El Hak Foundation for Freedom of Expression and Human Rights

APPLIED LEGAL STUDY

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

A Simplified Guide to Procedures, Litigation, and the Role of Human Rights Organizations

Intended for human rights organizations, researchers, and lawyers engaged in strategic litigation

AUGUST 2026

www.elhak.org | info@elhak.org | Facebook: elhak02 | X: @elhakcenter | 26 July St. – opposite the High Court – Cairo

Applied Legal Study

African Court on Human and Peoples' Rights

A Simplified Guide to Procedures, Litigation, and the Role of Human Rights Organizations

Intended for human rights organizations, researchers, and lawyers engaged in strategic litigation

August 2026

Methodological and Legal Notice

Governing rule: a State's ratification of the Protocol establishing the Court does not mean that individuals and organizations may sue it directly. A direct Application by an individual requires the State's ratification of the Protocol and an effective separate Declaration under Article 34(6). A direct Application by a non-governmental organization additionally requires the organization to have observer status before the African Commission. The absence of observer status does not prevent the organization from representing or legally supporting an eligible individual under a valid authorization where the individual is the Applicant.

This study provides a general explanation of the rules published up to the date on which its preparation was completed in June 2026. The status of ratifications, declarations, forms, and practices may change after that date; accordingly, the official registers of the Court and the African Union Commission must be checked before every filing. Where official sources conflict, priority should be given to the instrument of ratification, deposit, or withdrawal; then to the most recent judgment or judicial decision; and thereafter to the most recent annual report. A dynamic information webpage should not be relied upon in isolation. The admissibility of any individual case also depends on its facts, the State concerned, the instruments in force, and the course of domestic remedies, and cannot be determined by a checklist alone.[1]

The study is based on the African Charter on Human and Peoples' Rights, the Protocol establishing the Court, the Rules of Court in force since 25 September 2020, the Practice Directions adopted on 5 March 2024, the Guidelines on Amicable Settlement adopted in June 2025 and published in July 2026, and official judgments, orders, opinions, and reports. Where a summary in this study conflicts with an official text, reference must be made to the official text and to the order or judgment issued in the case.[2]

[1] See the source-priority methodology: the Court's ruling in Brahim Ben Mohamed Ben Brahim Belgeith v. Tunisia, issued on 6 July 2026, paragraphs 2 and 14; this is the controlling source for the effective date of Tunisia's withdrawal of its Declaration.

[2] Rules of Court of the African Court on Human and Peoples' Rights, 2020; Practice Directions adopted on 5 March 2024; and Guidelines on Amicable Settlement adopted in June 2025 and published in July 2026.

Executive Summary

The African Court on Human and Peoples' Rights is a continental court established by a Protocol supplementing the African Charter to complement the protective mandate of the African Commission. It is neither a substitute for domestic courts nor an appellate tier above national courts. Its function is to examine the international responsibility of a State for violating a right protected by the Charter or another human rights instrument ratified by the State concerned. It exercises contentious jurisdiction in disputes and advisory jurisdiction on legal questions relating to human rights.[3]

Access to the Court is the most practically complex issue. The African Commission, States Parties, and African intergovernmental organizations have routes of access set out in Article 5 of the Protocol. An individual has direct access against a State only where that State has ratified the Protocol and its Article 34(6) Declaration is in force at the time of filing. A non-governmental organization has the same route where those two conditions are met and the organization has observer status before the Commission. If the organization lacks observer status while the individual's right of access remains available, the individual may be the Applicant and the organization may represent or support that individual under a valid authorization. As of 28 July 2026, 34 of the African Union's 55 Member States had ratified the Protocol, while Article 34(6) Declarations remained in force in only seven States following the effective withdrawal of Tunisia's Declaration on 8 March 2026.[4]

Professional handling of a case begins before drafting the Application: identify the victim and the risks; test jurisdiction; map domestic remedies; link the facts to specific rights; build an evidence list; and define the remedies and reparations sought. After filing, the Registry checks form and documentation, followed by service and the exchange of pleadings. The Court examines its jurisdiction proprio motu and then admissibility. It may order provisional measures where extreme gravity, urgency, and a risk of irreparable harm coincide. It may decide the matter on the written record or hold a public hearing, then issue a judgment on the merits and

[3] Protocol to the African Charter on the Establishment of the Court, especially Articles 1, 2, 3, and 7.

