

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA

P. O. Box 3243

Telephone: 517 700

Fax: 5130 36

website: www.au.int

EXECUTIVE COUNCIL
Twenty-Fourth Ordinary Session
21 – 28 January 2014
Addis Ababa, ETHIOPIA

EX.CL/825(XXIV)

**ACTIVITY REPORT OF THE AFRICAN COURT
FOR THE YEAR 2013**

ACTIVITY REPORT OF THE AFRICAN COURT FOR THE YEAR 2013

I. Introduction

1. The African Court on Human and Peoples' Rights (hereinafter referred to as "the Court") was established by virtue of Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol"), adopted on 9 June 1998 in Ouagadougou, Burkina Faso, by the then Organization of African Unity (OAU). The Protocol entered into force on 25 January 2004.

2. The Court, which became operational in 2006, is composed of eleven (11) Judges, who are nationals of Member States of the African Union. The Seat of the Court is in Arusha, the United Republic of Tanzania.

3. Article 31 of the Protocol provides that "The Court shall submit to each regular session of the Assembly, a report on its work during the previous year. The report shall specify, in particular, the cases in which a State has not complied with the Court's judgment".

4. This report, covers the period from January to December 2013, and is prepared pursuant to the abovementioned article. The report outlines, the main judicial and non-judicial activities undertaken by the Court during this period, and makes an appraisal of the functioning of the Court as well as recommendations calculated to enhance the effectiveness of the Court.

5. It is important from the outset, to restate the status of ratification of the Protocol and the deposit of the declaration, accepting the competence of the Court to receive cases from individuals and Non-Governmental Organizations (hereinafter referred to as "NGOs"), under Article 34(6) of the Protocol.

II. Status of ratification of the Protocol and the deposit of the declaration accepting the competence of the Court to receive cases from individuals and NGOs

6. As at 1 December, 2013, the Protocol had been ratified by twenty six (26) Member States of the African Union (details are set out in Table 1).

Table 1: List of countries that have ratified the Protocol				
No.	Country	Date of Signature	Date of Ratification or Accession	Date of deposit
1.	Algeria	13/07/1999	22/04/2003	03/06/2003
2.	Burkina Faso	09/06/1998	31/12/1998	23/02/1999
3.	Burundi	09/06/1998	02/04/2003	12/05/2003
4.	Congo	09/06/1998	10/08/2010	06/10/2010
5.	Côte d'Ivoire	09/06/1998	07/01/2003	21/03/2003
6.	Comoros	09/06/1998	23/12/2003	26/12/2003
7.	Gabon	09/06/1998	14/08/2000	29/06/2004
8.	The Gambia	09/06/1998	30/06/1999	15/10/1999
9.	Ghana	09/06/1998	25/08/2004	16/08/2005
10.	Kenya	07/07/2003	04/02/2004	18/02/2005
11.	Libya	09/06/1998	19/11/2003	08/12/2003
12.	Lesotho	29/10/1999	28/10/2003	23/12/2003
13.	Malawi	09/06/1998	09/09/2008	09/10/2008
14.	Mali	09/06/1998	10/05/2000	20/06/2000
15.	Mauritania	22/03/1999	19/05/2005	14/12/2005
16.	Mauritius	09/06/1998	03/03/2003	24/03/2003
17.	Mozambique	23/05/2003	17/07/2004	20/07/2004
18.	Niger	09/06/1998	17/05/2004	26/06/2004
19.	Nigeria	09/06/2004	20/05/2004	09/06/2004
20.	Rwanda	09/06/1998	05/05/2003	06/05/2003
21.	Senegal	09/06/1998	29/09/1998	30/10/1998
22.	South Africa	09/06/1999	03/07/2002	03/07/2002
23.	Tanzania	09/06/1998	07/02/2006	10/02/2006
24.	Togo	09/06/1998	23/06/2003	06/07/2003
25.	Tunisia	09/06/1998	21/08/2007	05/10/2007
26.	Uganda	01/02/2001	16/02/2001	06/06/2001

Source: African Union Website.

7. Thus, since 2010, there has not been any additional ratification.

8. Of the 26 State Parties to the Protocol mentioned in Table 1 above, only seven (7) have deposited the declaration accepting the jurisdiction of the Court to receive

cases from individuals and NGOs. (Table 2 below shows the State Parties that have made the declaration under Article 34(6) of the Protocol).

No.	Country	Date of Signature	Date of deposit
1.	Burkina Faso	14/07/1998	28/07/1998
2.	Côte d'Ivoire	19/06/2013	23/07/2013
3.	Ghana	09/02/2011	10/03/2011
4.	Malawi	09/09/2008	09/10/2008
5.	Mali	05/02/2010	19/02/2010
6.	Rwanda	22/01/2013	06/02/2013
7.	Tanzania	09/03/2010	29/03/2010

Source: African Union Website

III. Operations of the Court

i) Election and Swearing-in of a new Member of the Court

9. At the 22nd Ordinary Session of the Executive Council, one Judge, Honourable Justice Kimelabalou Aba from Togo, was elected a Member of the Court, and was appointed by the 20th Assembly of Heads of State and Government of the African Union, held in Addis Ababa, Ethiopia, from 27 - 28 January, 2013, in replacement of the late Honourable Justice Joseph N. Mulenga.

10. Pursuant to Article 16 of the Protocol and in conformity with Rule 4(2) of the Rules of Court (hereinafter referred to as "the Rules"), Justice Aba was sworn-in at a public sitting, prior to the opening of the Twenty-eighth Ordinary Session of the Court in Arusha, Tanzania, on 4 March, 2013.

ii) Bureau of the Court

11. On 16 September, 2013, Hon. Justice Fatsah Ouguergouz resigned as Vice-President of the Court. On 17 September, 2013, the Court elected Hon. Justice Bernard M. Ngoepe as Vice President. The current composition of the Bureau of the Court is thus as follows:

- Hon. Lady Justice Sophia A. B. Akuffo – President;
- Hon. Justice Bernard M. Ngoepe - Vice-President .

iii) Current composition of the Court

12. The current composition of the Court is attached to this Report as **Annex I**.

IV. Holding of Court Sessions

13. During the period under consideration, the Court held four (4) Ordinary Sessions and one (1) Extra-ordinary Session, as indicated in Table 3 below.

Table 3 – Sessions held in 2013			
No.	Session	Date	Venue
1.	28 th Ordinary Session	4 to 15 March, 2013	Arusha, Tanzania
2.	29 th Ordinary Session	2 to 21 June, 2013	Arusha, Tanzania
3.	30 th Ordinary Session	16 to 27 September, 2013	Arusha, Tanzania
4.	6 th Extraordinary Session	30 September to 4 October, 2013	Arusha, Tanzania
5.	31 st Ordinary Session	25 November to 6 December, 2013	Arusha, Tanzania

V. Activities undertaken by the Court

14. During the period under review, the Court undertook a number of judicial as well as non-judicial activities.

a) Judicial Matters

15. The judicial activities undertaken by the Court in 2013 include, case management, organising public hearings and delivery of judgments/rulings, among others.

i. Case Management

16. In 2013, the Court received seven (7) new applications and two (2) requests for advisory opinion. This brings to twenty-nine (29), the total number of applications, and to six (6), the total number of requests for advisory opinion, received by the Court since its establishment.

17. During the period under review, the Court decided on five (5) applications and two requests for advisory opinion: one (1) request was struck out because it related to a matter pending before the African Commission and the other for failure by the author to pursue the request.

18. A third request, submitted in 2013, is still being considered by the Court. In accordance with Rules 69 and 70 of its Rules, the Court has transmitted the request to Member States of the Union, for those States that wish to submit comments on the request to do so.

