


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
<p style="text-align: center;">AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</p>		

## RULES OF COURT

African Court on Human and Peoples' Rights

**1 September 2020**

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## PREAMBLE

The Court,

**Considering** the African Charter on Human and Peoples' Rights (the Charter) adopted on 27 June 1981, and which came into force on 21 October 1986;

**Considering** the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol) adopted on 9 June 1998, and which came into force on 25 January 2004;

**Considering** the "Interim Rules of Court" adopted on 20 June 2008;

**Considering** the "Rules of Court" adopted on 2 June 2010;

In accordance with Article 33 of the Protocol;

Adopts these Rules of Court (the Rules).

## **PART I**

### **GENERAL**

#### **Rule 1**

##### **Definitions**

For the purposes of these Rules, unless the context otherwise indicates:

- a) “Applicant” means any entity or individual who initiates proceedings before the African Court on Human and Peoples’ Rights (the Court) under Article 5 of the Protocol;
- b) “Assembly” means the Assembly of Heads of State and Government of the African Union;
- c) “Bureau” means the President and Vice President of the Court;
- d) “AU Commission” means the African Union Commission;
- e) “Charter” means the African Charter on Human and Peoples’ Rights;
- f) “Commission” means the African Commission on Human and Peoples’ Rights;
- g) “Constitutive Act” means the Constitutive Act of the African Union;
- h) “Counsel” means lawyers registered on the Court’s Legal Aid Roster and any other lawyer representing a party before the Court;
- i) “Court” means the African Court on Human and Peoples’ Rights;

- j) “Dean of Judges” means the longest serving Judge of the Court who is not a member of the Bureau;
- k) “Decision” means any pronouncement of the Court, in the exercise of its judicial powers, which is in the form of a judgment, ruling, opinion or order;
- l) “Deliberation” means the consideration of issues arising in a case based on the facts and applicable law after close of pleadings and before the Court renders its decision;
- m) “Executive Council” means the Executive Council of the African Union;
- n) “Judge” means a Judge elected pursuant to Article 11 of the Protocol;
- o) “Member State” means a Member State of the African Union;
- p) “Parties” means an Applicant, Respondent State and intervener;
- q) “Person” means a natural or legal person;
- r) “Pilot judgment” means a judgment of the Court that deals with a group of similar cases which arise from identical causes of action or problems of a systematic or structural nature.
- s) “Pleadings” means written or oral submissions of Parties;
- t) “President” means the President of the Court;

- u) “Protocol” means the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- v) “Registrar” means the Registrar of the Court;
- w) “Registry” means the Registry of the Court;
- x) “Respondent” means any party against which an Application has been filed with the Court
- y) “Rules” mean the present Rules of Court;
- z) “Session” means the statutory meetings of the Court as provided under Rules 22 and 23 of these Rules.
- aa) “Sittings” means the meeting of the Court on each day of a particular session;
- bb) “State Party” means a State Party to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- cc) “Vice President” means the Vice President of the Court;

## **CHAPTER 1 – MEMBERS OF THE COURT**

### **Rule 2**

#### **Assumption of Duty and Term of Office**

1. Newly elected Judges shall assume duty on the first day of the first session following their election, except in unforeseen circumstances, in which case, they shall assume duty as soon as practically possible.
2. Before assuming duty, the elected Judges shall take an oath of office or make a declaration in accordance with Article 16 of the Protocol and Rule 4 of these Rules.
3. The term of Office of Judges shall be six (6) years or any other applicable period in accordance with Article 15 of the Protocol.
4. Judges shall participate in the deliberations of all cases after assumption of duty unless the Court determines otherwise, taking into account the stage of deliberations, and the quorum required under Article 23 of the Protocol.

### **Rule 3**

#### **Oath of Office or Solemn Declaration**

1. Pursuant to Article 16 of the Protocol, each Judge shall make the following oath or solemn declaration:

“I ..... (full name of Judge) do swear/or solemnly declare that I will perform my duties and exercise my powers as a Member of the Court honourably, faithfully, independently, impartially and conscientiously, and that I shall preserve the confidentiality of its deliberations even after my term of office has expired”.
2. This oath/declaration shall be taken/made in a public sitting as soon as possible after the election of the new Judge. If necessary, a special public sitting shall be held for this purpose.

**Rule 4**  
**Precedence**

1. Judges, in the exercise of their functions, are of equal status, irrespective of age, date of election or length of service.
2. Judges shall, except as provided in sub-rules 4 and 5 of this Rule, take precedence according to the date on which their terms of office respectively began, pursuant to Rule 2 of these Rules.
3. Judges who assume office on the same date shall take precedence, in relation to one another, according to seniority of age.
4. A Judge who is re-elected to a new term of office which is continuous with his/her previous term shall retain his/her precedence.
5. The President and the Vice-President of the Court shall take precedence before all other Judges.
6. The Judge who is, in accordance with the foregoing sub-rules, next in precedence after the President and the Vice-President, is designated as "the Dean of Judges". Whenever that Member is unable to act, the Judge who is next after him or her in precedence shall be considered the Dean of Judges.

**Rule 5**  
**Incompatibility**

1. In accordance with the terms of Article 18 of the Protocol, during their term in office, Judges shall not participate in any other activity of a nature that may compromise their independence and impartiality or the demands of their office.
2. Judges may not, in particular, hold political, diplomatic or administrative positions or function as government legal advisers.
3. Each Judge shall declare any activity to the Court, which may raise issues of incompatibility.



## **Rule 6**

### **Vacancies**

1. A vacancy of a seat of a Judge may arise as a result of death, permanent incapacitation, resignation or removal from office.
2. The effective date on which a seat becomes vacant shall be determined by the Chairperson of the AU Commission in accordance with Article 20 of the Protocol.

## **Rule 7**

### **Resignation**

1. A Judge who decides to resign shall tender his/her notice of resignation to the President, who shall, as soon as possible, inform the other Judges.
2. In accordance with Article 20 of the Protocol, the President shall thereafter notify the Chairperson of the AU Commission.
3. Where the President decides to resign, he/she shall inform the Vice President and other Judges. The Vice President shall, in turn, notify the Chairperson of the AU Commission.

## **Rule 8**

### **Suspension or Removal**

1. Where the application of Article 19(1) of the Protocol is under consideration, the President or, if the circumstances so require, the Vice-President, shall inform the concerned Judge, by a written statement, of the grounds thereof and any relevant evidence.
2. The concerned Judge shall, subsequently, at a closed sitting of the Court specially convened for the purpose, be afforded an opportunity of making a statement, of furnishing any information or explanations he/she wishes to give, and of supplying answers, orally or in writing, to any questions put to him/her.

3. At a further closed sitting, at which the Judge concerned shall not be present, the matter shall be considered, each Judge shall state his/her opinion and, if required, a vote shall be taken.
4. Any decision to suspend or remove a Judge shall be communicated to the Chairperson of the AU Commission.

### **Rule 9**

#### **Inability to Sit, Exemption and Withdrawal**

1. Any Judge who is unable to attend one or more sitting(s) of the Court shall notify the President well in advance of the sitting(s).
2. In accordance with Article 22 of the Protocol, a Judge who is a national of a State that is party to a case shall not hear that case.
3. A Judge shall also not hear cases in which the State, which nominated him/her for election, is a party.
4. No Judge shall hear any case if:
  - a) he/she has previously acted, in relation to the case, as agent, counsel or advocate for one of the parties, or as a member of a national or international court or a commission of inquiry or in any other capacity;
  - b) he/she has a personal interest in the case, including a spousal, parental or other close family, personal or professional relationship, or a subordinate relationship with any of the parties;
  - c) he/she has expressed opinions publicly, through the media, in writing, through his or her public actions or otherwise, that may, objectively adversely affect his or her impartiality;
  - d) for any other reason, his/her independence or impartiality may legitimately, be called into doubt;
5. If a Judge intends to withdraw for any of the reasons under sub-rule 4 hereof, he/she shall notify the President, who upon consideration of the request, may exempt such a Judge from participation.
6. In the event of any doubt as to the existence of a ground for withdrawal, the President or the concerned Judge shall bring this to the attention of the Court. The

Court shall decide on the matter in the absence of the Judge after having heard him/her, if he/she so wishes.