[4] Protocol establishing the Court, Articles 5(3) and 34(6); Rules of Court, 2020, Rule 39; and Belgeith v. Tunisia, ruling of 6 July 2026, paragraphs 2 and 14.

reparations, and monitor implementation through party reports and other reliable information, including by holding a compliance hearing.

An organization's role is not limited to acting as an Applicant. It may document violations and protect victims; represent an individual or support counsel; seek observer status; submit a communication to the Commission and request referral; seek leave to participate as amicus curiae; provide implementation information; and build a national coalition to execute the judgment. A distinction must be drawn between requesting an advisory opinion—which is confined to the entities identified in Article 4 of the Protocol, including an African organization recognized by the African Union—and submitting observations in pending advisory proceedings, which the Court may permit an interested entity to do under Rule 84(2).[5]

Key note: begin by identifying the prospective Applicant. If it is an individual, ask whether the State is party to the Protocol and whether the Article 34(6) Declaration is effective at the date of filing. If the organization will apply in its own name, add a third question: does it have observer status before the Commission? Where no Declaration exists, move to the Commission route or another forum. Where the organization lacks observer status but an effective Declaration exists, do not exclude an individual Application; assess whether the victim may apply personally and be represented or supported by the organization under informed authorization.

How to Use this Study

- Begin with Chapter Five to determine the status of the State and the Declaration, then return to Chapter Four to test jurisdiction and admissibility.
- Use Chapter Two to understand the stages, time limits, and documents in a case, and Chapter Three to build the organization's work plan.
- Use the case studies to understand how abstract rules produce practical outcomes, not to assume that two cases are identical.
- Use the annexes as internal tools: a checklist, an evidence matrix, a proposed Application structure, and an implementation monitoring plan.
- Update the table of States and the electronic references before any new training or publication of the study.

[5] Protocol establishing the Court, Article 4; Rules of Court, 2020, Rules 82–84, especially Rule 84(2).

Contents

Introduction and Methodology

1. Research Problem and Significance

The difficulty of working with the Court lies not only in the number of legal texts, but also in the multiple layers involved: the Charter, the Protocol, the Rules of Court, the Practice Directions, judicial jurisprudence, and the Rules of the African Commission. The difficulty increases when the expression "States that have recognized the Court" is used without specifying whether it refers to ratification of the Protocol or deposit of an Article 34(6) Declaration. This confusion may lead an organization to invest substantial resources in an Application over which the Court lacks personal jurisdiction.

The study seeks to convert these layers into a usable workflow. It begins with the organization's need to make a practical decision: Where should the case be filed? Who should be the Applicant? What facts and documents are required? Is there an urgent situation? What will happen after filing? It therefore combines legal analysis, procedural flowcharts, checklists, and case studies.

2. Method and Sources of Verification

A legal-analytical method was used, beginning with primary texts and then testing their interpretation in the Court's judgments. The course of proceedings was reconstructed from the 2020 Rules, the 2024 Practice Directions, the filing and legal-aid webpages, and the Guidelines on Amicable Settlement. The status of States was drawn from the Court's official reports and published register, giving priority to the most recent judgments and decisions in the event of conflict. Academic and human rights studies were treated as interpretive sources, not substitutes for the official record.[6]

- Primary-source rule: no time limit or procedural requirement is attributed to the Court without a specific article, rule, or direction.
- Date rule: every changing list carries a cut-off date, and its continued accuracy after that date is not assumed.
- Distinction rule: facts, parties' allegations, the Court's findings, and the researcher's assessment are kept separate.
- Adverse-research rule: arguments that may defeat jurisdiction or admissibility are reviewed, not only evidence supporting the Application.

[6] Rules of Court, 2020; Practice Directions, 2024; 2025 Activity Report of the Court; and the ruling in Belgeith v. Tunisia issued on 6 July 2026.

- Reviewability rule: case numbers, judgment dates, and key provisions are stated so that another researcher can verify them independently.