19. Table 4 below shows the matters decided on by the Court during this period.

Table 4 – Matters decided on by the Court in 2013						
Contentious matters						
No.	Application No.	Applicant	Respondent	Date received DD/MM/YY	Date of Judgement/ Ruling DD/MM/YY	Remarks
1.	003/2011	Urban Mkandawire	Republic of Malawi	13/03/2011	21/06/2013	The Application was declared inadmissible by the Court because the Applicant had not exhausted domestic remedies. The Applicant has since applied for review of judgment and interpretation of the judgment, which are still being considered by the Court.
2.	004/2011	African Commission on Human and Peoples' Rights	The Great Socialist Libyan People's Arab Jamahiriya	16/03/2011	15/03/2013	The Court decided to strike out the Application for want of prosecution. The matter is closed.
3.	Consolidated 009/2011 & 011/2011	Tanganyika Law Society and Legal and Human Rights Centre & Rev. Christopher Mtikila	United Republic of Tanzania	02/06/2011 & 10/06/2011, respectively	14/06/2013	The Court found that there had been violation, and in accordance with the Protocol and the Rules, ordered the Respondent to take steps to remedy the violation. The 2 nd Applicant has

						submitted an Application for reparations, which the Court is still considering.
4.	013/2011	Beneficiaries of the late Norbet Zongo - Abdoulaye Nikiema, Ernest Zongo, Blaise Ilboudo and <i>Mouvement Burkinabe des Droits de l'Homme et des Peuples</i>	Burkina Faso	11/12/2011		The Court made a Ruling dismissing preliminary objections. The matter is proceeding on the merits
5.	014/2011	Atabong Denis Atemnkeng	The African Union	01/12/2011	15/03/2013	The Court held that it lacked jurisdiction to receive the Application because the Application was brought against the African Union, a non-state entity, which is not a party to the Protocol. The matter is closed.
6.	001/2013	Ernest Francis Mtingwi	Republic of Malawi	01/02/2013	15/03/2013	The Court held that it lacked jurisdiction to receive the Application because the Application was essentially, an appeal against the decision of a domestic Court, and the African Court is not an Appellate Court. The matter is closed.
Requests for Advisory Opinion						
	Request	Author	Date received DD/MM/YY	Date Disposed of DD/MM/YY		Remarks
7.	Request 001/2012	Socio-Economic Rights and Accountability Project	01/03/2013	15/03/2013		Request struck out because of failure to pursue matter by the

					author.
8.	Request 002/2012	Pan African Lawyers' Union and Southern African Litigation Center	23/11/2012	15/03/2013	Request struck out because subject matter was pending before the African Commission.

20. All the decisions taken on the above matters have been communicated to the parties and the AU Commission, in accordance with Article 29 of the Protocol.

21. The Court has a total of ten (10) Applications pending before it as at 1 December, 2013.

22. Table 5 below shows the matters pending before the Court as at 1 December, 2013.

Table 5 : Matters pending before the Court as at 1 December, 2013					
Contentious Matters					
No.	Application No.	Applicant	Respondent	Date received DD/MM/YY	Remarks
1.	013/2011	Beneficiaries of the Late Norbert Zongo & others and BMHPR	Burkina Faso	11/12/2011	The Court held a public hearing during its 31 st Ordinary Session in November 2013
2.	001/2012	Frank David Omary	United Republic of Tanzania	27/01/2012	Court still deliberating
3	003/2012	Peter Joseph Chacha	United Republic of Tanzania	Received on 30/09/2011 & registered on 27/02/2012	The Court held a public hearing during its 31 st Ordinary Session in December 2013 to receive oral arguments and witness testimonies.
4.	006/2012	African Commission on Human and Peoples' Rights	Republic of Kenya	18/05/2012	Public hearing scheduled for March 2013.
5.	002/2013	African	Libya	31/01/2013	Pleadings still open

		Commission on Human and Peoples' Rights			
6.	003/2013	Rutabingwa Chrysanthe	Republic of Rwanda	18/03/2013	Pleadings still open
7.	004/2013	Issa Lohé Konaté	Burkina Faso	17/06/2013	Pleadings still open
8.	005/2013	Alex Thomas	United Republic of Tanzania	02/08/2013	Pleadings still open
9.	006/2013	Wilfred Onyango Nganyi & 9 Others	The United Republic Of Tanzania	23/07/2013	Pleadings still open
10.	007/2013	Mohamed Abubakari	United Republic of Tanzania	08/10/2013	Pleadings still open
Requests for Advisory Opinion					
	REQUEST	AUTHOR		Remarks	
1.	Request 001/2013	Socio-Economic Rights and Accountability Project		Communicated to Member States	
2.	Request 002/2013	African Committee of Experts on the Rights and Welfare of the Child		Under consideration.	

23. In addition to the matters mentioned in Table 5 above, the Court is also examining one (1) application for reparations, one (1) application for review of judgment and one (1) application for interpretation of its judgment.

i. Public Hearings

24. In 2013, the Court organised eight (8) public hearings, to receive oral arguments from parties, as well as to deliver judgments. Table 6 below indicates the public hearings organised during the period under consideration.

No.	Date of Public Hearing	Purpose of Public Hearing	Application	Applicant	Respondent	Remarks
1.	7 – 8 March,	Receive Oral arguments on	013/2011	Beneficiaries of the late Norbet	Burkina Faso	A Ruling on the preliminary

	2013	Preliminary Objections		Zongo - Abdoulaye Nikiema, Ernest Zongo, Blaise Ilboudo and <i>Mouvement Burkinabe des Droits de l'Homme et des Peuples</i>		objections was delivered in June 2013.
2.	15 March, 2013	Delivery of judgment	014/2011	Atabong Denis Atemnkeng	The African Union	The matter is closed
3.	15 March, 2013	Order of Provisional Measures	006/2012	African Commission on Human and Peoples' Rights	Kenya	Order complied with.
4.	15 March, 2013	Order of Provisional Measures	002/2013	African Commission on Human and Peoples' Rights	Libya	Order not complied with.
5.	14 June, 2013	Delivery of Judgment	Consolidated 009/2011 & 011/2011	Tanganyika Law Society and Legal and Human Rights Centre & Rev. Christopher Mtikila	United Republic of Tanzania	2 nd Applicant has applied for reparations.
6	21 June, 2013	Delivery of Judgment	003/2011	Urban Mkandawire	Republic of Malawi	Applicant has Applied for review and interpretation of the Judgment.
7.	28 – 29 November, 2013	Receive oral arguments on the merits.	013/2011	Beneficiaries of the late Norbert Zongo & others and BMHPR	Burkina Faso	Public hearing held in November 2013 to receive oral arguments on admissibility and merits.

8.	2 – 4 December, 2013	Hear witness testimonies.	003/2012	Peter Joseph Chacha	United Republic of Tanzania	Public hearing held in November 2013 to receive oral arguments and witness testimonies.
----	----------------------------	------------------------------	----------	------------------------	-----------------------------------	---

iii. Non-compliance

Report on non-compliance under Article 31 of the Protocol

25. According to the provisions of Article 31, in submitting its activity report to the Assembly, the Court "...shall specify, in particular, the cases in which a State has not complied with the Court's judgment".

26. During the period under consideration, the Court issued two Orders of Provisional Measures in two matters pending before it, as appears in Table 6, serial 3 and 4. As at the date of this report (December 01, 2013), Libya had not complied with the Court Order.

Libya's non-compliance with the Court Order of 15 March 2013

27. On 31 January, 2013, the Court received an Application (002/2013) from the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Commission") against Libya (the Respondent), relating to the conditions of detention of Mr Saif al-Islam Gaddafi. By letter of 12 March, 2013, the Registrar of the Court communicated the Application to the Respondent, and, on account of the extreme gravity and urgency of the allegations raised in the Application, the Court notified the parties that it was minded to order Provisional Measures, in accordance with Article 27(2) of the Protocol and Rule 51(1) of the Rules.