## **CHAPTER II – THE BUREAU**

### **Rule 10**

#### **Composition of the Bureau**

1. The Bureau of the Court shall be composed of the President and the Vice President.
2. In the composition of the Bureau, the principles of gender parity, representation of the principal legal traditions and main regions of the continent and a rotation system, shall, as far as possible, be observed.

### **Rule 11**

#### **Nomination for Election**

1. Prior to the expiration of the term of office of the Bureau, the Registrar shall:
  - (a) at least forty-five (45) days before the Session at which the election of the next Bureau will be held, notify all Judges of the end of term of the President and Vice President, as applicable.
  - (b) by that notice, request Judges wishing to nominate Members for election or re-election for the position of President or Vice President to notify the Registrar in writing of their nominees, at least fifteen (15) days from the date of notification.
2. The Registrar shall inform the nominees and shall invite them to send to the Registrar their written acceptance or otherwise of the nomination, at least seven (7) days from the date of being notified of the nomination. The acceptance of nomination for the position of President shall be accompanied by an undertaking to take up residence at the seat of the Court.
3. The Registrar shall circulate the list of nominees for the position of President and Vice President at least fifteen (15) days before the Session at which the election is scheduled to be held.

4. All nominations or acceptance thereof shall be properly registered, indicating the time and date of receipt by the Registrar.
5. Nominations or acceptance thereof received after the deadline provided in the present Rule shall not be accepted.
6. The election of the President and Vice President shall be held on the first day of the Session or soon thereafter during the course of the session.

## **Rule 12**

### **Elections**

1. Where on the date of the election of the President, the outgoing President is still a Judge, he/she shall conduct the election. Where he/she has ceased to be a Judge, is unable to act, or is himself/herself a candidate, the election shall be conducted by the Vice President, if not a candidate, or the most senior Judge who is not a candidate.
2. The vote shall be taken by secret ballot.
3. The candidate who obtains at least six (6) votes shall be declared elected.
4. Where no candidate obtains at least six (6) votes during the first ballot, the candidate who obtained the least number of votes shall withdraw. If during the second ballot no candidate receives at least six (6) votes, a third round shall take place between the two candidates who obtained the highest number of votes. An additional round or additional rounds shall take place until one candidate has achieved the required majority. In the event of a tied vote, preference shall be given to the candidate having precedence under Rule 4 of the Rules.
5. The President shall preside over the election of the Vice President. The provisions of sub-rule 2 to 4 above shall also apply to this election.
6. The Judge who is elected President or Vice President shall take office immediately.
7. In the event of there being only one candidate for the post of President or Vice President, the provisions of the preceding sub-rules shall apply.

**Rule 13**  
**Term of Office**

1. The President and Vice President shall be elected for a period of two (2) years and may be re-elected only once.
2. The term of office of the President and Vice President shall begin to run as provided for in Rule 12(6) of these Rules.
3. The President or Vice President, if still a Judge, shall continue to hold office until he/she is re-elected or his/her successor takes office.
4. Where for any reason, the President or the Vice President ceases to be a Judge before the expiry of his/her term of office, the Court shall elect a replacement in accordance with sub-rule 1 of this Rule.

**Rule 14**  
**Functions**

1. The functions of the President are to:
  - a) represent the Court;
  - b) preside at the sittings of the Court;
  - c) direct the work and supervise the administration of the Court;
  - d) promote the activities of the Court;
  - e) conduct annual performance assessment for Judges based on criteria adopted by the Court;
  - f) present a detailed Annual Report to the Court on the Court's activities and on his/her own activities as President;
  - g) pursuant to Article 31 of the Protocol, prepare and present the Periodic Activity Reports of the Court to the Assembly;
  - h) carry out any other duties assigned to him/her by the Protocol or the present Rules, or entrusted to him/her by the Court.
2. The Vice-President shall assist the President in performing his/her functions.

**Rule 15**  
**Exercise of Functions**

1. In the event of the office of the President becoming vacant or the President being unable to act, his/her functions shall be performed by the Vice-President and, in default, by the Dean of Judges.
2. When the President is precluded from hearing a case under the terms of Article 22 of the Protocol and Rule 9 of these Rules, he/she shall continue to act as President for all purposes save in respect of the said case; the same shall apply to the Vice President.
3. The President shall take the necessary measures to ensure the continuous exercise of his /her functions at the seat of the Court. In the event of his/her absence, he/she may arrange for these functions to be exercised by the Vice President or in default, by the Dean of Judges.

## **CHAPTER III-THE REGISTRY**

### **Rule 16**

#### **Composition and Organisation of the Registry**

1. The Registry shall comprise the Registrar, the Deputy Registrar and such other staff as the Court may require for the effective exercise of its functions.
2. In the composition of the Registry, gender parity and representation of different regions and legal traditions shall be observed. In appointing the Registrar and Deputy Registrar in accordance with Rule 17 and 18 of these Rules, the Court shall, as far as possible, consider gender and language.
3. The Court shall prescribe the organisation of the Registry.
4. Instructions to the Registry shall be issued by the Court, the Bureau or the President.
5. Staff of the Registry are subject to the Staff Regulations and Rules and any other applicable instruments of the African Union.

### **Rule 17**

#### **Appointment of the Registrar**

1. The Court shall appoint its Registrar in accordance with AU Staff Regulations and Rules.
2. Candidates for the position of Registrar shall be of the highest moral standing and shall possess the necessary legal, managerial, administrative and linguistic knowledge and experience for the discharge of the functions linked to the post.
3. The process of recruiting the Registrar shall be conducted in accordance with the procedure established by the Court and consistent with the norms of the African Union.
4. The Application(s) shall include all relevant information concerning the Applicant, and in particular, information as to age, nationality, sex, current

occupation, academic qualifications as well as the knowledge and experience required in sub-Rule 2 above.

### **Rule 18**

#### **Appointment of the Deputy Registrar**

1. The Court shall appoint a Deputy Registrar.
2. The provisions of Rule 17 of these Rules shall apply to the appointment of the Deputy Registrar.

### **Rule 19**

#### **Oath/Solemn Declaration**

1. The Registrar shall, upon assumption of office, take the following oath/make the following declaration before the Court:

“I ... (full names of Registrar) do swear/solemnly declare that I will discharge the duties incumbent upon me as Registrar of the African Court on Human and Peoples' Rights diligently with all loyalty, discretion and good conscience; that I will preserve the confidentiality of the information to which I have access in the exercise, or due to the exercise of my functions, and that I will faithfully observe all the provisions of the Protocol and of the Rules of the Court.”
2. Upon assumption of office, the Deputy Registrar shall take a similar oath or make a similar declaration before the Court.
3. These oaths/declarations shall be recorded in the minutes of the Court.