3. Terminology and Scope of the Study

Term	Meaning in this Study
Court	The African Court on Human and Peoples' Rights established by the 1998 Protocol.
Commission	The African Commission on Human and Peoples' Rights, a quasi-judicial body with protective and promotional mandates.
Protocol	The Protocol to the Charter establishing the Court, adopted on 9 June 1998.
Declaration	The Article 34(6) Declaration enabling direct access by individuals and organizations.
Application	Contentious proceedings brought before the Court.
Communication	A complaint submitted to the African Commission under the Charter and its Rules.
Observer Status	Status granted by the Commission to an organization under its criteria and required for a direct NGO Application.

The study does not examine in detail comparisons with the European and Inter-American systems, nor does it provide a strategy for a particular case. It also does not disclose the judges' confidential deliberations; rather, it explains the published institutional structure and public procedures. Unless the context indicates otherwise, "organization" means a non-governmental organization working in the field of human rights.

Chapter One: Origins, Legal Basis, and Institutional Structure

1. From the Charter to the Court

The Organization of African Unity adopted the African Charter on Human and Peoples' Rights in 1981, and the Charter established the African Commission to perform promotional, protective, and interpretive functions. The Commission, however, is not a court, and its decisions do not take the form of judgments issued by a permanent judicial body. The 1998 Protocol established a Court to complement the Commission's mandate and strengthen continental protection. The Protocol entered into force on 25 January 2004 after the required number of instruments of ratification had been deposited, and the Court began operating in 2006.

Article 1 establishes the Court, while Article 2 confirms its complementary relationship with the Commission. Complementarity does not mean identity: the Commission receives communications and undertakes investigative, settlement, promotional, and protective functions, and may refer cases to the Court; the Court, by contrast, issues binding judgments in cases within its jurisdiction. The choice of forum therefore depends not on abstract preference, but on standing, the State's legal status, the nature of the urgency, and the domestic procedural record.

2. Sources of Law Applied by the Court

Article 3 of the Protocol grants the Court jurisdiction over the interpretation and application of the Charter, the Protocol, and any other relevant human rights instrument ratified by the State concerned. Article 7 confirms the application of these instruments. A claim is therefore not confined to the provisions of the Charter; depending on the State and the facts, it may rely on the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Maputo Protocol, or other regional instruments of a human rights character.

Practical effect: when relying on an instrument other than the Charter, attach reliable evidence that the State ratified it and that it was in force at the relevant time, and identify the provision creating the right rather than referring generally to "international law."

3. Composition and Independence of the Court

The Court is composed of eleven judges who are nationals of African Union Member States and are elected in their personal capacity from among jurists and judges of recognized competence and experience in human rights. Election takes account of geographic distribution, the principal legal traditions, and balanced gender representation. No two judges may be nationals of the same State. The term of office is six years, renewable once under the Protocol, subject to transitional arrangements for the first members.

The judges elect the President and Vice-President. The President serves on a full-time basis, while the other judges serve part-time unless the organs of the Union decide otherwise. Judges exercise their functions independently and do not represent their States. The Rules also govern recusal and non-participation, protecting impartiality and preventing a judge from sitting where a prior connection or interest may compromise actual or apparent independence.

4. Presidency, Registry, and Hearings

The Presidency manages the Court's judicial work and hearings and coordinates with the judges, while the Registry serves as the administrative and legal gateway for case files. The Registrar registers Applications, communicates with the parties, effects service, maintains the record, arranges translation, organizes hearings, publishes decisions, and administers the legal-aid programme. Correspondence should therefore be sent through one authorized representative, contact details should remain current, and the team should maintain a chronological record of every communication.

The Court holds ordinary sessions and may convene extraordinary sessions. Proceedings are written, supplemented by oral submissions where necessary. Hearings may be held in person or virtually. Judicial deliberations are confidential, decisions are taken by majority, and a judge may append a separate or dissenting opinion or declaration in accordance with the Rules.

5. Contentious and Advisory Jurisdiction

In its contentious jurisdiction, the Court determines a dispute alleging a violation of a right and identifies State responsibility and the appropriate remedy or reparation. It may issue orders for provisional measures, judgments on jurisdiction, admissibility, merits, and reparations, and decisions on interpretation or review within defined conditions. An advisory opinion, by contrast, does not determine an inter partes dispute or award compensation; it clarifies a legal question connected with the Charter or another relevant human rights instrument at the request of an entity authorized by the Protocol.