28. On 15 March 2013, the Court accordingly, ordered provisional measures, calling on the Respondent, to:

- i) "Refrain from all judicial proceedings, investigations or detentions, that could cause irreparable damage to the Detainee, in violation of the Charter or any other international instrument to which Libya is a party;
- ii) Allow the Detainee access to a lawyer of his own choosing;
- iii) Allow the Detainee visits by family members;
- iv) Refrain from taking any action that may affect the Detainee's physical and mental integrity as well as his health; and

- v) Report to the Court within fifteen (15) days from the date of receipt of this Order, on the measures taken to implement this Order”.

29. The said Order was served on Libya, through its Embassy in Addis Ababa, Ethiopia, on 26 March, 2013, and its response was expected on or before 10 April, 2013. This Order was also notified to the Assembly, the Executive Council and the African Union Commission, through the Chairperson of the African Union Commission (AUC).

30. After the 15 days’ time limit given to Libya had elapsed and Libya had not informed the Court of the measures it had taken to implement the Order, the Court, on its own motion, decided on 12 April, 2013, to extend by another fourteen (14) days, the time limit for Libya to comply with the Order. The notice of extension of time was served on Libya, through its Embassies in Addis Ababa, Ethiopia and Dar es Salaam, Tanzania, on 22 April, 2013 and 16 April, 2013, respectively. The response of Libya, after this reminder, was expected on or before 30 April, 2013, but the extended time limit also elapsed with no response.

31. By letter dated 17 May, 2013, the Court filed with the Secretariat of the AUC, an Interim Report on Libya’s non-compliance with the Court Order, with a view to drawing the attention of the Executive Council to the same, and for the Council to bring the matter to the attention of the Assembly.

32. Copies of the Interim Report were also transmitted to the Chairperson of the Assembly, the Executive Council, the PRC and the Chairperson of the AUC, through the Secretary General of the Commission. To date, the Court has not received any reaction from the Respondent on the measures it has taken, or intends to take, to implement the Order.

33. At its 30th Ordinary Session held in September, 2013, the Court expressed concern at Libya’s non-compliance with its Order and mandated the President of the Court to immediately draw the attention of the Chairperson and Members of the Bureau of the Executive Council to this. By letter dated 8 October, 2013, the President drew the attention of the Chairperson and Bureau of the Executive Council of the African Union to Libya’s non-compliance with its Order.

b) *Non-judicial activities*

34. The main non-judicial activities undertaken by the Court during the period under review are described below:

i. Establishment of a Legal Assistance Scheme

35. Article 10(2) of the Protocol provides that “Any party to a case shall be entitled to be represented by a legal representative of the party’s choice. Free legal representation may be provided where the interests of justice so require”.

36. Consequently, the Court, at its 27th Ordinary Session, held in Port Louis, Mauritius, adopted a Legal Assistance Policy, to guide the establishment and implementation of a Legal Assistance Scheme. The objective of the policy is to facilitate indigent applicants to be able to effectively litigate applications before the Court.

37. In furtherance of the policy, the Court has issued a Call for Applications for qualified lawyers from Member States to apply to be considered for inclusion in a Roster of Counsel from which they may be called upon to assist indigent applicants with their applications.

38. In addition, the Court has engaged a consultant to develop modalities for the establishment and management of a Legal Assistance Fund that is to be set up towards financing the Legal Assistance Scheme. The Court has also tabled before the Assembly, through the Executive Council, a draft decision on the Establishment of the Legal Assistance Fund and to empower the Court to make regulations for the management of the Fund.

ii. Participation of the Court at the AU Summits

39. The Court took part in the 25th Ordinary Session of the Permanent Representatives’ Committee (PRC), from 21 to 23 January, 2013, the 22nd Ordinary Session of the Executive Council, from 24 to 26 January, 2013, as well as the 20th Assembly of Heads of State and Government of the African Union, held, from 27 - 28 January, 2013, in Addis Ababa, Ethiopia.

40. The Court also took part in the 26th Ordinary Session of the PRC, from 19 to 21 May, 2013, the 23rd Ordinary Session of the Executive Council, from 22 to 24 May, 2013, as well as the 21st Assembly of Heads of State and Government of the African Union, held from 26 - 27 May, 2013, as well as the Commemoration of the 50th Anniversary of the establishment of the Organisation of African Unity/African Union, on 25 May 2013, in Addis Ababa, Ethiopia.

iii. Presentation of the 2014 budget

41. During its 28th Ordinary Session held in March 2013, the Court considered and adopted its draft budget for the 2014 financial year, and submitted it to the AUC for onward transmission to the PRC Advisory Committee on Administrative, Budgetary and Financial Matters (hereinafter referred to as “the Sub-Committee”).

42. The draft budget was presented to the Sub-Committee on 25 April 2013, during a retreat held in Mombasa, Kenya. The 2014 budget of the Court, which was adopted during the 23rd Ordinary Session of the Executive Council held from 22 to 24 May, 2013 stands at US\$8,969,947, comprising US\$6,607,632 as Member States’ contribution (for the operational budget) and US\$2,362,315 as partners’ funds (for the programme budget).

iv. Execution of the 2013 budget

43. The budget allocated to the Court as contributions from Member States for 2013 stood at US\$6,607,632. Overall expenditure, as at 30 November, 2013 amounted to US\$5, 091, 848 and projected expenditure to 31 December 2013 amounts to \$5,732,942. Thus, the rate of execution of the budget as at 31 December 2013 is expected to be 86.8%.

44. In addition to the budgetary allocations from Member States’ contributions, the Executive Council also approved contributions from external partners. The approved contribution under the European Union Support Programme (EUSP) stood at US\$1,181,349. However, the total budget actually funded by EUSP amounted to US\$463,524. Overall expenditure as at 30 November, 2013 was US\$196,967 and projected expenditure as at 31 December 2013 is expected to be \$321,967 representing an execution rate of 69.5%.

45. The contribution by the German International Cooperation (GIZ) amounted to US\$1.180, 966. As at 30 November, 2013, the Court had expended US\$565,009. The projected expenditure by 31 December 2013 is \$640,009, representing an execution rate of 54.2%.

46. Table 7 hereunder summarizes the status of allotment, expenditure and rate of execution for 2013.

TABLE 7

Category	Appropriation	Expenditure 30-11-2013	Projections	Expenditure 31-12-2013	Execution Rate
Staff Costs	4,221,565	3,608,257	294,125	3,902,382	92.4
Operational Costs	2,343,067	1,468,908	341,882	1,810,790	77.3
Capital Expenditure	43,000	14,683	5,087	19,770	46.0
Member States	6,607,632	5,091,848	641,094	5,732,942	86.8
EU Support Programme	463,524	196,967	125,000	321,967	69.5
GIZ Support Programme	1,180,966	565,009	75,000	640,009	54.2
Programme Expenditure	1,644,490	761,976	200,000	961,976	58.5
Total Expenditure	8,252,122	5,853,824	841,094	6,694,918	81.1

v. Staff recruitment and development

a. Staff Recruitment

47. As at 31 December, 2013, of the 90 positions on the approved structure of the Registry, 45 positions had been filled. Since the adoption of the new structure of the Court in January 2012, with an additional forty-four (44) positions, it was only in May 2013 that the AU provided funds, which were sufficient for the recruitment of ten (10) positions. The Court has initiated the process of recruiting the ten (10) staff that is scheduled to assume duty between May and August, 2014. The Court plans to fill the remaining thirty-four (34) positions as follows:

- 16 positions in 2015
- 7 positions in 2016
- 5 positions in 2017
- 6 positions in 2018.