### **Rule 20**

#### **Appointment of the other Staff of the Registry**

1. Other staff members of the Registry shall be appointed by the Court under such terms and conditions as it shall determine in accordance with the norms of the African Union. Appointments to such other positions as the Court shall determine may, however, be made by the Registrar with the approval of the President.
2. Every staff member shall, upon assumption of duty, take the following oath/make the following declaration before the President, in the presence of the Registrar:



“I ... (full names of official) do swear/solemnly declare that I will discharge the duties incumbent upon me as (State the appointment, e.g. Legal Officer) of the African Court on Human and Peoples’ Rights diligently, with all loyalty, discretion and good conscience; that I will preserve the confidentiality of the information to which I have access in the exercise or due to the exercise of my functions, and that I will faithfully observe all the provisions of the Protocol and the Rules of the Court.”

## **Rule 21**

### **Functions of the Registrar**

1. The Registrar shall assist the Court in the exercise of its judicial function and shall be in charge of the general administration of the Court’s Registry. He or she shall be responsible for the supervision and coordination of all the operations and activities of the Registry.
2. In the discharge of his/her duties, the Registrar shall:
  - a. Keep, in such form as may be prescribed by the Court, a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received at the Registry, and he/she shall publish such General List on the website of the Court;
  - b. be the regular channel of communication to and from the Court, and in particular, effect all communications, notifications and transmission of documents required by the Protocol or by these Rules and ensure that the date of dispatch and receipt thereof are readily verifiable;
  - c. transmit to the parties copies of all pleadings and documents annexed thereto upon receipt thereof in the Registry;
  - d. be present, in person or by his/her duly qualified representative, during the sessions of the Court, and be responsible for the preparation of minutes of such sessions;
  - e. sign the minutes referred to in subparagraph (d) above;
  - f. inspect documentation submitted to the Court to establish authenticity thereof;
  - g. have custody of the seal, the official stamp and all the records and archives of the Court;

- h. make arrangements for such provision or verification of translations and interpretations into the Court's official languages as the Court may require;
- i. Manage the Legal Aid program of the Court, including maintaining an updated list of Counsel on the Court's Roster and entities providing legal aid services as well as management of the Legal Aid fund;
- j. be responsible, among others, for the printing and publication of the Court's judgments, advisory opinions and orders, the pleadings and statements, uploading documents on the Court's website, and minutes of public sittings in each case, and of such other documents as the Court may direct to be published;
- k. communicate to the government of the country in which the Court is sitting, and any other governments which may be concerned, necessary information as to the persons from time to time entitled, under the Protocol and any relevant agreements, to privileges, immunities or facilities, and publish all such documents of a public nature, including the Court's Annual Report on the website of the Court;
- l. transmit documents to Judges, State Parties to the Protocol and to the Chairperson of the AU Commission as well as other organs of the African Union where required;
- m. deal with enquiries concerning the Court and its work;
- n. prepare the draft budget of the Court;
- o. be responsible for the sound management of all accounts and financial administration in accordance with the applicable financial Rules of the African Union and the financial regulations of the Court;
- p. assist in maintaining relations between the Court and the departments of the African Union Commission as well as those of the other organs of the African Union;
- q. ensure that information concerning the Court and its activities is made accessible to governments, national courts, professional associations, faculties and schools of law, and the media; in particular, the Registrar should, in cooperation with the AU Commission, keep, and publish on the Court's website,

- an updated list of State Parties to the Protocol and relevant treaties as well as the States which have made a Declaration under Article 34(6) of the Protocol;
- r. develop and keep updated, a list of Non-Governmental Organizations (NGOs) and *pro bono* lawyers that can assist Applicants who are parties to matters before the Court.
3. The Court may entrust additional duties to the Registrar.
  4. In the exercise of his/her functions, the Registrar shall work under the direction and supervision of the President and be answerable to the Court

## **PART II**

### **INTERNAL FUNCTIONING OF THE COURT**

#### **Rule 22**

##### **Ordinary Sessions**

1. The Court shall hold four ordinary sessions per annum, each of which shall last for at least four (4) weeks.
2. The sessions of the Court shall be held on the dates set by the Court during its previous session. Under exceptional circumstances, the President may, in consultation with the other Members of the Court, change the dates of a session.
3. The President shall send the invitation to Judges at least thirty (30) calendar days before the session is held. The invitation letter shall indicate the dates, agenda, duration and venue of the session as well as any other relevant information.

#### **Rule 23**

##### **Extraordinary Sessions**

1. Extraordinary sessions may be convened by the President on his/her own initiative or at the request of a majority of the Judges.
2. The President shall send the invitation to Judges at least fifteen (15) calendar days before the session is held. The invitation letter shall indicate the dates, agenda, duration and venue of the session as well as any other relevant information.

#### **Rule 24**

##### **Holding of Sessions**

The sessions shall take place at the Seat of the Court. However, the Court may, pursuant to Article 25 (1) of the Protocol, decide to sit in the territory of any other Member State of the African Union, or in exceptional circumstances or *force majeure*, hold a Virtual Session.

## **Rule 25**

### **Quorum**

1. The quorum of seven (7) Judges stipulated under Article 23 of the Protocol shall apply to all sittings of the Court.
2. The quorum of the Court shall be constituted at the beginning of every sitting.

## **Rule 26**

### **Committees and Working Groups**

1. The Court may establish such committees and working groups to facilitate its work as it deems necessary, taking into account, as much as possible, representation of gender, language and regions.
2. Where the Court establishes a committee or a working group pursuant to sub-Rule 1 of this Rule, any recommendation adopted by the committee or the working group shall be submitted to the Court for its endorsement.

## **Rule 27**

### **Official and Working Languages**

1. The official languages of the Court shall be Arabic, English, French, Portuguese, Spanish, Kiswahili and any other African language.
2. The working languages of the Court shall be Arabic, English, French and Portuguese.
3. Notwithstanding the provisions of sub-Rules 1 and 2 of this Rule, the Court may permit any person appearing before it to use a language of his or her choice, if it is shown that he or she does not have sufficient knowledge of any of the working languages of the Court. In such instance, the Court shall make the necessary interpretation and translation arrangements. The costs for such interpretation and translation shall be borne by the Court.
4. Any interpreter or translator used for the implementation of sub-Rule 3 of this Rule or any other outsourced interpretation or translation services under Rule 27 shall take an oath or make a solemn declaration undertaking to discharge

his or her duties faithfully and effectively, and to respect the confidential nature of the information that come to his or her knowledge in the exercise of his or her duties.

## **Rule 28**

### **Internal Judicial Practice and Practice Directions**

Subject to the provisions of the Protocol and the Rules the Court shall adopt its internal judicial practice and procedures, and shall also formulate practice directions for parties before the Court.

## **PART III**

### **JURISDICTION**

#### **Rule 29**

#### **Jurisdiction**

1. Pursuant to Articles 3 and 4 of the Protocol, the Court shall have jurisdiction in contentious cases and advisory matters. In this regard, it shall:
  - a) deal with all cases and all disputes submitted to it concerning the interpretation and application of the Charter, the Protocol and any other relevant human rights instrument ratified by the States concerned;
  - b) render advisory opinions on any legal matter relating to the Charter or any other relevant human rights instruments.
2. In the exercise of its contentious jurisdiction, the Court may:
  - a) promote amicable settlement in cases pending before it in accordance with the provisions of the Charter and the Protocol;
  - b) interpret a judgment rendered by itself;
  - c) review its own judgment
3. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

## **PART IV**

### **CONTENTIOUS PROCEDURE**

#### **CHAPTER I: GENERAL PROVISIONS**

##### **Rule 30**

##### **Phases of Proceedings**

1. The procedure before the Court shall consist of written, and if necessary, oral proceedings.
2. The written procedure shall consist of a communication to the Court, and the parties' pleadings, as well as any supporting documents.
3. The oral proceedings shall consist of a hearing of the parties, their representatives, witnesses, experts or such other persons as the Court may decide to hear.

