



EAST AFRICAN COURT OF JUSTICE



JOINT COMMUNIQUÉ

THE SECOND TRIPARTITE JUDICIAL DIALOGUE

18 – 20 SEPTEMBER, 2024, ARUSHA – TANZANIA

**THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS (AfCHPR),
THE ECOWAS COURT OF JUSTICE (ECOWAS-CJ) AND
THE EAST AFRICAN COURT OF JUSTICE (EACJ)
(hereinafter referred to as the Courts)**

MEETING from 18 to 20 September 2024 in Arusha, United Republic of Tanzania, on the occasion of the 2nd Tripartite Judicial Dialogue;

RECALLING the 1st Tripartite Judicial Dialogue, held from 27 to 29 June 2022, in Zanzibar, United Republic of Tanzania, and particularly its conclusions, amongst which, to hold dialogues of this nature biennially between continental and regional courts in Africa as well as to strengthen cooperation among these Courts and with the United Nations human rights mechanisms;

CONSCIOUS of the ongoing cooperation between the Courts in light of the Memoranda of Understanding that were signed between the AfCHPR and the ECOWAS-CJ in 2018 and renewed in 2023, and between the AfCHPR and the EACJ in 2019;

RECOGNISING the need for the African continental and regional courts with direct and indirect human rights mandates to regularly engage in judicial dialogue and cooperation in order to continuously improve access to and administration of justice;

BEARING IN MIND the desire to promote cooperation among African continental and regional courts and with the United Nations human rights mechanisms by facilitating the exchange of best practices and experiences;

EMPHASISING Agenda 2063 of the African Union (AU) which sets out Africa's desired future, and in particular, Aspiration 1, which seeks to develop well-educated citizens and encourage a skills revolution while also creating an environmentally sustainable climate and resilient economies and communities, and, Aspiration 3, which seeks to achieve an Africa of good governance, democracy, respect for human and peoples' rights, justice and the rule of law;

FURTHER EMPHASISING ECOWAS Vision 2050 for a fully integrated Community of peoples, living in a peaceful and prosperous region, with strong institutions and respect for fundamental rights and freedoms, striving for inclusive and sustainable development;

UNDERSCORING EAC Vision 2050 for socio-economic transformation and development;

CONSIDERING the AU's theme for 2024, "Educate an African fit for the 21st Century: Building resilient education systems for increased access to inclusive, lifelong, quality, and relevant learning in Africa", declared by the 36th Ordinary Session of the AU Assembly of Heads of State and Government, which aims to accelerate the achievement of the United Nations' Sustainable Development Goal 4, to "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all";

RECOGNISING the persistent challenges faced by the Courts, including insufficient human, technical and financial resources as well as the low implementation of their decisions; **MINDFUL** that it is the primary obligation of Member States to promote and ensure respect for the rule of law, and, in accordance with Article 1 of the African Charter on Human and Peoples' Rights, to recognise the rights, duties and freedoms enshrined in the Charter and adopt legislative or other measures to give effect to them;

RECALLING Article 7 of the African Charter on Democracy, Elections and Governance which provides that State Parties shall take all necessary measures to strengthen the Organs of the AU that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources;

CONSCIOUS of Article 5 of the ECOWAS Revised Treaty wherein Member States committed, among others, to take all necessary measures to harmonise their strategies and policies, and refrain from any action that may hinder the attainment of their objectives and to honour their Treaty obligations;

RECALLING Article 7(2) and 8(1) of the EAC Treaty, wherein EAC Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights; and abstain from any measures likely to jeopardise the achievement of the objectives of the Community; **NOTING** the AU Institutional Reform Process initiated in July 2016 and particularly the principles on which it is based, specifically, prioritisation, institutional realignment, connecting with Africans, operational efficiency and effectiveness, and sustainable financing;

REITERATING that enhanced synergy amongst the Courts is needed to foster greater continental and regional legal integration by promoting a coherent and less fragmented interpretation and implementation of African international legal standards; **REAFFIRMING** the significance of the three Courts' capacity to contribute jointly toward the advancement of human rights in Africa, which may in turn deepen and consolidate the rule of law, peace, security and development across the continent;