An African Union Member State, the African Union itself, one of its organs, or an African organization recognized by the Union may request an advisory opinion on a legal matter relating to the Charter or another relevant human rights instrument, provided the subject matter is not related to a communication pending before the Commission. African NGO status or observer status before the Commission alone is insufficient; institutional recognition by the Union must be demonstrated. This differs from contributing to pending advisory proceedings: Rule 84(2) permits the Court to authorize an interested entity to submit observations even where that entity could not itself request the opinion.[7]

6. The Existing Court and the African Court of Justice and Human Rights

The existing Court should not be confused with the project to merge the African Court on Human and Peoples' Rights and the African Union Court of Justice into an African Court of Justice and Human Rights, or with the amendments known as the Malabo Protocol, which would add international criminal jurisdiction. Continuing debate and ratification concerning those instruments neither abolish the existing Court nor automatically alter the conditions governing access by individuals and organizations. The present practical framework remains the 1998 Protocol and the current Rules of Court.

7. Relationship between the Court and the African Commission

The relationship operates at several levels: the Commission may bring a case before the Court; the Court may seek the Commission's opinion on admissibility or transfer a case to it; and it may ask the Commission to investigate facts. In a referred case, the Commission is the Applicant before the Court, although the Court may hear the individual or organization that initiated the original communication. This provides organizations in States without an effective Declaration with an indirect route, although referral remains a discretionary decision of the Commission and is not an acquired right of the complainant.

Criterion	African Commission	African Court
Nature	Quasi-judicial and promotional body	Continental judicial body
Individual Route	Communication under the Charter and the Rules	Direct Application only where Article 34(6) applies
Outcome	Decision, recommendations, and measures	Judgment or order binding on the parties

[7]Protocol establishing the Court, Article 4; Rules of Court, 2020, Rules 82 and 84(2).

Criterion	African Commission	African Court
Relationship	May refer a case	May hear a referral, seek the Commission's opinion, or transfer a file
Role of the Organization	Observer status is not required to submit a communication on behalf of victims, subject to the communication requirements	Observer status is required for an organization filing a direct Application

Chapter Two: The Life Cycle of a Case before the Court

1. Stage Zero: Preliminary Assessment

Before contacting the Court, the organization should prepare an internal case-admission memorandum of no more than a few pages addressing identity, standing, the State concerned, facts, time, rights, remedies, urgent risk, and the relief and reparations sought. The question "Is there a serious injustice?" must be kept separate from the question "Is this Court an available legal forum?" The facts may be grave even though the Court lacks personal jurisdiction because the State has not ratified the Protocol or deposited the Declaration.

- Identify the victim or community, the Applicant's standing, and the written legal authorization.
- Verify ratification of the Protocol, the Declaration, and the dates on which each entered into force or was withdrawn.
- Identify the human rights instruments ratified by the State at the relevant time.
- Map domestic remedies: those available, those used, their outcome and duration, and the reasons for any exception.
- Assess risks of reprisals, confidentiality, and digital and physical protection.
- Determine whether the current harm justifies a request for provisional measures.

2. Selecting the Route of Access

The decision tree begins with the State's status. If the State has not ratified the Protocol, neither an individual nor an organization may bring a contentious case against it before the Court, and a communication to the Commission or another mechanism should be considered. If the State has ratified the Protocol but has not deposited an effective Declaration, the Commission remains the principal route for potential access to the Court. If the Declaration is in force, an individual may apply directly, and an organization may do so if it has observer status.

Do not turn the individual into a nominal front: the existence of an individual right of direct access does not justify using the person's name without informed authorization or a protection plan. The victim must remain the decision-maker and understand the risks, likely duration, and possible outcomes.

3. Preparing the Application and its Contents

Rule 40 requires the Application to be written in one of the Court's official languages and signed by the Applicant or the Applicant's representative. It must contain a summary of the facts and evidence, the alleged violations, proof that domestic remedies have been exhausted—or that they have been unduly prolonged or are ineffective—and the relief sought. Rule 41 requires the use of the Registry's form unless the Court decides otherwise and requires particulars of the Applicant, representative, Respondent State, facts, rights, and admissibility.