##### **Rule 31**

##### **Representation and Legal Assistance**

1. Every party to a case shall be entitled to be represented or to be assisted by counsel and/or by any other person of the party's choice.
2. Pursuant to Article 10 (2) of the Protocol, the Court may, upon request or *suo motu*, decide to provide, in the interest of justice and within the limits of the financial resources available, free legal assistance to any party at any stage of the proceedings.
3. The Court shall maintain a Legal Aid scheme for the purpose of implementing this Rule.
4. The Court shall collaborate with the AU Commission in the management of the African Union Legal Aid Fund for African Union Human Rights Organs.

**Rule 32**  
**Legal Costs**

1. The Court shall not charge any fees for filing or processing an Application.
2. Unless otherwise decided by the Court, each party shall bear its own costs, if any.

**Rule 33**  
**Cooperation of the States**

1. The State Parties to a case have the obligation to cooperate so as to ensure that all notices, communications or summonses addressed to persons residing in their territory or falling under their jurisdiction are duly executed.
2. Pursuant to Article 10 (3) of the Protocol, the Court shall, whenever necessary, request that State Parties take special measures to guarantee the security of parties, witnesses, experts and other persons appearing before it.
3. The same Rule shall apply to any proceeding that the Court decides to conduct or order in the territory of any Member State of the African Union.
4. When the performance of any of the measures referred to in the preceding paragraphs requires the cooperation of any other State, the President shall request the government concerned to provide the requisite assistance.



## **CHAPTER II**

### **COMPLEMENTARITY BETWEEN THE COURT AND THE COMMISSION**

#### **Rule 34**

##### **Meeting of the Court and the Commission**

1. In order to enhance the complementarity envisaged under Article 2 of the Protocol, the Court and the Commission shall meet at least once a year and whenever necessary.
2. The Bureau of the Court may meet the Bureau of the Commission as often as necessary.

#### **Rule 35**

##### **Harmonization of the Rules**

In accordance with Article 33 of the Protocol, the Court shall consult the Commission, as appropriate, on any amendment of its Rules, and on any issues of procedure, governing the relationship between the two institutions.

#### **Rule 36**

##### **Seizure of the Court by the Commission**

1. In a case brought before the Court by the Commission under Article 5(1) (a) of the Protocol, its Application shall be accompanied by its Report as well as all documents pertaining to the proceedings.
2. The Court may, pursuant to Rule 52 of these Rules, hear the Commission as the Applicant in a case filed before it, whose legal team may comprise of Commissioners, members of the Secretariat, experts and/or counsel, as it may designate or appoint.
3. The Court may also, if it deems it necessary, hear, under Rule 56 of the Rules, the individual or NGO that initiated the communication before the Commission pursuant to Article 55 of the Charter.

4. The Court may, while considering cases that require fact-finding or *in situ* investigations, and in which the Commission is not a party, request the Commission to conduct such investigations.
5. The Court, while considering a case in which the Commission has made a determination, in Application of the Protocol and the Rules, may review the decision of the Commission. In such circumstances, the Court may seek clarifications from the Commission as necessary.

### **Rule 37**

#### ***Lis Pendens* and Court's Request for Opinion on Admissibility**

1. The Court shall, not consider any application or request for advisory opinion relating to a matter pending before the Commission, unless the matter has been formally withdrawn.
2. Where, pursuant to Article 6(1) of the Protocol, the Court decides to solicit the opinion of the Commission on the admissibility of an Application before it, it shall transmit to the Commission a copy of the pertinent sections of the file, indicating the time limit within which it wishes to receive the opinion.

### **Rule 38**

#### **Transfer of Cases to the Commission**

1. Where the Court, after consulting the parties decides to transfer a case to the Commission pursuant to Article 6(3) of the Protocol, it shall transmit all the pleadings in the matter accompanied by a summary report to the Commission.
2. Where the Court receives an Application involving a State that has neither ratified the Protocol nor made the Declaration required under Article 34 (6) of the Protocol, the Registry shall inform the Applicant that the Court lacks jurisdiction to examine the Application. In such instance, the Registry shall inform the Applicant that he/she may file his/her matter before the Commission.

## **CHAPTER II: WRITTEN PROCEEDINGS**

### **Rule 39**

#### **Access to the Court**

1. Pursuant to the provisions of Article 5 (1) and (3) of the Protocol, the following are entitled to submit cases to the Court:
  - a) The Commission;
  - b) The State Party which has lodged an Application to the Commission;
  - c) The State Party against which an Application has been lodged at the Commission;
  - d) The State Party whose citizen is a victim of a human rights violation;
  - e) An African Intergovernmental Organization;
  - f) An individual or a Non-Governmental Organization which has Observer Status before the Commission provided the requirements of Article 34(6) of the Protocol are met.
2. In accordance with Article 5(2) of the Protocol, a State Party which has an interest in a case may submit a request to the Court to be permitted to join in accordance with the procedure established under Rule 61 of these Rules.

### **Rule 40**

#### **Commencement of Proceedings**

1. Applications filed before the Court shall be written in one of the official languages of the Court and filed in one (1) original Application containing a summary of the facts and of the evidence intended to be adduced. The said Application shall be signed by the Applicant or by his/her representative.
2. The Application shall specify the alleged violation, evidence of exhaustion of local remedies or of the inordinate delay or ineffectiveness of such local remedies as well as the orders or the injunctions sought. All Applications filed by individuals and Non-Governmental Organizations shall meet the other admissibility conditions as set out in Article 56 of the Charter and Rule 50 of these Rules.

3. The Application shall be accompanied by copies of any relevant documents and in particular the decisions relating to the object of the Application and serving as confirmation of exhaustion of local remedies.
4. Any Applicant who on his/her own behalf or on behalf of the victim wishes to be granted reparation pursuant to Article 27(1) of the Protocol shall include the request for reparation in the Application in accordance with sub-Rule 2 above. The supporting documents and evidence relating thereto shall be submitted together with the Application or within a time limit set by the Court.
5. In the event that an Applicant is unable to file his/her original Application in the Registry, he/she shall file a certified copy, or scanned copy or electronic copy of his/her Application, provided that the original shall be delivered to the Registry before the date of set by the Court.
6. The Registrar shall effect service of the Application on the other party by courier or registered post, together with a request to acknowledge receipt.
7. The Registrar shall, as soon as possible, acknowledge receipt of the Application, and inform the Applicant of any missing information or documentation required by the Rules and seek clarification, where necessary.

#### **Rule 41**

##### **Content of an Application in contentious cases**

1. An Application shall be made on the Application Form provided by the Registry, unless the Court decides otherwise. It shall contain all of the information requested in the relevant parts of the Application form and set out:
  - (a) the name, date of birth, nationality and address of the Applicant and, where the Applicant is a legal person, the full name, date of incorporation or registration, the official registration number (if any) and the official address;
  - (b) the name, address, telephone and fax numbers and e-mail address of the representative, if any;
  - (c) where the Applicant has more than one representative, only one will be designated for purposes of communication with the Registry;

- (d) the name of the State Party or Parties against which the Application is made;
  - (e) a concise and legible statement of the facts;
  - (f) a concise and legible statement of the alleged violation(s) of specified human rights instruments and the relevant arguments; and
  - (g) a concise and legible statement confirming the Applicant's compliance with the admissibility criteria laid down in Article 56 of the Charter and Rule 50 of the Rules.
2. (a) All of the information referred to in paragraphs 1 (e) to (g) above, that is set out in the relevant part of the Application form, should be sufficient to enable the Court to determine the nature and scope of the Application without recourse to any other document.
- (b) The Applicant may however supplement the information by appending to the Application form further details on the facts, alleged violations of the specified human rights instruments and the relevant arguments.
3. The Application form shall be signed by the Applicant or the Applicant's representative, as the case may be and shall be accompanied by:
- (a) copies of documents relating to the decisions or measures complained of, judicial or otherwise;
  - (b) copies of documents and decisions showing that the Applicant has complied with the exhaustion of domestic remedies requirement under Article 56(5) of the Charter and Rule 50(2) (e) of the Rules or where the Applicant claims an exception to this requirement, copies of documents supporting this claim.
  - (c) where appropriate, copies of documents relating to any other procedure of international investigation or settlement relating to the claim.
  - (d) where the Applicant is a legal person, a document or documents showing that the individual who lodged the Application has the standing or authority to represent the Applicant.