HAVE AGREED:

I. ON FINANCING OF THE COURTS:

1. That the gravity and urgency of the financial challenges faced by the Courts have serious implications on their ability to ensure efficient and effective access to justice which may result in serious and irreparable harm to African peoples who rely on the Courts to protect their rights.
2. To develop more sustainable funding mechanisms, including by:
 - i. Encouraging the diversification of sources of funding through more direct voluntary contributions to the respective Courts which may also entail the secondment of experts from national ministries, judiciary, bar associations and universities, as well as through assistance in the provision of specific non-judicial services for the Courts, such as, in the domains of language, communication and Information Technology.
 - ii. Urging Member States to adopt decisions that do not constrain the Courts' access to voluntary contributions by other relevant stakeholders and partner organisations, and review existing policies to that effect.
 - iii. Pursuing the establishment and operationalisation of Trust Funds for the Courts to foster more stable and sustainable resource mobilisation, drawing on contributions from, among others, Member States, the African private sector, other relevant organisations, African citizens and those in the diaspora.
 - iv. Enhancing coordination among the Courts towards joint resource mobilisation strategies, drawing on evidence-based comparative studies and geared towards effective advocacy among policy-makers to demonstrate the added value of the Courts to realising the Aspirations of Agenda 2063, ECOWAS Vision 2050 and EAC Vision 2050.
 - v. Encouraging the allocation of adequate human, technical and financial resources to the Courts to ensure the effective discharge of their respective mandates.
 - vi. Fostering collaboration between the Courts and the peace and security mechanisms of their respective Organisations (AU, ECOWAS and EAC), considering that peace is pre-conditioned on respect for human rights and that peace, development and respect for human rights are inter-related.

II. ON HUMAN RIGHTS AND ENVIRONMENTAL RIGHTS:

3. That the advancement, defense and observance of human rights are prerequisites to safeguard everyone's right to live in a clean, healthy and sustainable environment for themselves and future generations.
4. That the full enjoyment of several fundamental human rights, such as, the right to food, to health, to development and to life, depends on a clean and sustainable environment and, therefore, the Courts resolve to:
 - i. Encourage a harmonious reading of Article 24 of the African Charter on Human and Peoples' Rights which provides that "All peoples shall have the right to a general satisfactory environment favourable to their development", and welcome the

development of a General Comment on the same by African human rights bodies in cooperation with UN human rights mechanisms.

- ii. Collaborate to facilitate training and capacity building of judges and Court officials in their respective roles of ensuring effective access to justice in environmental affairs, by knowledge sharing on the procedural elements that guarantee the right to information and public participation in areas concerning environmental protection measures, as well as on developments in climate science and the rapidly evolving state of the environment.
- iii. Organise more specific cooperation amongst the Courts to reflect on the most appropriate reparations for environmental protection in light of the triple planetary crisis of climate change, pollution and biodiversity loss, including through the development of internal guidelines to strengthen the Courts' reparations jurisprudence in the context of environmental justice.
- iv. Acknowledge the emerging trends in environmental litigation, including climate change litigation, biodiversity litigation, waste litigation, as well as strategic lawsuits against public participation, known as SLAPP suits, and commit to reflect on how best to handle these litigation trends and encourage the more frequent organisation of regional fora, with environmental experts and local community leaders, as well as other knowledge sharing initiatives, for African judges to be better equipped to deal with environmental litigation.

