the draft budget was US\$11,231,346.

At its Eighteenth Ordinary Session held in Dar es Salaam, Tanzania, from 20 September to 1 October 2010, the Court re-examined the draft budget and decided to adopt an addendum covering both the regular and programme budgets. The addendum resulted in an increase of US\$326,491 in the regular budget. The increase arises from the budgetary implications of the new Staff Rules of the African Union as approved by the Kampala Summit in July 2010, and the new proposals of the Court on the Status of Judges. On the programme budget, the addendum resulted in a reduction in budgetary estimates under the

European Union Support Programme to the African Union amounting to US\$1,613,855. This reduction stems from a review of the activities to be funded.

On the whole, the initial draft budget was reduced by US\$1,287,364 as a result of the addendum, and this brings the amount to US\$ 9,943,982.

At its 19th Ordinary Session held in Arusha, from 29 November to 10 December, 2010, the Court decided to a further adjustment to its 2011 budget, proposing a financial provision of US\$ 500,000, to provide for insurance for two Judges who are not covered by the American Life Insurance Company (ALICO).

This adjustment increases the Court's proposed budget for 2011 from US\$ 9,943,982 to US\$ 10,443,982.

The addendum to the draft budget of the Court was forwarded to the African Union Commission in early November 2010. The latest adjustment was sent to the Commission on 22 December 2010.

The 2011 consolidated draft budget of the Court was submitted to the policy organs of the African Union for consideration, within the framework of the present Summit.

F. New proposals on the Status of Judges

13. It should be recalled that by Decision EX.CL/Dec.483(XIV) of January 2009, the Executive Council of the African Union recalled "its Decision EX.CL/Dec.449 (XIII) which, inter alia, 'authorizes the African Court on Human and Peoples' Rights to submit in 2009 (...) new proposals concerning the status of Judges'", and requested the PRC to "examine the Court's proposals ... and put forward recommendations thereon for the consideration of the Executive Council at its next session".

The Court sent its proposals on the status of Judges to the African Union Commission in May 2009, and sent a follow-up on its previous correspondence in May and in June 2010.

At the meeting of the PRC Sub-Committee on Administrative, Financial and Budgetary Matters held in Addis Ababa, Ethiopia, on 1 July 2010, the President of the Court presented the proposals to the members of the said Sub-Committee.

The Committee took due note of the submission, but deferred discussion of proposals on the budget. The matter has therefore not yet been settled.

G. New structure of the Registry

14. It should equally be noted that by Decision EX.CL/DEC.483, the Executive Council of the African Union recalled "its Decision EX.CL/DEC.449(XIII) which,

inter alia, ‘authorized the African Court on Human and Peoples’ Rights to submit in 2009, a new structure of the Court Registry ...’ and request the PRC to “examine the Court’s proposal and put forward recommendations thereon for the consideration of the Executive Council at its next session”.

In May 2009, the Court sent its proposals on the new structure of the Registry to the African Union Commission and made a follow-up on its previous correspondence in May 2010.

The PRC Sub-Committee on Structures met from 8 to 12 November 2010, but only examined the proposal submitted by the African Union Commission. It decided to examine proposals from the other organs of the Union, including the Court, on a later date that was not specified.

H. Recruitment of the staff of the Registry

15. Pursuant to Article 24 of the Protocol of 9 June 1998 on the establishment of the Court, “The Court shall appoint its own Registrar and other staff of the Registry from among nationals of Member States of the OAU according to the Rules of Procedure”.

By Decision EX.CL/331(XI) of June 2007, the Executive Council of the African Union approved the initial structure of the Registry, comprising 46 positions.

As at today, out of the 46 positions approved, 40 have been filled. In 2010, the Court finalized the recruitment of the Registrar and Deputy Registrar.

The recruitment process is continuing for the 6 (six) remaining positions, namely 1 (one) information and communication technology specialist, 3 (three) Interpreter/Translators (French, Arabic and Portuguese) and 2 (two) secretaries (Arabic and Portuguese).

As part of the process for the initial recruitment of staff of the Registry, the Court also took some decisions in the course of 2010, to confirm staff members having completed the 12-month probation period.

I. Rules of Procedure of the Court

i) Harmonization of the Rules of Procedure of the Court with those of the African Commission on Human and Peoples’ Rights

16. Pursuant to the Protocol on the establishment of the Court, the African Commission on Human and Peoples’ Rights is entitled to submit cases to the Court, and the Court may request the advisory opinion of the Commission on the admissibility of a petition, or simply to transfer to the Commission any case submitted to it.