(e) where the Applicant is a Non-Governmental Organization, a document showing that it has Observer Status with the Commission.

4. Documents submitted in support of the Application shall be listed in order by date, numbered consecutively and be identified clearly.
5. An Applicant, who does not want his identity to be disclosed to the public, shall make a request to the Court in writing and give reasons why his identity should not be disclosed.
6. Where the Court decides that the reasons for the request are justified, it shall grant the request for non-disclosure of identity. If the request is not justified, the Court shall inform the Applicant in writing, who will then indicate whether the Court should proceed with the application or not.
7. In any instance where an Applicant is also the victim of a human rights violation and requests that his identity be kept anonymous, the Court will disclose his identity to the respondent and not to the public.
8. Where the request for anonymity has been granted, all Court documents to the public shall refer to the applicant in pseudonyms.
9. Failure to comply with the requirements set out in paragraphs 1 to 3 of this Rule will result in the Application not being examined by the Court, unless:
  - (a) the Applicant has provided an adequate explanation for the failure to comply;
  - (b) the Application concerns a request for provisional measures;
  - (c) the Court directs otherwise of its own motion or at the request of an Applicant.
10. The Court may, in any case, request an Applicant to provide information or documents in any form or manner which may be appropriate within a fixed time-limit.
11. The date of receipt of the Application shall be the date on which an Application form satisfying the requirements of this Rule is received at the Registry.
12. Parties shall keep the Court informed of any change of address and of all circumstances relevant to the Application.

## **Rule 42**

### **Transmission of Applications**

1. Upon receipt of an Application filed in accordance with Article 5(1) and (3) of the Protocol, the Registrar shall transmit a copy thereof, together with any annexes, to the President and other Members of the Court.
2. In consultation with the Bureau, subject to Rule 48 (2) these Rules, the Registrar shall forward copies of the Application, where applicable to the:
  - a) State Party against which the Application has been filed;
  - b) State Party whose citizen is a victim of the alleged violation;
3. Where the Bureau decides that an Application should not be served in accordance with sub-rule 2 above, the Registrar shall immediately inform the Applicant of the reasons thereof.
4. Subject to Rule 48 (2) of these Rules, the Registrar shall also inform the Commission, the Chairperson of the AU Commission and through him/her, the Executive Council of the African Union, and all the other State Parties to the Protocol, of the filing of the Application.
5. In transmitting Applications as stipulated in sub-rules 2 and 4 of this Rule, the Registrar shall invite:
  - a) the Respondent State to indicate, within thirty (30) days of receipt of the Application, the names and addresses of its representatives;
  - b) any other State Party that may wish to intervene in the proceedings under Article 5(2) of the Protocol, to inform the Registrar accordingly, within the time stipulated in Rule 61.

### **Rule 43**

#### **Receipt and Transmission of Pleadings**

1. All pleadings received by the Registry shall be stamped, registered and a copy thereof transmitted to the other party and all other relevant participants to a case.
2. The Registrar shall acknowledge receipt of all such pleadings.

### **Rule 44**

#### **Time Limit for Pleadings**

1. The State Party against which an Application has been filed shall respond thereto within ninety (90) days of being served with the Application. The Response shall cover submissions on jurisdiction, admissibility, merits and reparations.
2. After the Respondent State has filed its Response, the Applicant may file a Reply thereto within forty-five (45) days.
3. Where a party is unable to comply with any time limit prescribed in these Rules, the President may grant an extension of thirty (30) upon Application being made, giving reasonable explanation for the inability to comply.
4. A request for extension of time shall be communicated to the other party to the case, and the latter may be given fifteen (15) days within which to react to the request.
5. Any further extension of time may only be granted by decision of the Court taking into account the particular circumstances of the case.
6. The decision to extend time is at the discretion of the Court.
7. If any party fails to file its pleadings and does not make a request for extension, its attention shall be drawn to Rule 63 of the Rules. In such instance, the defaulting party shall be granted not more than 45 days to file its pleadings.
8. In any case, where time limits are prescribed in these Rules, the reckoning of time shall be from the date of receipt of pleadings, notices or other communications from the Registry, informing the parties of the same. Receipt



shall be presumed on the date that an electronic mail is sent, and where pleadings, notices or other communication are sent by registered mail or courier, receipt shall be upon delivery.

9. The provisions of this Rule shall apply to any other participant in the proceedings before the Court.

#### **Rule 45**

##### **Filing out of Time**

1. Pleadings filed out of the time limits set out in these Rules shall not be considered unless the Court decides otherwise.
2. Where a party seeks to file pleadings out of time, the request shall be made within a reasonable time, giving reasons for the failure to comply with the time limit. Such request shall be communicated to the other party, and the latter shall be given fifteen (15) days within which to react to the request.
3. The decision to extend time is at the discretion of the Court.

#### **Rule 46**

##### **Close of pleadings**

1. The written pleadings shall be considered to have closed when the Applicant Replies to the Respondent State's Response to the Application or when the Court so decides.
2. Each party reserves the right to apply for leave to present additional submissions after close of pleadings. Such application shall be communicated to the other party, and the latter shall be given fifteen (15) days within which to react.
3. The Court has the discretion to determine whether or not to reopen pleadings.
4. No party may file additional evidence after the close of pleadings except by leave of Court.

## **Rule 47**

### **Amendment of Pleadings**

1. A party may, subject to the approval of the Court, amend its pleadings before the close of pleadings.
2. A request for amendment of pleadings shall be made by a written notice explaining the specific part of the pleadings to be amended. The request shall also state the reasons thereof.
3. If the request is made after the close of pleadings, the Court may grant leave on exceptional basis.

## **Rule 48**

### **Dismissal of Application without Merit**

1. Where the Court considers that the Application is manifestly unfounded, it shall dismiss it, giving reasons for its decision without having to summon the parties to appear, and the parties shall be duly notified of that decision.
2. In any case, where the Registry receives an Application from an individual or Non-Governmental Organization, the Registrar shall verify with the AU Commission whether the State against which the Application has been filed is a party to the Protocol or has deposited the Declaration in terms of Article 34(6) of the Protocol. Where the Protocol has not been ratified or the Declaration has not been deposited, the Registrar shall not register the Application, and shall inform the Applicant of the reason(s) thereof.

## **Rule 49**

### **Examination of Jurisdiction and Admissibility**

1. The Court shall ascertain its jurisdiction and the admissibility of an Application in accordance with the Charter, the Protocol and these Rules.
2. Pursuant to sub-rule 1 of this Rule, the Court may request the parties to submit any factual information, documents or other material considered by the Court to be relevant.

## **Rule 50**

### **Admissibility of Applications**

1. The Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6 (2) of the Protocol and these Rules.
2. Applications filed before the Court shall comply with all of the following conditions:
  - a) Indicate their authors even if the latter request anonymity,
  - b) Are compatible with the Constitutive Act of the African Union and with the Charter,
  - c) Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union,
  - d) Are not based exclusively on news disseminated through the mass media,
  - e) Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,
  - f) Are submitted within a reasonable time from the date local remedies were exhausted or from the date the Commission is seized with the matter, and
  - g) Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the Charter.