III. ON THE RIGHT TO EDUCATION:

5. To encourage a coherent interpretation of the right to education, with due respect for cultural, sociological and economic specificities, including by:
 - i. The institutionalisation of a regular dialogue between UN human rights mechanisms and African continental and regional human rights mechanisms around the legal developments and emerging trends surrounding the effective protection of the right to education, including by reflecting on key landmark decisions of international human rights bodies as well as national constitutional courts, supreme courts and highest administrative tribunals in Africa.
 - ii. Observing trends concerning the realisation of the right to education and engaging with domestic bodies responsible for ensuring compliance with the Courts' decisions on various aspects of the right to education.
6. To jointly mobilise support to enhance awareness of the role of the Courts as key agents in ensuring effective protection of the right to education by:
 - i. Encouraging capacity-building and research programmes for the legal community about the necessary measures to enhance the effectiveness of the justiciability of the right to education.
 - ii. Encouraging academic research networks on education policy and law, to organise initiatives to build legal expertise to establish and evaluate national legal norms and standards on various aspects of the right to education and ensure compliance with international and regional law on the right to education.

IV. ON THE IMPLEMENTATION OF THE RECOMMENDATIONS FROM THE 1ST TRIPARTITE JUDICIAL DIALOGUE:

7. To continue making progress in monitoring, evaluating and implementing, as applicable, the recommendations from the previous tripartite judicial dialogue, including by:
 - i. Building on the experience of promoting a continuous dialogue between UN human rights mechanisms and African continental and regional courts, by informing each other more regularly within their respective applicable legal frameworks of new cases submitted to them, to enhance the ability to develop a better overview and understanding of each other's docket. This may in turn facilitate cooperation in specific cases, where relevant, and reinforce a coherent jurisprudence among them.
 - ii. Enhancing the collaboration among the Courts in the context of the development of the African Jurisprudence Database (AJUDATA) as a comprehensive and accessible repository of jurisprudence from African International Judicial Mechanisms with the aim of developing a user-friendly platform for accessing African continental and regional jurisprudence and their implementation status, featuring intuitive search tools, interactive data visualisations, concise case summaries, and efficient filter options for enhanced user experience.
 - iii. Undertaking joint activities to raise awareness on the Courts' jurisprudence and their roles in protecting the rule of law and human rights in Africa, including through joint publications, the development of human rights educational tools, research projects, and practice guides on specific rights or themes, such as elections, environmental rights, women's rights or indigenous peoples' rights.
 - iv. Encouraging staff exchanges and peer-to-peer learning workshops or seminars to promote more hands-on sharing of experiences and good judicial practices, including with regard to amicable settlement procedures, language services, leveraging technology as well as mechanisms and initiatives relating to the implementation of decisions.
 - v. Calling for the establishment of focal points for greater institutional cooperation between UN human rights mechanisms and African continental and regional courts to further strengthen the relationship between States and the Courts, through enhanced engagement with national authorities, including national focal points, national judiciaries, national human rights institutions and academic institutions, to foster mutual exchanges of information and ensure effective follow up with regard to the implementation and wider impact of the Courts' decisions.
 - vi. Earmarking activities in the Annual Work Plans of the Courts in which the respective Courts can participate.

V. ON THE WAY FORWARD:

8. That each Court will appoint focal points amongst the Judges and the Registry, to constitute Committees at two levels – at policy level and at technical level – to monitor the implementation of the recommendations of the two Tripartite Judicial Dialogues, and inform each other on a quarterly basis of the measures taken to implement the recommendations.
9. That the Committees will develop clear Terms of Reference as well as a Joint Workplan for the implementation of the recommendations by 15 February 2025, including the allocation of financial, technical and human resources necessary to implement the recommendations.
10. That the Committees will present a joint performance report during the next biennial meeting of the Courts in 2026, on the different measures taken to implement the recommendations.
11. To incorporate the implementation of the recommendations as part of the Courts' internal institutional workplans and strategic plans.
12. To collaborate with the UN human rights mechanisms, including the human rights treaty bodies and their focal points, in the implementation of the recommendations, as relevant.

ADOPTED BY

**THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS (AfCHPR)
THE ECOWAS COURT OF JUSTICE (ECOWAS-CJ)
AND THE EAST AFRICAN COURT OF JUSTICE (EACJ)**

DONE AT ARUSHA, TANZANIA, THIS 20TH DAY OF SEPTEMBER 2024.