



**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 2:

The AU Reforms: A Need to amend Article 34.6 & Article 5.1 of the Court Protocol to enhance access for African citizens and the ACERWC

PANELISTS:



DR. OWISO OWISO,
International Justice Adviser,
Atrocities Watch Africa - AWA



OPAL MASOCHA SIBANDA,
Legal Researcher, African
Committee of Experts on the Rights
and Welfare of the Child - ACERWC



BRIAN KAGORO
Managing Director of Programs,
Open Society Foundations - OSF



**Panel Chair
MAI AMAN**
Legal Officer, Initiative for
Strategic Litigation in Africa - ISLA



VICTOR LOWILLA
Senior Legal Officer, African Court
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SESSION 2:

THE AU REFORMS: A NEED TO AMEND ARTICLE 34(6) & ARTICLE 5(1) OF THE COURT PROTOCOL TO ENHANCE ACCESS FOR AFRICAN CITIZENS AND THE ACERWC

Panellists:

- Victor Lowilla, Senior Legal Officer, African Court on Human and Peoples' Rights
- Opal Masocha Sibanda, Legal Researcher, African Committee of Experts on the Rights and Welfare of the Child – ACERWC
- Dr. Owiso Owiso, International Justice Adviser, Atrocities Watch Africa – AWA
- Brian Kagoro, Managing Director of Programs, Open Society Foundations – OSF

Panel Chair:

Mai Aman, Legal Officer, Initiative for Strategic Litigation in Africa – ISLA

This Session focused on the discussions on the need to amend Article 34(6) & Article 5(1) of the African Court Protocol in line with the on-going AU Reforms to enhance access to the African Court.

The Session outcome was adoption of recommendations on the effective and inclusive amendment process of the Articles under discussion; and identification of modes of engagements and follow up strategies for CSOs to ensure an inclusive process.

The speakers underscored the need for the African Committee of Experts to be allowed to access the Court because the Court was established to complement the African human rights system by rendering binding decisions, thus giving credence to the need to reform article 5(1) of the Court Protocol in so far as it provides for a closed list of persons with standing before the Court.

Regarding article 34(6), the panellists expressed the view that article 34(6) remains the greatest impediment to accessing the Court. Reflecting on the situation, they expressed the view that there could be no new declarations to be expected from States. Rather, more withdrawals could be coming. Nevertheless, the question was how can we still utilise the Court?

The house was advised that the Court once wrote to President William Ruto in his capacity as the Chair of the AU Institutional Reforms highlighting issues of reform and concerns, article 34(6) was one of them. In its response, the AU Institutional Reforms Committee advised the Court to give the alternatives.

The panel suggested the following alternatives;

1. That the ratification of the Protocol should be deemed to include contentious jurisdiction.
2. That there be no need for the respondent State party to have lodged the declaration in cases of massive violations.
3. That there be a stipulated timeline within which a State should deposit a declaration following its ratification of the African Court Protocol; say within two years of ratification.

Several strategies were suggested, namely;

- Stakeholders lobbying their own States to sue one another to protect rights of their citizens. Either way citizens get justice for violation of rights.
- Submitting an advisory opinion to the Court on this issue on the question of whether there is an obligation to submit the article 34(6) declaration as it appears State party discretion only lies in when to lodge it.
- Developing another enforcement mechanism to support the reform of article 34(6) to enhance access.

The session ignited a lively discussion during plenary with some of the following questions put forward;

- What is the future of the African Court?
- Is it convenient to file a request for an advisory opinion to the African Court right now or allow the on-going engagement by the Court with AU policy organs?
- Can we seek interpretation of the Protocol from national courts?



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