## **Rule 51**

### **Filing of Documents**

1. The Court may, during the course of the proceedings and at any other time the Court deems it appropriate, call upon the parties to file any pertinent document or to provide any relevant explanation. The Court shall formally take note of any failure to comply.

2. All documents filed before the Court and transmitted to the parties shall be signed by their authors.

### **CHAPTER III: ORAL PROCEEDINGS**

#### **Rule 52**

#### **Hearings**

1. Subject to the provisions of Rule 30 (1) of these Rules, the Court may hold a hearing on its own accord or upon a request of a party.
2. Pursuant to Article 10 (1) of the Protocol, the Court shall conduct its proceedings in public. However, the Court may hold its hearings in camera if, in its opinion, it is in the interest of public morality, public order or the physical and moral integrity of the parties and witnesses.
3. Cases where the disclosure of the identity of a child may compromise its best interests and wellbeing shall also be heard in camera.
4. Whenever the Court orders that any proceedings shall not be conducted in public, the Court shall give reasons. The parties or their legal representatives shall be permitted to be present and heard in camera.

#### **Rule 53**

#### **Fixing the Date of Hearing**

Where the Court decides to have a hearing, the President shall fix the date for the hearing. The Registrar shall notify the parties accordingly.

#### **Rule 54**

#### **Conduct of Hearings**

1. The hearings shall be presided over by the President or, in his absence, the Vice President, the Dean of Judges or any other Judge as the Court may decide.
2. The Presiding Judge shall prescribe the order in which the parties or their representatives are to be heard.

3. Prior to the public hearing, the Registry shall send the parties the programme of the hearing and may also send a list of issues for clarifications.
4. The President or any Judge, may put questions to the parties, and/or their representative, the witnesses, experts or other persons appearing before the Court.
5. Expert witnesses and other persons appearing before the Court may be subject to examination and cross-examination as appropriate.
6. The Court may, of its own motion or on request by a party, adjourn any public hearing.
7. Whenever one of the Parties does not appear before the Court for a scheduled public hearing, the Court may proceed in the absence of that party, after having satisfied itself that the said party was properly served with the notice of the hearing.

#### **Rule 55**

#### **Measures for Taking Evidence**

1. The Court may, of its own accord or at the request of a party, obtain any evidence which in its opinion may provide clarification of the facts of a case. The Court may decide to hear a witness, an expert or any other person whose evidence, assertions or statements it deems likely to assist it in carrying out its task.
2. The Court may, for purposes of obtaining information, request any person or institution of its choice to express an opinion or submit a report to it on any specific point.
3. The Court may, at any time during the proceedings, assign one or more Judges to conduct an enquiry, carry out a visit to the scene or take evidence in any other manner, including to take testimony on oath using appropriate means.

## **Rule 56**

### **Witnesses, Experts and Other Persons**

1. The Registrar shall issue summons to witnesses and invite experts or any other persons the Court decides to hear.
2. After verification of his/her identity and before giving evidence, every witness shall take the following oath or make the following solemn declaration:  
“I swear/solemnly declare upon my honour and conscience that I will tell the truth, the whole truth and nothing but the truth.”
3. After verification of his/her identity and before carrying out his/her task, every expert shall take the following oath or make the following solemn declaration:  
“I swear/solemnly declare that I will, on my honour and conscience, discharge my functions as expert independently and impartially.”
4. The oath or declaration referred to in sub-rules 2 and 3 of this Rule shall be taken or made before the Court and the Court shall take notice of the same.
5. The Court shall rule on any challenge arising from an objection to a witness or expert.

## **Rule 57**

### **Recording of Public Hearings**

The proceedings of the public hearing shall be recorded and such recordings shall be conserved in the archives of the Court.

## **Rule 58**

### **Verbatim Transcript Record of Hearings**

1. The Registrar shall be responsible for making a verbatim transcript record of each hearing. The verbatim record shall be sent to the parties within five (5) working days of the public hearing. The verbatim transcript record shall include the:
  - a) composition of the Court at the hearing;
  - b) list of the persons appearing before the Court;
  - c) text of statements and/or submissions made, questions put and replies given;
  - d) text of any decision delivered by the Court during the hearing.
2. The parties or their representatives shall receive the verbatim transcript record of their arguments, statements or evidence, in order that they may, under the responsibility of the Registrar, make corrections, provided that such corrections do not affect the substance of what was said. The parties shall respond within twenty one (21) days from the date of receipt.
3. Once corrected, the verbatim transcript record shall be signed by the President and the Registrar; and shall then constitute a true reflection of the proceedings.

## **CHAPTER IV: SPECIFIC PROCEDURES**

### **Rule 59**

#### **Provisional Measures**

1. Pursuant to Article 27(2) of the Protocol, the Court may, at the request of a party, or on its own accord, in case of extreme gravity and urgency and where necessary to avoid irreparable harm to persons, adopt such provisional measures as it deems necessary, pending determination of the main Application.
2. In case of extreme urgency, the President shall, by all appropriate means, obtain the views of the Judges.
3. The Court shall duly notify the parties to the case, the Assembly, the Executive Council and the AU Commission of the aforesaid provisional measures.
4. In the Annual Report submitted by the Court to the Assembly pursuant to Article 31 of the Protocol, the Court shall disclose the provisional measures it ordered during the period under review. In the event of non-compliance with these measures by the State concerned, the Court shall make such recommendations as it deems appropriate.
5. The Court may invite the parties to provide it with information on any issue relating to the implementation of the provisional measures adopted by it.
6. Orders for Provisional Measures shall be binding on the parties concerned.

### **Rule 60**

#### **Preliminary Objections**

1. Any party served with an Application may raise preliminary objections within the time limit set by the Court.
2. The submission of preliminary objections shall not cause the proceedings on the substantive case to be suspended unless the Court so decides. In any case,



- the Court shall rule on the objections or incorporate its ruling in its decision on the substantive case.
3. Every preliminary objection shall set out the facts and the law on which the objection is based as well as the submissions and a list of the documents in support, if any; it shall also specify any evidence which the party intends to adduce.
  4. Where a party raises a preliminary objection, the Court shall invite the other party to submit its written observations in reply.
  5. The Court may, on the request of a party or of its own accord, before deciding on the preliminary objection, decide to hold a hearing if it deems it necessary.

### **Rule 61**

#### **Intervention**

1. A State Party may, in accordance with Article 5(2) of the Protocol, seek to intervene in a case.
2. The Court may, in the interest of justice, authorise any other person who has interest in a case to intervene.
3. An Application to intervene shall indicate:
  - a) the names and addresses of the Applicant or his/her representatives, if any;
  - b) the Applicant's interest in the case;
  - c) the purpose of the intervention; and
  - d) a list of all supporting documents.
4. An Application for leave to intervene shall be filed as soon as possible, and, in any case, before the close of the written pleadings. However, under exceptional circumstances, the Court may grant leave for an Application for intervention to be filed after the close of pleadings.
5. Copies of the Application for leave to intervene shall be communicated forthwith to the parties to the case, who shall be entitled to submit their written submissions within a time-limit fixed by the President. The Registrar shall also

- transmit copies of the Application to any other concerned entity mentioned under Rule 39 of these Rules.
6. Where the Court rules that the Application is admissible, it shall fix a time limit within which the intervening party shall submit its written observations. Such submissions shall be forwarded by the Registrar to the parties to the case, who may file written submissions in reply within a deadline set by the Court.
  7. The intervening party shall be entitled, in the course of the oral proceedings, if the Court decides to hold any, to present submissions in respect of the subject of the intervention.

