



**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

SESSION 3:

DAY 1:

Advisory Opinion to the African Court: Challenges and Opportunities for CSOs, States and other Stakeholders

PANELISTS:



WILLIAM CAREW
Head of Secretariat, African Union
Economic, Social and Cultural Council
-AU-ECOSOCC



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DISMAS NKUNDA
CEO, Atrocities Watch
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SESSION 3:

ADVISORY OPINION TO THE AFRICAN COURT: CHALLENGES AND OPPORTUNITIES FOR CSOS, STATES AND OTHER STAKEHOLDERS

Panellists:

- Donald Deya, CEO, Pan-African Lawyers Union – PALU
- William Carew, Head of Secretariat, African Union Economic, Social and Cultural Council –AU-ECOSOCC
- Isabella Mwangi, *African Renaissance*

Panel Chair:

Dismas Nkunda, CEO, Atrocities Watch Africa

Session 3 focused on understanding the eligibility criteria for NGOs to submit requests for advisory opinion from the African Court; the associated challenges and the AU-ECOSOCC proposals on accreditation for AUC observer status for NGOs in Africa in line with the AU Institutional Reform agenda.

Panellists in this session also reflected on the opportunities for States and other stakeholders to submit requests for advisory opinions to the Court by utilising this mandate of the Court and develop its jurisprudence.

The envisaged outcome of the Session were recommendations on how to engage and follow-up with ECOSOCC and relevant AU organs to ensure adoption of a non-restrictive accreditation process for NGOs to be granted the AUC observer status.

As a background, participants were informed that so far 15 requests for advisory opinions have been filed before the African Court. Of these, 11 have been orders to strike out requests e.g. for failing to prosecute the request; one was struck out because the matter was already filed before the African Commission; and 9 also struck off because of the narrow definition of an 'African Organisation recognised by the AU/OAU'.

Challenges inherent in the advisory procedure include the narrow definition of 'African organisation recognised by the AU/OAU'. The Court only recognises proof of such recognition either in the form of observer status or having an MoU with the AUC. The house was advised that this is a very narrow interpretation. Ideally, **ANY ORGANISATION** recognised by **ANY AU ORGAN** should suffice.

The panellists endeared the house to consider ECOSOCC role and use it to access the African Court. The ECOSOCC is in the process of promoting the adoption of its Harmonised Accreditation Framework, which has its own requirements mainly the need to submit financial statements annually. Currently the Framework is being pushed back by States since 2022. If adopted, it will be ECOSOCC that will deal with accreditation. It is the right organ to deal with CSOs. Accreditation has nothing to do with membership to the ECOSOCC. Organisations should meet accreditation criteria on their own.

However, as a short-term measure and pending the adoption of the Framework, participants were again endeared to partner with those organisations that have recognition such as PALU and file requests for advisory opinions as coalitions. For those seeking their own recognition, it was recommended that it is better to seek MoU with the AU Commission than observer status, which was last granted over 20 years ago.

On the aspect of gender and Advisory Opinion, both successes and ongoing challenges in integrating gender perspectives were highlighted. The speaker acknowledged the African Court's progress in recognizing how laws disproportionately affect women, such as vagrancy laws, where women are more vulnerable to criminalization due to poverty and gender-based violence. However, she pointed out that there are still significant challenges in ensuring that gender-sensitive jurisprudence is fully embraced across Africa. One key issue that the speaker raised is that many States are reluctant to engage deeply with gender dynamics, often due to entrenched patriarchal norms.

While the Court's advisories are a positive step, there is a need for States to move beyond basic compliance and adopt a gender-inclusive approach to legal reforms. The emphasis was also put on the importance of addressing intersectionality, acknowledging how factors like class, race, and geography affect women's experiences. She concluded by stressing the need for continued advocacy, training for judicial officers, and cross-sector collaboration to ensure that gender equality becomes an integral part of legal systems across Africa. While the challenges are real, there are opportunities to drive meaningful reforms for women's rights.

Some questions that were put before the panellists demonstrated that the house was engaged with the speakers and sought a deeper understanding of some issues. Some of the questions asked and answered were as follows:

- What challenges have you met dealing with advisory opinions and what's their impact in and out of Africa?
- If an opinion has been sought and the requester is not happy with the opinion, do they have a remedy?
- Am I correct that there was a point where there was a need to produce financials back-dated to 3 years, and for entities less than 3 years how do they get accredited?
- What are the chances that the African Court will double-down on its interpretation of "African Organisation recognised by the AU/OAU"?
- Those organisations that need to sign MoU with AU Commission, how do they go about it as we have tried but with no end in sight?



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