48. Under the European Union Support Programme (EUSP), the Court also recruited five (5) short-term staff in 2013, to provide essential support to the Finance and Procurement Units of the Registry.

b. Staff development

49. During the period under consideration, Judges and staff of the Registry participated in a number of training activities, aimed at enhancing their capacity to ensure higher productivity. (Table 8 below indicates the training activities undertaken during this period).

Table 8 – Training activities undertaken in 2013				
N°	Training Activity	Funding Institution	Participants	Date and Venue
1.	Training in Greenstone Digital Library	EC	Documentalist	22 to 27 April 2013, Addis Ababa, Ethiopia
2.	Electronic Records Management	EC	Documentalist, Secretaries, HR Assistant, Assistant Administrative, Court Clerks, Library Assistant, Stores Assistant, Reproduction Clerk, Receptionist, Filing Clerk, etc.	6 to 8 May, 2013 Arusha, Tanzania
3.	Procurement of Goods and Technical Services and Stores Management	EC	Head of Units and Members of Tender Committee	24 to 28 June, 2013 Moshi, Tanzania
4.	Judicial Verbatim Reporting Phase II	EC	5 Secretaries	1 to 5 July, 2013 Arusha, Tanzania
5.	First Aid Services	EC	All Staff	8 to 10 July and 11-13 July, 2013, Arusha, Tanzania
6.	Finance and Project Management (workshop for Finance Staff of AUC/Organs)	EC	Finance Officer and Assistant Accountant	8 to 12 July, 2013 Mbabane, Swaziland
7.	Short Course on Court Clerk Matters	EC	Court Clerks	15 to 19 July 2013 Dar es Salaam, Tanzania
8.	Intensive French Language Training	OIF/Court	1 Judge	15 to 26 July 2013 in Royan, France

9.	Phase 3 of Training in Legal Research and Judgment Writing	GIZ	Legal staff	22 to 26 July, 2013 Nairobi, Kenya
10.	Familiarization Visit to AUC	EC	Senior Information and Communication Officer and IT Specialist (2 staff)	2 to 6 September, 2013 and 6 to 10 May 2013 Addis Ababa, Ethiopia
11.	Study Visit to International Criminal Tribunal for Rwanda	The Court	Heads of Unit, Senior Legal and Legal Officers, other senior members of staff	8 to 10 October 2013, Arusha, Tanzania
12.	Training in Total Quality Management	EC	Management Staff	21 October to 1 November, 2013 Arusha, Tanzania
13.	Training in Courtroom Technology and Case Management	EC	Legal Staff	4 to 8 November 2013, Arusha, Tanzania
14.	Training in Total Quality Management	EC	General Service Staff	Arusha, Tanzania 9 to 13 December, 2013
15.	Language courses (Kiswahili and Arabic)	The Court	On-going – 15 staff	Arusha, Tanzania

vi. Promotional activities

50. During the period under consideration, the Court undertook a number of promotional activities, aimed at raising awareness among stakeholders about its existence. The activities undertaken included: sensitization visits, regional and continental seminars and networking.

a. Sensitization visits

51. The Court undertook sensitization visits to five (5) counties, namely: Algeria, The Gambia, Cameroon, Côte d'Ivoire and Kenya. The aim of the sensitization visits was to

raise public awareness among human rights stakeholders, and to encourage the States concerned, to ratify the Protocol and to make the declaration required under Article 34(6) of the Protocol. The delegation of the Court was led by the President of the Court and comprised two other Judges and some staff members of the Registry.

i. Sensitization visit to the Democratic People's Republic of Algeria

52. The visit to the Democratic People's Republic of Algeria, was undertaken from 14 to 16 January, 2013.

53. During the visit, the delegation held fruitful discussions with a number of senior government officials involved in human rights issues in the country, including, the Minister of Foreign Affairs, the Minister of Justice and Keeper of the Seals, the Speaker of Parliament, some Judges of the Constitutional Council, the President of the National Advisory Commission on the Promotion and Protection of Human Rights and representatives of NGOs. The delegation also held a half-day seminar with human rights stakeholders in the country.

54. In addition, the Court, in collaboration with the Government of Algeria and the Diplomatic Institute for International Relations, organised a Conference on the Court. The Conference was attended by, among others, members of the African Diplomatic Corps, the Staff of the African Centre for the Study and Research on Terrorism (ACSRT) and students of the Diplomatic Institute for International Relations.

55. The Government of Algeria expressed its support for the work of the Court in particular, and African Union institutions in general, and undertook to take necessary measures to ensure the declaration required under Article 34(6) of the Court Protocol is deposited.

ii. Sensitization visit to the Republic of The Gambia

56. The visit to the Republic of The Gambia took place from 8 to 9 April, 2013.

57. During the visit, the delegation held fruitful discussions with a number of senior government officials involved in human rights issues in the country, including the Vice-President, the Minister of Foreign Affairs, Attorney General and Minister of Justice, the Acting Chief Justice, the Solicitor General and Legal Secretary, the Judicial Secretary, the Deputy Speaker of Parliament, the Majority Leader, the Clerk of the National Assembly, and the Ombudsman. The delegation also participated at the NGO Forum which preceded the 53rd Ordinary Session of the Commission.

58. The government of The Gambia undertook to ensure the declaration required under Article 34(6) of the Protocol is deposited.

iii. Sensitization visit to the Republic of Cameroon

59. The visit to the Republic of Cameroon took place from 22 to 23 April, 2013.

60. During the mission, the Court held fruitful discussions with a number of senior government officials, including the Prime Minister, the Minister of External Relations, the Minister of Justice, the Speaker of Parliament and the Chief Justice.

61. The government of Cameroon informed the delegation of the Court that the process of ratification of the Protocol and deposit of the declaration had reached an advanced stage and that measures will be put in place to expedite the same.

iv. Sensitization visit to the Republic of Côte d'Ivoire

62. The visit to the Republic of Côte d'Ivoire took place from 6 to 7 May, 2013.

63. During the mission, the Court held fruitful discussions with a number of senior government officials, including the Prime Minister, the Minister of Foreign Affairs, the Minister of Justice, and the Chief Justice.

64. The Government undertook to make the declaration before the end of 2013.

65. The Court is pleased to report that the Government of Côte d'Ivoire duly deposited the declaration on 23 July, 2013, two months after the visit to the country.

v. Sensitization visit to the Republic of Kenya

66. The visit to the Republic of Kenya took place from 15 to 17 July, 2013.

67. During the visit, the delegation held fruitful discussions with senior government officials involved in human rights issues in the country, including the Attorney General of the Republic of Kenya, the Deputy Chief Justice and Deputy President of the Supreme Court of Kenya, the Speaker of the Senate and the Acting Chairperson of the Kenya National Commission on Human Rights. The delegation of the Court also delivered a Public Lecture at the School of Law, University of Nairobi. In addition, the Court, in collaboration with the Government of Kenya and The Law Society of Kenya, organized a Sensitization Seminar for human rights stakeholders in Kenya, on 17 July, 2013. The seminar was attended by participants from the Government, the Judiciary, The Law

Society, the Civil Society, academia, media and other organizations involved in human rights work in the country.

68. The Government undertook to consider making the declaration under Article 34(6) of the Protocol.

b. Conferences and Seminars

69. During the period under consideration, the Court organized three seminars and one Conference, namely: Continental Consultative and Sensitization Seminar on the Promotion of the Court for Women Human Rights NGOs in Africa, Regional Sensitization Seminar for West Africa, Seminar on Judicial Dialogue with National Judiciaries and a Conference for the Media in Africa.

70. The aim of these activities was to interact with the different stakeholders and exchange views on how to work together in the promotion of the Court in particular, and enhance the promotion and protection of human rights in general.

i. Continental Consultative and Sensitization Seminar on the Promotion of the Court for Women Human Rights NGOs in Africa

71. The Continental Consultative and Sensitization Seminar on the Promotion of the Court for Women Human Rights NGOs in Africa, on the theme "*the African Court on Human and Peoples' Rights: your new partner in strengthening the protection of human rights in Africa*", took place from 24 to 26 April, 2013, in Yaoundé, Cameroon.