The Application should be accompanied by a clear chronology of domestic decisions and documents, with annexes numbered consecutively. Where the Applicant is an organization, proof of observer status and proof of the signatory's authority should be attached. If anonymity from the public is requested, a reasoned request must be filed; identity must remain known to the Court even if confidentiality is granted in publication.

Part of the File	Minimum Content	Quality Test
Facts	A concise chronology identifying the actor, act, place, and date	Can the case be understood without consulting the annexes?
Rights	The provision and instrument, and how they apply to the fact	Has the State ratified the instrument?
Jurisdiction	Personal, material, temporal, and territorial	Is each element supported by a date or document?
Admissibility	Domestic remedies, time, and the remaining requirements of Article 56	Is there a final decision or a basis for an exception?
Evidence	A numbered list explaining the relevance of each annex	Are the source, authenticity, and chain of custody clear?
Relief Sought	Individual and general measures and enforceable reparations	Can the State and the Court understand the relief and measure implementation?

4. Filing, Registration, and Registry Review

Rule 40 permits filing of the original, a certified copy, a scanned copy, or an electronic copy where immediate submission of the original is not possible, provided the original is supplied by the date fixed by the Court. The Court charges no fee for filing or processing an Application under Rule 32 and the Practice Directions. The Registry acknowledges receipt, requests missing information or clarification, and verifies the State's status under the Protocol and Declaration before registering individual or NGO Applications.

Under Rule 48(2), where the State has not ratified the Protocol or has not deposited the required Declaration, the Registrar does not register the direct Application and provides the reason. This administrative registration gateway reflects a substantive jurisdictional condition; the organization should therefore retain a copy of the latest official register in its internal file even if it is not required as an annex.

5. Service and Exchange of Pleadings

After registration, the Respondent State and other relevant entities are notified. Rule 44 requires the State to respond within 90 days of service, addressing jurisdiction, admissibility, merits, and reparations. Following the State's response, the Applicant has 45 days to reply. The President may grant an initial extension of 30 days on a reasoned request; any further extension requires a decision of the Court in light of special circumstances.

The organization should manage deadlines as a system rather than as an individual's memory: record the date of receipt, final deadline, drafting responsibility, review date, and translation plan. Jurisdiction and admissibility objections should not be left until the end of the reply; failure to address them may terminate the case before the merits. Once pleadings are closed, additional evidence may be filed only with the Court's leave, so essential evidence should be identified early.

6. Examination of Jurisdiction and Admissibility

The Court examines its jurisdiction and admissibility preliminarily even where the State raises no objection. It may request additional information or documents. Preliminary objections may be decided separately or joined to the merits, and filing objections does not automatically stay proceedings unless the Court so decides. Pleadings and the study should distinguish between "lack of jurisdiction," which concerns the Court's authority, and "inadmissibility," which concerns whether the conditions for examining an Application have been met despite jurisdiction.

7. Provisional Measures

Article 27(2) of the Protocol and Rule 59 permit the Court, at the request of a party or proprio motu, to adopt provisional measures in cases of extreme gravity and urgency where necessary to prevent irreparable harm to persons. The request may be submitted with the Application or later, but it must identify the measure sought, the recent facts demonstrating risk, and the connection between the measure and the harm.

The seriousness of a past violation is not sufficient; the request must explain why imminent harm may occur before final judgment and why that harm cannot later be repaired. Examples include protecting life and physical integrity, staying an imminent execution, and preventing disappearance or removal exposing a person to grave risk. A measure may extend to preserving decisive evidence where its imminent loss is directly linked to a risk of irreparable harm to persons or to the destruction of effective judicial protection; preservation of evidence should not be presented as an independent example detached from the requirements of gravity, urgency, and irreparable harm. The Practice Directions require a complete and properly supported request, and the Court may reject an incomplete or insufficient one.[8]

- Describe the urgent event with its date, time, and source, and update it immediately if circumstances change.
- Attach available documents or statements and explain why any document cannot be produced.
- Request a specific, executable measure rather than a general formulation such as "protect the rights."
- Explain the relationship between the measure and the principal Application without asking the Court to prejudge the merits.
- Prepare a secure communication plan to monitor implementation and report non-compliance.