In pursuit of the mutual relations thus established, the two institutions engaged in consultations with a view, in particular, to harmonizing their respective rules of procedure. After two meetings held in 2009, both institutions met again from 27

to 29 April 2010, in Arusha, Tanzania, to finalize the harmonization exercise. They agreed on the provisions affecting their mutual relations to be incorporated into their respective Rules of Procedure.

Subsequently, at its 17th session held in Arusha from 31 May to 11 June 2010, the Court effectively incorporated the provisions so adopted into its Interim Rules. The full text thus became the final Rules of Procedure of the Court.

ii) General revision of the Rules of the Court

17. In the meantime, the Court decided to undertake a comprehensive review of all the Rules so as to improve on them and, to that end, called for observations and proposals from some African civil society organizations and the public at large through the Court's website. At its 16th, 17th, 18th and 19th Ordinary Sessions, the Court examined and adopted, on its first reading, some articles of its Rules of Procedure, as part of the general revision exercise which is expected to continue in 2011.

J. Specific Programmes

18. The Court carried out some specific programmes mainly with regard to the training of staff of the Court, establishing a library and developing an internship policy within the Court.

i) Training of staff of the Court

19. Training of the Court's staff is intended to enhance knowledge in their various fields and assist those concerned to acquire language skills or the use of new information and communication technologies.

The training is usually in the form of short internships in institutions with more extended experience in the fields concerned and or study trips to training centres.

In 2010, more than 30 staff members of all categories benefited from the training programmes.

ii) Developments relating to the Library

20. In 2010, there were new developments at the library of the Court. Not only was there a significant increase in the number of books bought, but a library management computer system was also installed in August/September 2010, with the support of the GTZ. Furthermore, the library received a US\$200,000 budgetary support from the McArthur Foundation. At its 18th and 19th ordinary sessions, the Court adopted its comprehensive policy on the development of the Library.

iii) Internship policy within the Court

21. At its Eighteenth Ordinary Session held in Dar es Salaam, Tanzania, from 20 September to 1 October 2010, the Court adopted its internship policy, specifically by laying down the conditions under which it will host interns.

K. Promotional activities of the Court

22. Since the Court is a relatively new institution, its Members undertook to carry out some promotional activities to enhance knowledge of the Court among various stakeholders, and to accelerate the pace of ratification of the Protocol establishing the Court, and the making of the special declaration to authorize individuals and non-governmental organizations to seize the Court, after exhausting local remedies.

In this regard, the Court carried out the following activities, inter alia:

- attendance at African Union Commission meetings aimed at developing a Human Rights Strategy for Africa (alternating between Banjul and Arusha, in March, May, August, October of 2010);
- participation in a conference of the *Commonwealth Judicial Education Institute* (Kuala Lumpur, 23-27 March 2010);
- participation in an international workshop on the enhancement of cooperation between regional and international mechanisms for the promotion and protection of human rights (Geneva, 3 – 4 May, 2010);
- participation at the 4th World Forum for Human Rights (Nantes, 28 June – 1 July, 2010);
- participation at the 7th session of the Brandeis Institute for International Judges (Salzbourg, 25 – 30 July, 2010);
- attendance at the African Union/European Union Dialogue meetings on human rights (Brussels, May 2010; Addis Ababa, 20 October 2010);
- the 18th ordinary session of the Court away from its seat (Dar es Salaam, 20 September - 1 October 2010);
- organization of the first colloquium of African Human Rights Courts and Similar Institutions (Arusha, 4-6 October 2010);
- participation in the launching ceremony of the Decade of the African Woman (Nairobi, 15 October 2010);
- participation in activities to commemorate the African Human Rights Day (Addis Ababa, 20 October 2010);
- participation in a workshop under the theme “Towards an efficient African Court” (Blantyre, 25-26 October 2010);