## **Rule 62**

### **Joinder and Disjoinder of Cases and Pleadings**

1. The Court may, at any stage of the proceedings, either on its own accord or upon an Application by any of the parties, order the joinder or disjoinder of cases and pleadings as it deems appropriate.
2. The Court, when it deems necessary, may seek the opinion of the Parties on the joinder and disjoinder.

## **Rule 63**

### **Judgment in Default**

1. Whenever a party does not appear before the Court, or fails to defend its case within the period prescribed by the Court, the Court may, on the Application of the other party, or on its own motion, enter judgment in default after it has satisfied itself that the defaulting party has been duly served with the Application and all other documents pertinent to the proceedings.
2. The Court may, upon an Application from the defaulting party showing good cause, and within a period not exceeding one year from the date of notification of the judgment, set aside a judgment entered in default in accordance with sub-rule 1 of this Rule.

3. Prior to considering the Application for setting aside the said judgment, the Court shall notify the Application to the other party giving the latter thirty (30) days within which to submit written observations.

#### **Rule 64**

##### **Amicable Settlement**

1. Pursuant to Article 9 of the Protocol, the Court may promote amicable settlement of cases pending before it. To that end, it may invite the parties and take appropriate measures to facilitate amicable settlement of the dispute.
2. Parties to a case before the Court, may on their own initiative, solicit the Court's intervention to settle their dispute amicably at any time before the Court gives its judgment.
3. Any negotiations with a view to reaching an amicable settlement shall be confidential and without prejudice to the parties' observations in the proceedings before the Court. No written or oral communication and no offer or concession made as part of such negotiations shall be mentioned or referred to in the proceedings before the Court.
4. In the event of an amicable settlement of a case, the Court shall render judgment limited only to the facts and the solution adopted.
5. The Court may, having regard to its discretion under the Protocol and in the interest of justice or to preserve public interest or order, decide to proceed with a case notwithstanding that an amicable settlement has been reached by the parties.

#### **Rule 65**

##### **Strike Out and Restoration of an Application**

1. The Court may at any stage of the proceedings decide to strike out an Application from its cause list where:
  - a) An Applicant notifies the Court of his/her intention not to proceed with the case;
  - b) An Applicant fails to pursue his case within the time limit provided by the Court;

- c) It, for any other reason, concludes that it is no longer justified to continue with the examination of the Application.
2. Any decision to strike out an Application shall be rendered in the form of an order.
3. Upon a request from an Applicant, the Court may restore an Application which was struck out to its cause-list if exceptional circumstances so justify.

## **Rule 66**

### **Pilot-judgment procedure**

1. The Court, on its own accord or upon a request from the parties, may initiate a pilot-judgment procedure where a number of Applications filed against the same Respondent(s) reveal the existence of a structural or systemic problem in the Respondent State(s).
  - a) The Registrar shall, before initiating a pilot-judgment procedure, submit a report to the Court that identifies the Applications that may constitute the subject of a pilot-judgment and in particular, specify the nature of the structural and systemic problem contained in each of the Applications. The Court shall consider the said report, and where it decides to institute the procedure, seek the consent of the parties.
  - b) Any Application selected for pilot-judgment procedure shall be processed as a matter of priority.
  - c) The Court may adjourn the examination of all similar Applications pending the adoption of the remedial measures required by virtue of the operative provisions of the pilot judgment.
  - d) The Applicants concerned shall be informed of the decision to adjourn. They shall be notified as appropriate of all relevant developments concerning their cases.
  - e) The Court may, at any time, examine an adjourned Application where the interests of justice so requires.
2. When adopting a pilot judgment procedure, the Court reserves the right to initiate a friendly-settlement agreement to resolve the disputes between the parties.

3. The Court shall, in its pilot judgment, identify both the nature of the structural or systemic problem, as well as the type of remedial measures which the Respondent State is required to take at the domestic level by virtue of the operative provisions of the judgment and the time within which the measures shall be implemented.
4. Subject to any decision to the contrary, in the event of the failure of the Respondent State to comply with the operative provisions of a pilot judgment, or failure to implement a friendly settlement agreement, the Court shall resume its examination of the Applications which have been adjourned in accordance with paragraph 1(e) above
5. The pilot judgment or any friendly settlement shall be published in accordance with the Rules.

## **CHAPTER V: DELIBERATIONS AND DECISIONS**

### **Rule 67**

#### **Deliberations**

1. The Court shall, upon the close of pleadings, proceed to deliberations.
2. The deliberations of the Court shall be held in camera and shall remain confidential. The Registrar or his/her Deputy, as well as other Legal Officers of the Registry and interpreters, whose assistance is deemed necessary, shall be present.
3. The Court's deliberations on an Application shall be completed within two consecutive ordinary sessions of the Court following the close of pleadings.

### **Rule 68**

#### **Forms of Decisions**

In the exercise of judicial functions, the Court will render its decisions in the form of a judgment, ruling, order, opinion, instruction, direction or any other form of pronouncement as the Court deems necessary.

**Rule 69**  
**Judgment**

1. Pursuant to Article 28(1) of the Protocol, the judgment of the Court shall be delivered within ninety days of having completed deliberations.
2. The judgment shall be made by a majority of the Members of the Bench present. Abstentions shall not be allowed in the final votes of cases.
3. The Court shall rule on the request for reparation, submitted in accordance with Rule 40(4) of these Rules, by the same decision establishing the violation of a human and/or peoples' right or, if the circumstances so require, by a separate decision.
4. In the event of a tied vote, the Presiding Judge shall have a casting vote.

**Rule 70**  
**Separate Opinions, Dissenting Opinions or Declarations**

1. Any Judge who heard the case may append the text of his/her separate or dissenting opinion.
2. A separate or dissenting opinion shall be published along with the decision of the Court.
3. A Judge who wishes to differ with the majority without providing the reasons thereof may do so in the form of a declaration.

**Rule 71**  
**Content of a Judgment**

1. The judgment of the Court shall contain:
  - a) the date on which it was delivered;
  - b) the names of the parties;
  - c) the names of the representatives of the parties, if applicable;
  - d) a summary of the procedure of the proceedings;
  - e) the submissions and prayers of the parties,
  - f) the submissions of *amicus curiae*, where applicable;

- g) a summary of the facts of the case;
  - h) the legal reasoning;
  - i) the decision, if any, on reparations and costs;
  - j) the operative provisions of the judgment;
  - k) the names and number of Judges who took part in the deliberations;
2. The judgment shall specify the authoritative language version.

## **Rule 72**

### **Binding Nature of the Judgment**

1. Subject to Article 28(2) of the Protocol, the judgment of the Court shall be final.
2. The judgment shall be binding on the parties and is enforceable as provided under Article 30 of the Protocol.

## **Rule 73**

### **Notification of Judgment**

1. In accordance with Article 29 of the Protocol, the Court shall duly notify the parties to the case, the Commission, the Assembly, the AU Commission and any person or institution concerned with the judgment by certified true copies thereof.
2. The Executive Council shall also be notified of the judgment.

## **Rule 74**

### **Signing of Decisions**

1. The decisions of the Court shall be signed by all the Judges and certified by the Registrar.
2. Notwithstanding sub-Rule 1 of this Rule, the Court may mandate the President and the Registrar to sign certain decisions.
3. Signing shall take place before the delivery of the Judgment, unless the Court decides otherwise.
4. The original text of any decision, duly signed and sealed, shall be archived.

## **Rule 75**

### **Delivery of Decisions**

Delivery of the decisions of the Court shall be in public, or in exceptional circumstances, in a virtual manner, due notice having been given to the parties.