8. Evidence, Witnesses, and Experts

Rule 55 gives the Court broad authority to receive evidence, seek clarification, conduct an investigation, or visit a site. The annexes to the 2024 Practice Directions indicate that the Court applies a flexible and reasonable approach to proof, while each party remains responsible for substantiating its allegations. Depending on the claim, reliance may be placed on official documents, medical and financial records, photographs and recordings, witness and expert statements, and circumstantial evidence.

If a document cannot be produced, the reason and the steps taken to obtain it should be explained, and oral testimony or a sworn statement may be used. Flexibility does not mean accepting material without evaluation;

[8] Protocol establishing the Court, Article 27(2); Rules of Court, 2020, Rule 59; Practice Directions, 2024, paragraphs 20–24.

the Court considers credibility, consistency, source, circumstances, and the opportunity to respond. The organization should retain the original, a working copy, a transfer log, a technical description of digital files, and the victim's consent to use the material.

Sound documentation: a human rights report is useful for establishing pattern and context, but it does not replace the individual evidence needed to prove the victim's identity, harm, causation, and compensation. Every monetary claim requires evidence or an explanation enabling the Court to make an equitable assessment.

9. In-Person and Virtual Hearings

The Court may decide a case on the written pleadings or hold a hearing proprio motu or at the request of a party. Hearings are public in principle, but may be held in camera where required by morals, public order, national security, the interests of a minor, privacy, or the administration of justice. The President fixes the date and the Registry notifies the parties. The 2024 Practice Directions detail hearing preparation, including lists of participants, witnesses, experts, and documents to be presented.

For an in-person hearing, each party must provide, at least thirty days before the hearing, the names and contact details of its representatives, a list of witnesses and the subject matter of their testimony, and the language to be used by representatives and witnesses. The Registrar must be notified in writing of the withdrawal or appointment of a representative at least fifteen days before the hearing. The Registry sends the hearing programme at least ten days in advance. A request to adjourn must be filed within fifteen days of receipt of notice of the hearing date. The same preparation rules apply, with necessary modifications, to virtual hearings, together with prior technical testing and safeguards against witness coaching and breaches of confidentiality at the hearing location.[9]

10. Amicus Curiae Participation and Intervention

The Rules distinguish intervention from participation as amicus curiae. Rule 61 governs intervention and permits a State Party to request it; the Court may also, in the interests of justice, allow a person with an interest to intervene, and the intervener participates within the scope of the intervention. An amicus curiae does not become a party, but offers expertise or a perspective to assist the Court. Under the 2024 Practice Directions, a

[9] Practice Directions of the Court, 2024, paragraphs 30–38; and, concerning virtual hearings, paragraphs 48–52.

prospective amicus must file an application identifying the contribution it intends to make in the pending case. The Court may invite an amicus proprio motu and fix the time for its brief. The amicus brief and annexes are transmitted to the parties for information.[10]

As a matter of best practice—not as literal mandatory requirements of the Practice Directions—the application should explain the entity's expertise and added value, avoid duplicating the parties' submissions, and disclose relationships or funding that could affect the independence of its contribution. The brief should focus on a defined legal or factual question and comply with the length, language, and deadline fixed by the Court. Amicus status does not automatically confer a right to attend the hearing or control the course of the case.

11. Amicable Settlement

Article 9 and Rule 64 authorize the Court to encourage amicable settlement, and the parties may request its involvement at any time before judgment. Negotiations are confidential and without prejudice to positions in the case; offers or concessions made in settlement may not be used as arguments in the pleadings. If settlement is reached, the Court issues a judgment confined to the facts and the settlement, while retaining authority to continue the case in the interests of justice, the public interest, or public order.

The Guidelines published in 2026 add a practical framework that should be reviewed before entering the process. An organization should not assess settlement solely in monetary terms: it should examine acknowledgment and responsibility, guarantees of non-repetition, legal reform, the implementation timetable, monitoring arrangements, victim protection, and the treatment of confidential information. Written authority from the victims and clear limits on the negotiating team's mandate are also required.