- participation in the commemoration of 20 years of constitutional justice in Mozambique and the 7th anniversary of Mozambique's Constitutional Council;
- presence at a regional meeting on "West Africa and International Criminal Justice" (Accra, 8-9 November 2010);
- participation in the NGO Forum prior to the 48th Ordinary Session of the African Commission on Human and Peoples' Rights (Banjul, 7-9 November 2010);
- participation in the opening ceremony of the 48th Ordinary Session of the African Commission on Human and Peoples' Rights and the launching by the Commission of ceremonies in commemoration of the 30th Anniversary of the African Charter on Human and Peoples' Rights (Banjul, 10 and 12 November 2010);
- participation in a workshop on "Reducing Abortion as a Ratio of Child Mortality in Africa – the Human Rights Approach" (Nairobi, 29 November - 1 December 2010);
- organization of a sensitization seminar for Tanzanian human rights institutions, Dar es Salaam, 13 December 2010;
- participation at the Colloquium on Litigation Strategies before the East African Court of Justice and the African Court on Human and Peoples' Rights, (Zanzibar, 16-17 December, 2010);
- Publication and distribution of various promotion and publicity articles.

The Court also continued to gradually construct its website: <http://www.african-court.org>.

L. Relations between the Court and the African Commission on Human and Peoples' Rights

23. As indicated earlier (paragraph 16), the Court and the African Commission on Human and Peoples' Rights met for the third time in April 2010, to harmonize their respective Rules of Procedure.

At the meeting, they decided to institutionalize their collaboration, notably by scheduling an annual meeting, and as many meetings as necessary among their respective bureaux.

Furthermore, in order to enhance cooperation between the two institutions, a delegation of the Court, led by its President, attended the opening ceremony of the 48th Ordinary Session of the Commission and the launching, by the Commission, of ceremonies to commemorate the 30th anniversary of the African Charter on Human and Peoples' Rights in November 2010 in Banjul, the Gambia. The delegation also attended the opening ceremony and proceedings of the NGO Forum, which usually precedes the Commission's sessions.

Since the two institutions have finalized and adopted the provisions of their respective Rules of Procedure relating, in particular, to the judicial activities of the Court, the Court expects the Commission to submit to it some cases as provided by the Protocol.

M. Contribution to the activities of the project to extend the jurisdiction of the Court to include criminal matters

24. It is common knowledge that by Decision Assembly/AU /Dec.213 (XII) of February 2009, at Addis Ababa, Ethiopia, the Assembly of Heads of State and Government of the African Union requested the AU Commission, “in consultation with the African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights, to assess the implications of recognizing the jurisdiction of the Court to try international crimes such as genocide, crimes against humanity and war crimes and to submit a report to the Assembly in 2010”.

Pursuant to this decision, the Court forwarded its report on the issue to the African Union Commission in October 2009.

By its Decision Assembly/AU/Dec.292 (XV) of July 2010, the Assembly requested the African Union Commission to finalize the study on the implications of extending the jurisdiction of the African Court on Human and Peoples’ Rights to cover international crimes such as genocide, crimes against humanity and war crimes and to submit, through the Executive Council, a report thereon to the next regular session of the Assembly, scheduled for January 2011.

In that regard, the Commission urged the Court to attend some of the workshops organized in Midrand, South Africa, from 9 to 13 August and from 8 to 12 November 2010, and mainly intended to examine and validate the study on extending the jurisdiction of the African Court of Justice and Human Rights.

A delegation of the Court attended each of the workshops and contributed to discussions on the key items relating to the statute of the proposed African Court having jurisdiction in criminal matters.

N. Contribution to the project for developing a human rights strategy for Africa

25. The African Union Commission recently carried out activities to map out a human rights strategy for Africa.

In the course of 2010, the Court was invited to meetings on this theme, which were held, in an alternating manner, in Banjul and in Arusha in March, May, August and September this year. The Court was represented at these meetings. At the last meeting, a delegation of the Court, made up of Judges, specifically drew the attention of the partners in the project to the need to include, in the strategy, the current situation of the African Court on Human and Peoples’ Rights and the challenges it was facing.

O. Issues relating to the Host Agreement

26. It should be recalled that pursuant to the Host Agreement between the African Union and the Government of the United Republic of Tanzania signed on 31 August 2007, the Court has been located in Arusha since 2007.

For a period of one year, the Court was accommodated at the Arusha International Conference Centre (AICC). However, with the increase in the number of Registry staff of the Court, the premises at the AICC became inadequate. As a consequence, the Tanzanian Government in 2008, provisionally accommodated the Court at the Mwalimu Julius Nyerere Conservation Centre, where the Court is still located, pending the construction of a permanent seat.