## **Rule 76**

### **Publication of Decisions**

1. Decisions of the Court shall be published in accordance with Rule 21(2) (i), under the authority of the Registrar.
2. Decisions shall be published in the working languages of the Court.

## **Rule 77**

### **Application for Interpretation of a Judgment**

1. Pursuant to Article 28(4) of the Protocol, any party may, for the purpose of executing a judgment, apply to the Court for an interpretation of the judgment within twelve months from the date of notification of the judgment, unless the Court, in the interest of justice, decides otherwise.
2. The Application shall state the point(s) in the operative provisions of the judgment on which interpretation is sought.
3. The Registrar shall, upon the instruction of the Court, transmit the Application for interpretation to any other party concerned and shall invite them to submit their written comments, if any, within the time limit established by the President. The President shall also fix the date for the hearing of the Application, in the event the Court decides to hold one.
4. An Application for interpretation shall not stay the execution of the judgment unless the Court decides otherwise.
5. The Court's decision shall take the form of a judgment.



## **Rule 78**

### **Request for Review of a Judgment**

1. A party may, in the event of the discovery of a new fact or evidence, which by its nature, has a decisive influence and which, when the judgment was delivered, was unknown to the party and could not with due diligence have been known to that party, request the Court, within a period of six months after that party acquired knowledge of the fact (or evidence), apply to the Court to revise that judgment. The Court shall not accept any request for review of its judgment after five (5) years of the delivery of the same.
2. The Application shall specify the judgment in respect of which review is requested, contain information necessary to show that the conditions laid down in sub-rule 1 of this Rule have been met, and be accompanied by a copy of all relevant supporting documents.
3. Upon the instructions of the Court, the Registrar shall transmit a copy of the Application to any other party concerned and shall invite them to submit written observations, if any, within the time limit set by the President. The President shall also fix the date of the hearing should the Court decide to hold one. The Court shall rule on the admissibility of such Application and its decision shall take the form of a judgment.
4. If the Application is declared admissible, the Court shall, determine the time limit for all future proceedings on the substance of the Application.
5. An Application for review shall not stay the execution of a judgment, unless the Court decides otherwise.

## **Rule 79**

### **Rectification of clerical errors**

1. The Court may, of its own motion or at the request of a party, rectify clerical errors in its decision.
2. A party making a request for rectification of an error shall do so within one (1) month of the date of receipt of the decision.

## **CHAPTER VI: ENFORCEMENT OF DECISIONS OF THE COURT**

### **Rule 80**

#### **Compliance with the decisions of the Court**

1. Pursuant to Article 30 of the Protocol, State Parties shall fully comply with the decisions of the Court and guarantee their execution within the time limits set by the Court.
2. All Parties shall comply with the decisions of the Court.

### **Rule 81**

#### **Procedure for Monitoring Compliance with Decisions of the Court**

1. State Parties concerned shall submit reports on compliance with the decisions of the Court and these reports shall, unless otherwise decided by the Court, be transmitted to the Applicant(s) for observations.
2. The Court may obtain relevant information from other credible sources in order to assess compliance with its decisions.
3. In case of a dispute as to compliance with its decisions, the Court may, among others, hold a hearing to assess the status of implementation of its decisions. At the end of the hearing, the Court shall make a finding and where necessary, issue an order to ensure compliance with its decisions.
4. Where a State Party has failed to comply with its decision, the Court shall, in accordance with Article 31 of the Protocol, report the non-compliance to the Assembly.
5. The Court will make available to the Assembly, all relevant information it may deem useful for the purpose of execution.

## **PART V: ADVISORY PROCEDURE**

### **Rule 82**

#### **Request for Advisory Opinion**

1. A request for advisory opinion pursuant to Article 4 of the Protocol may be filed before the Court by a Member State, the African Union, any organ of the African Union or an African Organization recognized by the African Union.
2. Any request for advisory opinion shall be on legal matters and shall specify the provisions of the Charter or of any other international human rights instrument in respect of which the advisory opinion is being sought, the context or background giving rise to the request as well as the names and addresses of the representatives of the entities making the request.
3. The subject matter of the request for advisory opinion shall not relate to a Communication pending before the Commission.

### **Rule 83**

#### **Transmission of a Request for Advisory Opinion**

1. Upon receipt of a request for advisory opinion, the Registrar shall forward a copy, together with any annexes, to the President and other Members of the Court.
2. The Registrar shall, unless otherwise decided by the President, publish the request on the website of the Court, transmit copies to and invite observations from:
  - a. Member States of the African Union;
  - b. The Commission;
  - c. Relevant AU Organs; and
  - d. Any other relevant entities.

## **Rule 84**

### **Written Submissions**

1. The entities mentioned under Rule 83 of these Rules shall file their submissions, within ninety (90) days, from the date of receipt of the request, unless the Court decides otherwise.
2. Any other interested entity may be authorized by the Court to do the same.

## **Rule 85**

### **Oral Proceedings**

On exceptional basis, the Court, after consideration of the written submissions, shall decide whether to hold a public hearing and fix a date for such hearing.

## **Rule 86**

### **Delivery of Advisory Opinion**

1. Pursuant to Article 4(2) of the Protocol, the Court's advisory opinion shall be accompanied by reasons, and any Judge who has participated in a hearing of a request for an advisory opinion shall be entitled to append to the opinion, the text of a separate or dissenting opinion or issue a declaration.
2. The delivery of an advisory opinion shall take place in public. However, where the circumstances so require, the Court may decide otherwise.
3. A copy of the advisory opinion shall be transmitted to the author(s) of the request, Member States, the Commission, Relevant AU Organs and any other interested entity.

## **Rule 87**

### **Application of Provisions Relating to Contentious Procedure**

The Court shall apply, *mutatis mutandis*, the provisions of Part V of these Rules to the extent that it deems appropriate, to advisory proceedings.

## **PART VI: MISCELLANEOUS**

### **Rule 88**

#### **Amendments**

1. These Rules may be amended by the Court, in accordance with Article 33 of the Protocol.
2. A proposal to amend any Rule shall be submitted in writing by any Judge, to the President, who shall, accordingly, direct the Registrar to notify all other Judges.
3. The proposal to amend shall indicate the Rule to be amended and its proposed amendment.
4. Judges shall be notified of the date and venue of the meeting at which the proposed amendment shall be discussed, at least thirty (30) days prior to the date of the said meeting.
5. No amendment of a Rule shall be adopted unless it is supported by at least seven Members of the Court.

### **Rule 89**

#### **Force Majeure**

The Court may, in the event of *force majeure*, and in the interest of justice, derogate from any of the provisions of these Rules. Any decision to this effect shall be communicated to all concerned parties.

### **Rule 90**

#### **Inherent Power of the Court**

1. Nothing in these Rules shall limit or otherwise affect the inherent power of the Court to adopt such procedure or decisions as may be necessary to meet the ends of justice.

**Rule 91**  
**Adoption**

1. The Rules shall be adopted by at least seven Members of the Court.
2. The adopted Rules shall be signed by the President and the Registrar.

**Rule 92**  
**Entry into Force**

The Rules, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) being equally authoritative, shall enter into force on 25 September 2020.

**Rule 93**  
**Application**

1. All cases pending resolution shall be processed according to the provisions of these Rules.
2. For cases filed before the entry into force of these Rules, the Court may allow parties to file additional submissions to ensure compliance with these Rules

Done at Arusha, United Republic of Tanzania, this 1<sup>st</sup> Day of September in the Year Two Thousand and Twenty.

Signed (.....)

President

Signed (..... )

Registrar