72. The Seminar was attended by, amongst others, five Judges of the Court, representatives of the government of Cameroon, the International Criminal Court, representatives of AU Organs (the African Commission on Human and Peoples' Rights, the Pan African Parliament, the African Committee of Experts on the Rights and Welfare on the Child), and fifty-seven (57) representatives of Women Human Rights NGOs from over twenty countries drawn from all the regions of the continent.

73. At the end of the Seminar, participants adopted conclusions on measures to be taken to promote the Court, ensure its effectiveness and enhance the protection of human rights on the continent.

ii. Regional Sensitization Seminar for West Africa

74. The Regional Sensitization Seminar for West Africa, took place from 8 to 10 May, 2013, in Abidjan, Côte d'Ivoire, on the theme "*the African Court on Human and Peoples' Rights: your new partner in strengthening the protection of human rights in Africa*".

75. The Seminar was attended by, amongst others, five Judges of the Court, representatives of the government of Côte d'Ivoire, representatives of the judiciary of Côte d'Ivoire, the African Commission on Human and Peoples' Rights, the Court of Justice of the Economic Community of West African States (ECOWAS Community Court), the Court of the West African Monetary Union, and over sixty (60) participants, representing a wide-range of human rights stakeholders from thirteen countries from the West African Region.

76. At the end of the Seminar, participants adopted conclusions on measures that need to be taken to promote the Court and ensure the effective protection of human rights on the continent.

iii. Continental Seminar on Judicial Dialogue with National Judiciaries

77. The Continental Seminar on Judicial Dialogue with National Judiciaries took place from 18 to 20 November, 2013, in Arusha, Tanzania.

78. The Dialogue was attended by a total of 74 participants, including 10 Judges of the African Court, 30 Chief Justices, Presidents of Supreme and Constitutional Courts and representatives of national judiciaries, from twenty-seven (27) African countries, 3 Judges of the International Criminal Tribunal for Rwanda and the Mechanism for International Criminal Tribunals, 4 Judges from the Courts of Regional Economic Communities, being the East African Court of Justice and the Community Court of the Economic Community of West African States, African Union Organs/Institutions, namely, the African Commission on Human and Peoples' Rights, the African Union Commission on International Law, the African Union Advisory Board on Corruption, the African Institute on International Law; 2 academic institutions, being Makumira University and Open University of Tanzania) and 6 Observers, namely: the GIZ, World Bank, Konrad Adenauer Foundation, Pan African Lawyers' Union, East African Law Society and the Coalition for an Effective African Court.

79. At the end of the three-day Seminar, the participants adopted conclusions, among which they called on the African Union to adopt a decision to institutionalize the dialogue and hold it on a regular basis and provide resources in this regard.

80. Attached to this Report is a draft decision on the institutionalization of the dialogue between national judiciaries and continental and regional judicial and quasi-judicial bodies, within the framework of the African Union.

iv. Continental Conference for the Media

81. The Continental Conference for the Media took place from 21 – 22 November, 2013, in Arusha, Tanzania.

82. The Conference was attended by a total of 67 journalists and media practitioners from thirty (30) African countries and 10 Judges of the African Court. At the end of the two day Conference, the participants adopted conclusions on how to work to enhance the visibility of the Court in particular and promote human rights as a whole.

v. Other promotional activities

83. In addition to the foregoing activities, the Court also participated in a number of promotional activities, organized by other stakeholders, during the period under consideration. These include, participation at:

- i) the 6th Monroe E. Price Media Law Moot Court Programme organized by the University of Oxford's Programme in Comparative Media Law and Policy (PCMLP), from 9-12 April, 2013, in Oxford, United Kingdom;
- ii) *Deux journées d'étude de la cour suprême*, organized by the Supreme Court of Algeria, from 19 to 20 April, 2013 in Algiers, Algeria;
- iii) the 9th Meeting of the Brandeis Institute for International Judges, from 28 – 29 July, 2013, in Lund, Sweden;
- iv) the 1st Symposium on Development Policies in a Global World, focusing on Global Public Goods for International Development and Governance, organized by the *Fundacion Mujeres por África* (Women for Africa Foundation), in collaboration with the Areces Foundation and the Complutense University, from 29 to 30 October, 2013, in Madrid, Spain;
- v) a Regional Seminar on International Criminal Law, organized by GIZ Côte d'Ivoire, in Grand Bassam, Cote d'Ivoire, from 8 – 12 July, 2013;
- vi) a Seminar on the Protection of Human Rights, organized by the Institute for Human Rights and Development in Africa in Abidjan Côte d'Ivoire on 20

August, 2013 and a Workshop organized by the same organization from 21-22 August, 2013;

- vii) a Workshop on using the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa for Legal Action, organized by Equality Now and the Institute for Human Rights and Development in Africa, from 13-15 October, 2013, in Abidjan, Côte d'Ivoire;
- viii) a high level human rights conference on the theme "Vienna+20: Advancing the protection of human rights" held in Vienna, Austria from 27 to 28 June, 2013;
- ix) the Finals of the 22nd All African Human Rights Moot Court Competition organized by the University of Western Cape, in Cape Town, South Africa, on 7 September, 2013;
- x) a High Level Side Event on Enhancing Cooperation between the Human Rights Council and African Union Regional Human Rights Mechanisms on 19 September, 2013 in Geneva, Switzerland;
- xi) a two-day Conference to Celebrate the 50th Anniversary of the Pan-African Organization, held on 14 and 16 October, 2013, in Geneva, Switzerland;
- xii) a Colloquium on "Enhancing Judicial Response to Crimes of Sexual Violence in the Democratic Republic of Congo", held in The Hague, The Netherlands from 28 October to 1 November, 2013;
- xiii) the opening of the Academic Year of the University of Benin, on 11 November, 2013, in Cotonou, Benin;
- xiv) the 13th Annual All African IHL Moot Court Competition, organized by the International Committee of the Red Cross from 16 to 23 November, 2013 in Arusha, Tanzania;
- xv) a workshop on International Criminal Justice system as a prelude to a Brainstorming Session on 'International Criminal Justice system, Peace, Justice and Reconciliation as well as the impact/actions of the ICC in Africa'. held from 7 – 8 December, 2013, in Arusha, Tanzania;
- xvi) the 10th Anniversary Celebrations of the African Union Convention on Preventing and Combating of Corruption, 7 – 9 December 2013;

xvii) a Workshop on collaboration between the African Committee of Experts on the Rights and Welfare of the Child and the African Court on Human and Peoples' Rights held from 9 – 11 December, 2013, in Arusha, Tanzania;

xviii) a Brainstorming Session on 'International Criminal Justice system, Peace, Justice and Reconciliation as well as the impact/actions of the ICC in Africa', held from 16 to 17 December, 2013, in Addis Ababa, Ethiopia.

84. The Court also participated in a series of consultative meetings on the African Union Agenda 2063 in Gaborone, Botswana, from 21 – 23 October 2013; Johannesburg, South Africa, from 18 – 19 November 2013 and Dakar, Senegal; from 25 – 27 November 2013

85. The President of the Court also paid a courtesy visit on the Deputy Chairperson of the AUC and the Director of Finance, from 14 to 15 October, 2013, in Addis Ababa, Ethiopia, and during the Seminar on Judicial Dialogue, granted audiences to the Chief Justice of Namibia, a representative of the World Bank and the delegation of the European Union.

c. Networking

86. As part of measures to establish relations with similar bodies in Africa and other regions, exchange views and share experiences, on effective ways and means to enhance the protection of human rights, the President of the Court, accompanied by senior staff of the Registry, visited the United Nations International Criminal Tribunal for Rwanda (UNICTR) on 6 February, 2013. During the visit, the delegation of the Court met and held fruitful discussions with the President, Registrar and senior staff of the UNICTR, and in particular, explored avenues for enhancing cooperation between the two institutions.