In this regard, His Excellency, the President of the United Republic of Tanzania, reiterated in his address at the public opening ceremony of the Court's 18th Ordinary Session in Dar es Salaam on 20 September 2010, his government's commitment "to ensure that the Court and its staff are afforded permanent, convenient, adequate and appropriate home and working conditions at Arusha".

The President reaffirmed this commitment during an audience he granted to a delegation of the Court in Dar es Salaam on 14 December, 2010.

The Court therefore remains in contact with Tanzanian authorities, with a view to accelerating progress in the construction of its permanent seat, which will enable it have a seat that meets the requirements of an international court, as well as, to accelerating the implementation of the other relevant provisions of the Host Agreement.

P. Cooperation with foreign partners

27. As soon as the Court was established in 2006, offers of cooperation were made spontaneously by some institutions. Since then, it has maintained strong bonds of cooperation with some of them.

In the course of 2010, the first institution to engage in active cooperation with the Court was the German Technical Cooperation Agency (GTZ). Cooperation with the GTZ has facilitated the implementation of many activities on material and human capacity building. In that regard, mention should be made of the organization of a colloquium grouping many African institutions involved in human rights matters; the third joint meeting of the Court and the Commission; the procurement of some equipment, technical assistance to enhance the capacity of the library and the website of the Court, as well as the training of many staff members of the Registry.

The second institution that maintained cooperation ties with the Court was the European Union through its "55 Million Euro Support Programme to the African Union". This programme enabled the Court to carry out the following activities in 2010: recruitment of the project management staff; training of the staff of the

Court; contribution to the financing of the colloquium of African Courts of Human Rights and Similar Institutions, held in Arusha, from 4 to 6 October 2010.

The other institution which initiated cooperation with the Court is the McArthur Foundation, which provided financial support to strengthen the Court's Library.

Mention should also be made of the Danish Institute of Human Rights which, on an ad hoc basis, provided technical assistance to the Court particularly for projects financed by GTZ. For instance, it contributed to the organization of the above-mentioned colloquium of African human rights institutions held in Arusha from 4 to 6 October 2010.

Lastly, contacts are underway to establish cooperation with the Government of India through the African Union Commission. The Court forwarded its final proposals to the African Union Commission in early November 2010.

III. ASSESSMENT AND RECOMMENDATIONS

A. Assessment

28. The Court wishes, first and foremost, to thank the decision-making organs of the African Union and, in particular, the Assembly of Heads of State and Government for their constant support and especially for having allocated the financial resources required for its functioning throughout 2010. In essence, the Court appreciates the particular importance the Assembly attaches to its operationalization.

The Court equally wishes to express its gratitude to the Government of the United Republic of Tanzania, host country of the seat of the Court, for the efforts made towards providing the Court with buildings to serve as its permanent seat, among other facilities.

The Court finally extends appreciation to its external partners that supported it in 2010, in particular, the GTZ, the European Union, the MacArthur Foundation and the Danish Institute for Human Rights.

29. The support that the Court has thus received helped it to carry out the following activities, inter alia:

- holding of its four ordinary sessions;
- presentation of its 2010 draft budget and its 2009 annual activity report, to the policy-making organs of the African Union for consideration;
- preparation of its 2011 draft budget;
- presentation of the new proposals on the Status of Judges and the new structure of the Court Registry to the policy-making bodies of the African Union;
- continuation of the recruitment of Registry staff;

- harmonization of its Rules of Procedure with those of the African Commission on Human and Peoples' Rights;
- institutionalization of cooperation between the Court and the African Commission on Human and Peoples' Rights;
- training of the staff of the Court;
- development of the library of the Court;
- developing a policy of internship within the Court;
- undertaking various promotional activities of the Court;
- participation in activities relating to the project to extend the jurisdiction of the Court to criminal matters;
- participation in the project to map out a human rights strategy for Africa;
- continuation of sustained cooperation with some external partners.

30. It should however be noted that, at the same time, the Court is encountering some difficulties which impede its smooth functioning at the administrative, logistical and judicial levels.

31. At the administrative and logistical level, the Court is primarily concerned about the tendency it has observed, to reduce its budgetary allocations each year, whereas after a four year existence, it should instead be benefiting from a gradual upgrading of all its capacities. The Court is particularly concerned about the fact that the unfortunate reductions even affect budgetary heads relating to the activities of Judges, as can be seen, for instance, in the outright scrapping of budgetary allocations earmarked for the extraordinary sessions of the Court or for official assignments of Judges.