12. Judgment, Reparations, Interpretation, and Review

The Court issues judgments, decisions, orders, and opinions. Under Rules 69 and 71, a judgment follows deliberations and sets out the proceedings, parties' submissions, facts, reasoning, operative provisions, reparations, and costs where appropriate. Decisions are final and binding on the parties. The Court may decide reparations together with the merits or in a subsequent decision; claims and supporting evidence should therefore be submitted from the outset and updated when requested.

A party may request interpretation of the operative part of a decision for purposes of implementation within 12 months of notification, unless the Court decides otherwise in the interests of justice. The request does not

---

[10]Rules of Court, 2020, Rule 61 on intervention; and Practice Directions, 2024, paragraphs 25–29 on amicus curiae.

automatically suspend implementation. Review requires a decisive new fact or item of evidence that was unknown and could not have been known with due diligence; the request must be submitted within six months of discovery and is inadmissible more than five years after the decision. A clerical error may be corrected within one month of receipt of the decision.

13. Implementation and Follow-Up

Article 30 requires States Parties to comply with judgments and ensure their execution. Rule 81 provides for State compliance reports, which are ordinarily transmitted to the Applicant for comment. The Court may obtain information from other reliable sources, hold a hearing to assess implementation, issue an order where necessary, and report non-compliance to the Assembly of the African Union under Article 31.

Implementation is not a later phase separate from litigation; relief should be designed from the outset to be specific and measurable. After judgment, the organization should convert the operative provisions into a matrix identifying the action, responsible national authority, deadline, indicator, evidence, and status. Positive and negative information should both be collected, the State should be afforded an opportunity to respond, precise observations should then be submitted to the Court, and proportionate domestic, parliamentary, and media mechanisms should be used.

Ogiek lesson: in December 2025, the Court conducted a compliance process and found that significant aspects of the Ogiek judgments had not been implemented, including compensation, land demarcation, and consultation. This demonstrates that judgment may mark the beginning of a prolonged legal and political phase rather than its end.

Case Flow Map

1. Preliminary assessment of the victim, facts, risks, and forum.
2. Verify the Protocol, Article 34(6) Declaration, and observer status.
3. Identify domestic remedies, rights, evidence, and reparations.
4. File the Application or select the Commission route, with a request for provisional measures where necessary.
5. Registry review, registration, and service.
6. State response within 90 days, followed by the Applicant's reply within 45 days, unless extended.
7. Examination of jurisdiction, admissibility, and preliminary objections.
8. Completion of evidence, amicus participation or intervention, and a hearing where needed.

9. Amicable settlement where chosen by the parties or proposed by the Court.

10. Judgment on the merits and reparations, followed by interpretation or review within narrow limits.

11. Implementation reports, comments, a compliance hearing, and notification of African Union organs in the event of non-compliance.

Chapter Three: Guide for Human Rights Organizations

1. Possible Roles of an Organization

An organization may be a direct Applicant, represent an individual, serve as a source of documentation and expertise, submit the initial communication before the Commission, act as amicus curiae, or participate in an implementation coalition. The role should be selected in writing before work begins because it determines duties toward the victim, the Court, donors, and partners, and affects confidentiality, conflicts of interest, and resources.

Role	Principal Requirement	Practical Risks
Direct Applicant	Observer status + effective State Declaration	Refusal of registration; responsibility for deadlines and evidence
Representative of an Individual	Clear authorization, competence, and acceptable representation	Conflict of interest and loss of contact with the victim
Author of a Communication to the Commission	Compliance with communication requirements; observer status is not required	Longer process and no guarantee of referral to the Court
Amicus Curiae	Court authorization and identification of the intended contribution	Duplication or appearance as a non-neutral party
Documenter or Expert	Reliable methodology and data protection	Exposure of sources or weak chain of custody
Implementation Monitor	Verifiable information	Politicization of assessment or confusion of advocacy with evidence

2. Obtaining and Maintaining Observer Status

On 9 November 2023, the African Commission adopted Resolution ACHPR/Res.572, updating the criteria for granting and maintaining observer status. The organization's objectives and activities must be consistent with the fundamental principles of the Union, the Charter, and the Maputo Protocol; it must work on human rights in Africa and disclose its financial resources. A foreign organization must be registered in a State Party to the Charter and have a regional office or presence in an African State.