87. As a follow up to the visit, staff members of the Registry of the Court undertook a three-day training visit to the UNICTR from 8 to 10 October, 2013, where they were introduced to the operations of the various departments of the latter.

vi. Relations between the Court and the African Commission on Human and Peoples' Rights

88. The Court and the African Commission continue to engage with each other, to strengthen their relationship and consolidate the complementarity envisaged in the Protocol. Hence, during the period under review, the Third and Fourth meetings of the

Bureaus of the two institutions took place in Addis Ababa, Ethiopia on 29 January, 2013 and Nairobi, Kenya on 17 July, 2013, respectively, and the Second Annual Meeting between the two institutions took place from 18 to 19 July, 2013 in Nairobi, Kenya. During these meetings, the two institutions discussed ways and means of strengthening their working relationship in a bid to enhance the promotion and protection of human rights on the continent. Some of the issues discussed included, seizure of the Court by the Commission, transfer of cases to the Commission by the Court, joint promotional activities, promotion of human rights on the continent, including the development of a proposal for the declaration of 2016 as African Year of Human Rights, staff exchange, and the establishment of a common database.

89. Apart from the above meetings, the Court was duly represented at the 53rd and 54th Ordinary Sessions of the African Commission, and the Commission was also represented at the seminars organised by the Court in Yaoundé, Cameroon and Abidjan, Côte d'Ivoire.

90. A delegation from the Secretariat of the Commission led by the Secretary to the Commission undertook a study visit to the Court from 25 November to 6 December, 2013.

Declaration of 2016 as African Year of Human Rights

91. At the Second Annual Meeting between the Court and the Commission, the two institutions resolved to continue working together to enhance the promotion and protection of human rights on the continent. To this end, the two institutions decided that one of the ways to achieve this was for the African Union to declare *2016 as African Year of Human Rights*.

92. 2016 will mark thirty five (35) years of the adoption of the Charter, thirty (30) years of the entry into force of the Charter, twenty-nine (29) years of the operationalization of the Commission and ten (10) years of the operationalization of the Court. During this period, (almost four decades), there have been significant developments on the continent in the field of human rights, including the adoption on several human rights instruments, establishment related mechanisms and institutions.

93. The celebration will provide an opportunity for the entire continent to be engaged in and take stock of the human rights situation on the continent, with a view to exploring ways and means to repositioning human rights in the current pursuit of continental unity and integration, consolidate the gains made in the field of human rights and promote good practices and shared values among Africa countries, and contribute towards the Agenda 2063 initiative.

94. A draft decision on the declaration of 2016 as Africa Year of Human Rights is attached to this Report for consideration by the Executive Council and adoption by the Assembly.

vii. Cooperation with external partners

95. The Court continues to work with two principal external partners, namely, the European Commission (EU) and the German International Cooperation (GIZ). The two partners have supported the capacity building as well as the outreach programmes of the Court, including training of staff, recruitment of short-term staff, sensitization missions, seminars and conferences.

96. Other partners to the Court include the United Nations Development Programme (UNDP) and the *Organization Internationale de la Francophonie* (OIF). The UNDP, during the period under review, provided technical assistance to the Court in courtroom technology and case management, library services and ICT Equipment, while the OIF facilitate the participation of a Judge and a staff of the Registry in an intensive French Language Training programme in Royan, France.

viii. Monitoring mission of the AUC

97. The Department of Strategic Planning of the AUC, within the framework of the EC (Euro 55M) Contribution Agreement, undertook a Monitoring Mission to the Court from 15 to 16 August, 2013. The purpose of the mission was to, *inter alia*, assess the progress made in the implementation of the 2013 Annual Work Plan (AWP) of the Court, particularly in implementing recommendations of the 4 Pillar Assessment, follow-up on any issues that may be hampering the smooth implementation of the AWP, discuss and agree on the 2014 AWP and provide an update on the EU (€30M) Support Programme.

98. During the mission, the Court and the Monitoring Team discussed the recommendations of the internal and external auditors and ways of implementing them, as well as the need to ensure that the budget allocated to the Court is exhausted before 31 December, 2013.

ix. Host agreement

99. In its Activity Report for 2012, the Court reported that it had transmitted to host government a draft concept and sketch that would assist in the architectural design of the premises. On 30 October, 2013, the government sent a team of architects to survey the site proposed for the construction of the permanent premises of the Court. However,

there has been no new development since the last reporting. The Joint Facilitative Committee established to ensure effective implementation of the Host Agreement could not meet in 2013.

100. The current premises being used by the Court has become very small to accommodate the growing number of staff at the Registry. In spite the measures taken to partition some offices and encourage staff to share offices, it has become evident that another structure may have to be provided to accommodate any additional staff.

x. Visits to the Court

101. During the period under review, a number of institutions and personalities visited the Court. Table 9 below indicates the visits to the Court in 2013.

Table 9: Visits undertaken to the Court in 2013			
No.	Organization	Date	Nature of visitors
1	The School of St. Jude – Tanzania	1 February, 2013	168 students and 8 teachers
2	CRADLE – The children Foundation - Kenya	22 February, 2013 From 2:30pm	A group of 4 Executive members
3	Commission of Human Rights and Good Governance – Tanzania	22 February 2013 from 10am	A group of 20 staff members
4	The Advocates for Human Rights, International Justice Program – Tanzania	7 to 8, March, 2013	1 person
5	Tumaini University, Faculty of Law, Tumaini Law Society	27 March, 2013	60 students
6	MS-Training Centre for Development Cooperation – Tanzania	30 May, 2013	15 Trainees
7	Leiden Dutch University – The Netherlands	3 July 2013	19 Dutch students,
8	Joint Africa-EU-Strategic Partnership on Democratic Governance and Human Rights (DGHR) -	3 July 2013	Two Senior Executives
9	Management Board of the GIZ Germany	23 September, 2013	5 Board Members.
10	World Bank - USA	25 November 2013	1 person

xi. Assessment and Recommendations

i) Assessment

102. During the period under review, the Court has made progress in the protection of human rights on the continent, and in creating public awareness about its existence and mandate. However, serious challenges still stand in the way of the Court to effectively discharge its mandate and contribute meaningfully to the development of a viable human rights culture on the continent, and to an African Union founded on the principles of respect for human rights.

103. From a judicial perspective, 2013 was a busy year for the Court. During this period, the Court held eight (8) public hearings – five (5) to receive oral arguments and witness testimonies and three (3) to deliver judgments. It received a total of seven (7) new applications and two (2) requests for advisory opinion. It also received one (1) application for reparations, one (1) application for review of judgment and one (1) application for interpretation of judgment.

104. During the same period, the Court decided on five (5) applications and two (2) requests for advisory opinion.

105. The Court has a total of ten (10) applications and two (2) requests for advisory opinion pending before it, and continues to consider them in accordance with the Protocol, the Rules of Court and other internal procedures adopted to ensure the effective management of cases.

106. For the first time in its history, the Court was able to consider and determine applications beyond the stage of its jurisdiction. In three of the matters dealt with in 2013, the Court adjudicated on questions of admissibility and the merits, unlike in earlier applications wherein it would simply declare its lack of jurisdiction; either because the matter was against a State that had not ratified the Protocol or which had not made the declaration. These figures are significant in the development of a new Court such as ours, as they demonstrate to the public that the Court is truly open for business and is indeed coming of age.