In the same vein, the Court is also bogged down by relevant bodies delaying in considering and approving its new proposals on the status of Judges and its proposals on the new structure of the Court Registry, even though the Assembly of Heads of State and Government had already advised that that these proposals be examined in the course of 2009. Such delay actually hampers the process of building the administrative capacity of the Court.

In addition, in the matter of staff recruitment, despite the wide publicity given to vacancy announcements, the Court sometimes finds it difficult to get candidates for some specialized fields such as information technology, interpretation or translation. In the above fields, the grades and conditions of remuneration that have been decided by the policy organs of the AU prove to be less attractive. It has therefore to publish such vacancy announcements anew, and the reason why it is again seeking appropriations under the budget head titled "initial recruitment" for 2011.

Lastly, some other logistical problem the Court is facing is that, after four years of operation, it is still working in temporary premises where space is inadequate to contain all of its services.

32. At the judicial level, as can be seen from the list of the Court's main activities mentioned above, the Court did not engage in any judicial activity per se throughout 2010. As we are all aware, as a judicial body, the Court cannot submit cases to itself and, as matters stand, no case has been submitted to it, either for adjudication or for advice.

This disturbing situation mainly stems from the fact, specified earlier (in paragraphs 3 and 4) that few States, four in all, have ratified the Protocol establishing the Court, and above all, that very few States, four in all, have as of now made the special declaration authorizing individuals and non-governmental organizations to submit cases to the Court, after duly exhausting all available local remedies.

Concerning disputes and the latter aspect of the problem, we find ourselves faced with a paradoxical situation where Member States of the African Union have established a human rights court and allocated minimum resources for its operation, and yet have considerably limited access to the Court by those mainly concerned, namely the individuals and non-governmental organizations involved in the defence of human rights.

If such a situation were allowed to continue, the entire system of judicial protection of human rights at the continental level, which the Court symbolises, would be seriously affected.

In terms of advisory opinions, this situation stems from the fact that Member States of the African Union, the organs and institutions of the African Union are not always aware that even in the absence of a dispute, they are empowered under the Protocol establishing the Court to seek advisory opinion from the Court on any human rights issue of concern to them. Article 4(1) of the Protocol indeed provides that "At the request of a Member State of the OAU, the OAU, any of its organs, or any African organization recognized by the OAU, the Court may provide an opinion on any legal matter relating to the Charter or any other relevant human rights instrument, provided that the subject matter of the opinion is not related to a matter being examined by the Commission".

B. Recommendations

33. Consequent upon the foregoing considerations, the Court requests the Assembly of Heads of State and Government to:

- approve the 2011 draft budget of the Court, as proposed;
- accede to the new proposals of the Court on the status of the Judges and on the new structure of the Registry, as submitted to the policy-making organs of the Union in 2009;

- request Member States of the African Union which have not yet done so to ratify the 9 June 1998 Protocol on the Establishment of the African Court on Human and Peoples' Rights;
- invite States Parties to the Protocol, which have not yet done so, to make the declaration accepting the jurisdiction of the Court to receive applications from individuals and non-governmental organizations, and allow them access to the Court, after they have exhausted national remedies.
- invite the Member States of the African Union and all organs of the African Union to have recourse, as and when necessary, to the Court to request it to provide advisory opinion on human rights, as is their right under the Protocol establishing the Court.

ANNEX:

LIST OF JUDGES OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

AS AT DECEMBER 2010

10.	Hon. Elsie Nwanwuri Thompson	6	2016	Nigeria
No.	Name		Term	Country
11.	Hon. Sylvain Ore	4	2014	Côte d'Ivoire
		Duration	Expiry	
1.	Hon. Gérard Niyungeko (President)	6	2012	Burundi
2.	Hon. Sophia A. B. Akuffo (Vice President)	6	2014	Ghana
3.	Hon. Jean Mutsinzi	6	2012	Rwanda
4.	Hon. Bernard M. Ngoepe	6	2014	South Africa
5.	Hon. Modibo T. Guindo	6	2012	Mali
6.	Hon. Fatsah Ouguergouz	6	2016	Algeria
7.	Hon. Joseph N. Mulenga	6	2014	Uganda
8.	Hon. Augustino S.L. Ramadhani	6	2016	Tanzania
9.	Hon. Duncan Tambala	6	2016	Malawi
		17		

