



African Court Coalition

STAKEHOLDERS' PLATFORM ON THE MARGINS OF THE 76TH ORDINARY SESSION OF THE
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
30 JANUARY - 3 FEBRUARY 2025
PAPU TOWER, ARUSHA TANZANIA

DAY 1:
SESSION 1:

The role of CSOs, NHRIs, Champion States and other Key Stakeholders in Enhancing Efficiency & Access to the African Court

PANELISTS:



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SESSION 1:

THE ROLE OF CSOS, NHRIS, CHAMPION STATES AND OTHER KEY STAKEHOLDERS IN ENHANCING EFFICIENCY AND ACCESS TO THE AFRICAN COURT

Panellists:

- Dr. Japhet Biegon, Africa Regional Advocacy Coordinator, Amnesty International
- Victor Lowilla, Senior Legal Officer, African Court on Human and Peoples' Rights
- Pedro Rosa C6, Senior Legal Officer & Head of the Protection Team, African Commission on Human and Peoples' Rights
- Vivian Abena Opoku-Agyakwa, Chief State Attorney, Office of the Attorney-General, Republic of Ghana
- Foluso Adegalu, Programs Officer, NANHRI
- Prof. Frans Viljoen, Centre for Human Rights, University of Pretoria

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Session 1 reflected on the potential role stakeholders could play in influencing the universal ratification of the African Court Protocol and deposit of Article 34(6) Declaration by States to allow direct access to the Court. It further explored how they can engage at national, regional and continental level to achieve this objective. The panel also reflected on the role of the African Commission and State champions to enhance access to the Court.

Consequently, the session outcomes included key action points that can be implemented by stakeholders to:

- Influence universal ratification and deposit of Article 34(6) Declaration to enhance access to the African Court,
- Enhance the efficiency of the Court, and
- Support initiatives for inclusive and transparent processes in identification of African experts suitable for appointment as Judges/ Commissioners/ Members of African Human Rights organs.

From a CSOs perspective, the speaker shared innovative awareness-raising initiatives they undertook across the continent utilising social media platforms (uploading short video on the relevance of the African Court to Africans) to popularise the African Court and its work. It was satisfying to observe that African citizens participated by downloading the uploaded media and statics showed that much interest have been coming from citizens from Algeria, Cameroun, DRC, Senegal, Guinea, Mali, and Ivory Coast (in no particular order).

It was further shared that key national actors such as NHRIs have a lot of potential based on their status as quasi-state institutions in terms of engaging with governments using evidence-based strategic advocacy despite backlash from States. The Kenya National Human Rights Commission (KNHRC) was singled out as a pace-setter in this regard based on its engagement with the Attorney-General's office.

On their part, the academia was singled out the leaders in research, teaching and training; and they should lead in the review of the jurisprudence of the African Court even before an event such as this Platform and review the Strategic Plan of the African Court and act as a sounding board.

Highlights were shared on the 2024 African Court jurisprudence. Aspects such as jurisdiction and admissibility had some feedback to analyse. The key take home points were that about a quarter of the cases were declared inadmissible and there was observed a very narrow violation rate in cases against countries other than Tanzania.

Six out of 25 cases were adjudged inadmissible. This means that lawyers litigating the cases were not well-prepared or unaware on how to frame issues before the African Court. As for the merits, 14 of the 19 cases were against Tanzania and two cases did not established violations. In respect of the other cases, the violation rate was very narrow (only in a case against Tunisia).

The State representative from Ghana was quite unequivocal about their country's favourable stance on the African Court, namely that they are not afraid of cases being filed against the State. So far, the only case filed against Ghana was declared inadmissible for failing to exhaust local remedies. The representative expressed Ghana has no philosophical quarrel or any other disagreement with the African Court whatsoever and would diplomatically lobby other AU Member States to ratify the Court Protocol and deposit the declaration and afford their citizens the opportunity to assess both national and regional court. However, awareness-raising will be necessary for citizens and national lawyers to better interact with the African Court; while more budgetary allocation could make all judges permanent and make the Court more effective.

Further perspectives were shared on the practical meaning of complementarity between the African Commission and the African Court. Clearly access to the Court is restrictive while accessing the Court through the Commission would be one of the most ingenious ways to overcome challenges posed by article 34(6) declaration. It also appears the Commission and the Court are working on a more robust approach on this issue buoyed by the upcoming implementation hearing on the Ogiek case in which the Commission is the applicant. Participants were apprised about the Complementarity Roadmap between these two bodies to enhance cooperation in various ways especially though referrals between the two bodies.

It was presented that the African Court has Memorandum of Understandings (MOUs) with different stakeholders (bar associations; PALU; NANHRI, CHR and others); holds thematic conferences such as the 2023 Implementation Conference held in Arusha to stimulate debate and crafting of strategies around enhancing implementation of decisions of the African Court. Court also holds public hearings of cases before it as well as conducting "judicial diplomacy" with States over ratifications of the Court Protocol and deposit of article 34(6) to allow direct access to the Court for citizens and NGOs. Further, the Court trains lawyers on its procedures among other initiatives.

Over the course of the discussion, the panellists put up for discussion a number of proposals on furthering multi-stakeholder engagement with each other for the benefit of the African Court:

- Putting sustained efforts in countries whose citizens have shared interest in the African Court to influence ratification of the Court Protocol and or depositing of article 34(6) declaration.
- NHRIs should engage with the African Court at regional level and governments at national level based on evidence gathered through research to advocacy either advocacy around ratification or influencing implementation of decisions.
- Sub-regional collaboration between like-minded organisations working around these issues, be they NHRIs, CSOS, or bar associations.
- Training lawyers/bar associations on litigating at the regional level.
- Seeking to develop African-specific jurisprudence of the Court taking into account the context.
- Propose timelines in submitting cases to the African Court after exhausting local remedies.

The presentation transitioned into a robust plenary where participants shared both comments and questions pertaining to insights they also had based on their own experiences engaging with the African Court. In final analysis, the major take home point was that stakeholders should continue to devise creative ways to navigate the limitations and restrictions imposed by the legal instruments on access to the African Court.



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