107. From the statistics provided in Table 4 above, the average time for the receipt and finalization of an Application is about twelve (12) months. The Court believes that this turn-around time may be shortened even further, if the Judges were working full-time, the Court had sufficient number of staff and received adequate cooperation from

all the parties. It is the desire of the Court to dispense justice as expeditiously as possible, since justice delayed is justice denied.

108. In a bid to ensure proper administration of justice, the Court adopted a Legal Assistance Policy, and is in the process of establishing a Legal Assistance Fund, to operationalize the Policy. This will go a long way to facilitate indigent applicants to access the Court and present their cases in a structured manner that will provide the Court with cogent information to make quality decisions.

109. The above positive developments notwithstanding, the Court has encountered serious challenges in the implementation of its judicial mandate. These include, among others, lack of cooperation from some State Parties.

110. As earlier mentioned, in 2013, the Court was seized with an Application against Libya, which, on account of the extreme gravity and urgency of the allegations raised therein, it decided to order Provisional Measures, in accordance with Article 27(2) of the Protocol and Rule 51(1) of its Rules. Unfortunately, Libya has failed and continues to fail, to comply with the Court order. The failure of Libya not to comply with the Order of the Court, threatens the very foundation of the existence of the Court as a judicial arm of the African Union. It erodes public confidence in our judicial system and mobilizes negative public perception about the ability of the Court to protect human rights on the continent. Furthermore, such non-compliance by any Member State has a tendency to put into question the credible utility of the judicial system created by the AU for the enforcement of the African Charter on Human and Peoples' Rights.

111. Another major challenge in the exercise of the Court's judicial mandate is the manner that the Court has been requested to report on its activities. In terms of Article 31 of the Protocol, the Court is required to report to "each regular session of the Assembly" and from the commencement of its operations, the Court did duly present its report accordingly. In 2012, however, the AUC directed the Court that organs of the Union were henceforth required to report only once a year, that is, in one of the two annual Summits of the Union. There is, thus, no mechanism that allows the Court to report to the policy organs outside the reporting requirement outlined in Article 31 and the AUC Directive.

112. As a judicial body and given the nature of its work, the Court believes that it must not be unduly hampered in how it brings cases of violation of human rights and/or non-compliance with its Orders or Judgments, to the attention of the relevant policy organs of the Union.

113. For the purpose of reporting on the activities it has undertaken during the course of a year or part thereof, it is proper for the Court to present a report to “each regular session of the Assembly”, and not once a year, as it is now being required to do by the AUC. Indeed, given the nature of the role of the Court, it must be possible for the Court, in the interests of the due administration of justice, to bring to the attention of the relevant organs of the Union, incidences of non-compliance with its Decisions as well as any situations of serious human rights violations.

114. The directive of the AUC for organs to report only once a year made it difficult for the Court to bring to the attention of the Executive Council, Libya’s non-compliance with its Order. In May 2013, when the matter was to be brought to the attention of the Executive Council, the Court was not scheduled to present any report, as it had presented a report in January, 2013. Although, the PRC was informed about the non-compliance, and a report presented to it, the PRC only noted the report under ‘Any other business’, and did not transmit same to the Executive Council because it was not on its agenda.

115. A further challenge to the effective discharge of the mandate of the Court is the fact that the Judges work on a part-time basis. Apart from the President, all the other ten Judges work on a part-time basis. Even though efforts have been made to undertake some work during the intersession via internet, effective judicial work can only be done when the Judges meet during the sessions organized quarterly. This has resulted in delays in finalizing some matters.

116. Another significant challenge to the effective discharge of the Court’s judicial mandate is the low level of ratification and even lower number of declarations. A Court that was established to ensure the protection of human and peoples’ rights on the continent as a whole still does not have the competence to receive cases for alleged human rights violations from the greater majority of citizens of the Member States of the African Union. Although there is well-nigh 100% ratification of the Charter, very few States have ratified the Protocol establishing the Court, and even fewer States have made the Declaration recognising the competence of the Court to receive cases from individuals and NGOs.

117. As indicated in Tables 1 and 2, only 26 States have ratified the Protocol and only 7 have made the Declaration. During the period under review, there was no additional ratification. It is noteworthy that the last ratification of the Protocol was in October 2010 (more than three years ago). However, during the course of the year, two State Parties, that is, Rwanda and Côte d’Ivoire, deposited their Declarations, accepting the jurisdiction of the Court to receive cases from individuals and NGOs.

118. Still on the judicial plane, the Court continues to receive very few requests for advisory opinion. In 2013, it received only two. In accordance with its Rules, the requests have been sent to Member States and, the Court hereby encourages Member States to express themselves on the same. It is important to state here that, unlike with contentious matters, a State need not be a party to the Protocol to request for advisory opinion or comment on requests for advisory opinion submitted to the Court.

119. From the administrative point of view, the effective administration of the Court has been severely affected by inadequacy of resources. Although the Executive Council adopted a new structure for the Registry of the Court in 2012, recruitment could not commence due to lack of funds. It was only in May 2013, that the Executive Council approved funding for the recruitment of some of the required staff. The staff situation at the Court is still dire as there are staff shortages in every department of the Registry, at times compelling staff to perform functions for which they have no competencies.

120. With respect to financial resources, the Court continues to face difficulties in the effective discharge of its mandate due to inadequate financial resources. Many staff members, as well as some Judges, do not have basic furniture and working equipment such as desktops and laptops, the Court continues to operate a manual case management and human resource management system, due to inadequate resources to procure necessary soft wares. With the increase in the number of staff, there is a serious shortage of office space, which is becoming increasingly dire. The Library now having to double as a working space for interns as an example.

Conclusion

121. The credibility of any judicial system is enhanced where all the stakeholders endow it with the independence and confidence it deserves to discharge its mandate. The Court is fully committed to discharge the mandate entrusted to it and enhance the protection of human rights on the continent.

122. The establishment of the Court was a voluntary act of Member States of the Union and was grounded on the realization by African leaders that any continental integration, unity and development, must be based on a firm foundation of respect for human rights. The success of the African Union and its Agenda 2063 project depends on the success of the Court as the credible judicial arm of the Union.

123. If the Court is to make any effective contribution to the African Union architecture, Member States of the African Union would have to demonstrate their commitment to human rights, through the ratification of the Protocol as well as their acceptance of the competence of the Court, by making the declaration under Article 34(6) thereof. This

'universal' ratification will give the Court the legitimacy it needs to effectively discharge its mandate. It will also demonstrate the commitment of Member States to the protection of human rights and bring renewed hope to African people within the framework of African renaissance. Anything short of complete ratification will limit the jurisdiction of the Court and the legitimacy of the protection system, as some citizens of Member States would not benefit from the 'insurance cover' the Court is supposed to provide where the remedies available from the Commission and domestic jurisdictions are deemed inadequate or ineffective.

124. The Member States also have to ensure adequate gender and regional representation at the Court, as provided for in Articles 12 and 14 of the Protocol. Currently, of the 11 members of the Court, only 2 are female. In terms of regional representation, 5 Judges are from West Africa, 2 from East Africa, 2 from Southern Africa, 1 from Central Africa and 1 from North Africa.

125. The Court wishes to thank the Policy Organs of the African Union and, in particular, the Assembly of Heads of State and Government, for providing the resources for its functioning. The Court takes this opportunity to express its appreciation to those State Parties that accepted its request to undertake promotional activities in their territories, and for the support they rendered to ensure the success of the activities.

126. The Court equally wishes to express its gratitude to the Government of the United Republic of Tanzania, host country of the seat of the Court, for the efforts made towards providing the Court with temporary buildings to serve as its seat, among other facilities. The Court also appreciates the support from all its external partners.

ii) Recommendations

127. Consequent upon the foregoing considerations, the Court recommends:

- i) That the Assembly of Heads of State and Government provide the necessary resources to enable the Court to recruit and fill the structure of the Registry approved in January 2012 by the Executive Council;
- ii) That the Court should report on its activities at each regular session of the Assembly of Heads of State and Government;
- iii) That, the Court be authorised to propose, for consideration by the Executive Council, a concrete mechanism that will enable it report cases of non-compliance, to the policy organs of the Union, at any time it deems necessary, for the proper administration of justice;

- iv) That the Assembly adopts a decision for the establishment of an African Legal Assistance Fund and regulations for the implementation of the Fund, and encourage Member States and other stakeholders to contribute thereto;
- v) That the Assembly adopts a decision on the institutionalization of a judicial dialogue between national judiciaries and Continental and Regional judicial and quasi-judicial bodies;
- vi) That the Assembly adopts a decision to declare 2016 as the Africa Year of Human and Peoples' Rights;
- vii) That the Assembly request Member States of the African Union that have not yet done so, to ratify the Protocol on the Establishment of the Court and immediately make the declaration allowing individuals and non-governmental organisations direct access to the Court;
- viii) That the Assembly should invite Member States which have already ratified the Protocol, but have not yet made the declaration accepting the jurisdiction of the Court to receive applications from individuals and non-governmental organizations, to do so; and
- ix) That the Assembly should invite Member States of the African Union and all organs of the Union to have recourse, as and when necessary, to the Court to request it to provide advisory opinions on human rights issues.

EX.CL/825(XXIV)
Annex I

**LIST OF JUDGES OF THE AFRICAN COURT ON HUMAN AND
PEOPLES' RIGHTS AS AT DECEMBER 2013**

ANNEX I
LIST OF JUDGES OF THE AFRICAN COURT ON HUMAN AND
PEOPLES' RIGHTS AS AT DECEMBER 2013

NO.	NAME	TERM		COUNTRY
		Duration	Expiry	
1	Hon. Sophia A. B. Akuffo (President)	6	2014	Ghana
2	Hon. Bernard M. Ngoepe (Vice President)	6	2014	South Africa
3	Hon. Gérard Niyungeko	6	2018	Burundi
4	Hon. Fatsah Ouguergouz	6	2016	Algeria
5	Hon. Augustino S.L. Ramadhani	6	2016	Tanzania
6	Hon. Duncan Tambala	6	2016	Malawi
7	Hon. Elsie Nwanwuri Thompson	6	2016	Nigeria
8	Hon. Sylvain Oré	4	2014	Côte d'Ivoire
9	Hon. El Hadji Guissé	6	2018	Senegal
10	Hon. Ben Kioko	6	2018	Kenya
11	Hon. Kimelabalou Aba	1.5	2014	Togo

EX.CL/825(XXIV)
Annex II

**PROPOSAL BY THE AFRICAN COURT ON HUMAN AND PEOPLES'
RIGHTS AND THE AFRICAN COMMISSION ON HUMAN AND
PEOPLES' RIGHTS FOR 2016 TO BE DECLARED
AFRICAN HUMAN RIGHTS YEAR**

**PROPOSAL BY THE AFRICAN COURT ON HUMAN AND PEOPLES'
RIGHTS AND THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
FOR 2016 TO BE DECLARED AFRICAN HUMAN RIGHTS YEAR**

Introduction

1. It will be recalled that the adoption of the United Nations Universal Declaration of Human Rights in 1948, as well as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocol in 1966, stirred Africa to come up with and establish a human rights regime specifically tailored to suit the needs and realities of the African continent. This resolve resulted in the negotiation and adoption of the African Charter on Human and Peoples' Rights (the African Charter) in 1981. It will be recalled that this Charter came into force on 21 October 1986; indeed, it will also be recalled that the Union has already designated 21 October as African Human Rights Day to mark the significance of the entry into force of this important treaty.
2. Article 30 of this Charter provided for the establishment of the African Commission on Human and Peoples' Rights (the Commission), charged with responsibility of promoting and protecting human and peoples' rights on the continent. It will be recalled this Commission was established and became operational in 1987.
3. It will be further recalled that in 1998 the Organisation of African Unity (OAU), now the African Union (AU/Union) adopted 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) in terms of which the African Court on Human and Peoples' Rights (the Court) was established. This Court was established with the specific mandate of complementing the mandate of the Commission to protect human and peoples' rights in Africa. The Protocol was adopted on 9 June 1998 and came into force on 25 June 2004; and the Court itself started operating in July 2006.
4. In addition to these two premier human rights institutions, other key AU Organs have also been established by the Union, whose mandates also reinforce and promote the promotion and protection of human rights on the African continent. These include, amongst others, the African Union Commission which has a human rights division, the African Committee on the Rights and Welfare of the Child, a treaty body of the African Charter on the Rights and Welfare of the Child, which was established when its first 11 members were elected in July 2001; the Pan African Parliament which was established in March 2004; the Peace and Security Council which was established when the Protocol Relating to the Peace and Security Council (PSC) of the AU entered into force on 26 December 2003; the New Partnership for Africa's Development adopted by the Organisation of African Unity (OAU) in July 2001 and ratified by the African Union (AU) in 2002

and the Economic, Social and Cultural Council which was established under the provisions of Articles 5 and 22 of the Union's Constitutive Act and was officially launched on 9 September 2008.

5. Additionally, the Union adopted a number of related instruments which also promote human and peoples' rights. These include, among others, the following: the African Charter on the Rights and Welfare of the Child; the Protocol to the Establishment of the Peace and Security Council of the Union; the Protocol to the African Charter on the Human and Peoples' Rights on the Rights of Women in Africa; the Convention on Preventing and Combating Corruption; the African Charter on Democracy, Elections and Governance; and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.
6. In the years since their establishment, the Commission and the Court have generated a rich and progressive cutting-edge human rights jurisprudence which has inspired and informed international human rights norms; the two institutions have engaged extensively with other human rights stakeholders on the continent; and they have pushed the frontiers of human rights.
7. Together with the other AU Organs with a human rights mandate, the Commission and the Court have made significant contributions to the promotion and protection of human and peoples' rights on the continent. AU Member States have been willing partners in this endeavour, and they have taken initiatives and measures at their level to give expression to the human and peoples' rights enshrined in the African Charter, particularly, through the establishment of national human rights institutions with the mandate to promote and protect human rights. As a result, while there are continuing human rights challenges on the continent, very significant strides have been made and many achievements have been made, which deserve noting and celebrating, particularly in the year 2016.
8. The year 2016 marks a veritable watershed in the continental human rights trajectory: 2016 celebrates the 35th anniversary of the adoption of the African Charter in 1981; 2016 marks the 30th anniversary of the entry into force of the African Charter in 1986; the year marks the 29th anniversary of the operationalization of the Commission in 1987 (in 2016 the Commission will be just one year short of its 30th anniversary); 2016 also marks the 10th anniversary of the operationalization of the Court.
9. It is for this reason that the Commission and the Court exhort the Assembly of the Union to declare this auspicious year (2016) the African Human Rights Year, to mark, commemorate and celebrate these significant milestones in Africa's continental human rights progression.
10. The Commission and the Court propose a series of activities spread across the entire year in 2016, to celebrate the achievements made, to review the human

rights situation on the continent, to take stock of what still needs to be done to create a culture of human rights observance on the continent, and identify how best to address the remaining challenges.

11. In line with the African Union Agenda 2063, the objective is to initiate an advocacy and coordinating campaign that effectively reaches out to stakeholders and partners at all levels (political, institutional, civil society organizations, national and community levels) to give ownership to all key stakeholders as well as the repositories/beneficiaries of the rights enshrined in the African Charter, spread across the whole year, generating a ground swell of support culminating in the Africa Human Rights Day on 21 October 2016, which commemorates the coming into force of the African Charter.