The application must be submitted to the Commission Secretariat at least three months before an Ordinary Session and include an application letter, a list of board members, signed and authenticated statutes, proof of legal status, funding sources, the latest independently audited financial statements, the latest annual activity report, and an approved work plan or strategy covering at least two years and setting out objectives, activities, timetable, locations, strategies, and target groups.

- Appoint an institutional focal point for relations with the Commission, not merely for a single case.
- Retain a complete copy of the decision granting observer status and the organization's number in the Commission's records.
- Submit the required activity report every two years and update contact and governance information.
- Monitor the risk of suspension or withdrawal where obligations are not fulfilled.
- Do not assume that an observer-status application suspends the reasonable time for filing a case; plan both routes early.

3. Building a Strategic Litigation File

It is not enough for a case to be legally winnable; it must be strategically appropriate for the victim and the organization. Assess the strength of the facts, clarity of the violation, exhaustion of remedies, risk of reprisals, the team's ability to continue, prospects of implementation, and the added value compared with other routes. The decision to accept the case and the assumptions underlying it should be documented.

Create a multidisciplinary team: lead counsel, fact researcher, protection officer, data officer, victim liaison, and reparations expert where needed. Define each member's authority, the official communication channel, the evidence-access policy, and a contingency plan if a team member leaves.

4. Relationship with Victims and Informed Consent

The nature of the Court, likely duration, possible outcomes, alternatives, and risks should be explained in language the victim understands. Consent is not a one-off signature; it must be revisited when strategy changes, identity is proposed for publication, or settlement is considered. The parties should agree who has authority to settle, how disagreements among multiple victims will be resolved, and the limits on using stories and images in advocacy.

Do-no-harm principle: a name, fact, or document should not be published merely because it is legally or publicly useful where the anticipated harm is disproportionate. Non-disclosure to the public may be requested, but the Court and the State may require information necessary for procedural fairness; confidentiality must therefore be assessed realistically rather than promised absolutely.

5. Documentation and Chain of Custody

Each item of evidence requires a unique identifier, source, date of acquisition, method of transfer, custodian of the original, and record of any technical alteration. Originals should be stored separately from working copies, using encryption, access controls, and backups. When taking a statement, record the place, language, interpreter, persons present, consent, and any circumstances that may affect accuracy.

For digital material, preserve metadata and the original file, generate a digital hash where possible, and record every conversion or compression. For medical or psychological records, respect professional confidentiality and the actual need for disclosure. The victim should not be required to recount trauma more than necessary; interviews may be coordinated and a protocol used to reduce repetition.

6. Developing the Legal Theory and Relief Sought

The theory of the case links an act or omission attributable to the State to a specific right, legal duty, harm, causal relationship, and remedy. A table should preferably be created for each claim: fact, provision, standard, supporting evidence, likely State evidence, gap, and relief sought. Strong claims should be separated from general background so the Court is not burdened with an unnecessarily broad record.

Relief may include cessation of the violation, investigation or prosecution where appropriate, restitution, pecuniary and non-pecuniary compensation, rehabilitation, satisfaction, guarantees of non-repetition, legislative or administrative amendment, publication, and implementation reports. The beneficiary, implementing authority, deadline, and indicator should be specified, while avoiding requests for which the Court lacks a legal basis or sufficient information.

7. Legal Aid and Representation

Every party may be represented by a lawyer or another person of its choice under Rule 31 and Article 10(2) of the Protocol. The Court operates a legal-aid programme, which may be granted on application or by the Court proprio motu in the interests of justice and subject to available resources. The Court's webpage indicates that individuals and groups of individuals may qualify for free assistance under criteria of indigence, equality of arms, and the interests of justice; an organization should not assume that the programme finances its institutional work or implementation monitoring.

8. Working through the Commission where Direct Access is Unavailable

Where the State has not ratified the Protocol, or has ratified it without an effective Declaration, a communication to the Commission should be considered. The Commission's Rules do not require observer status for submitting a communication; in principle, any natural or legal person may submit one, and the author need not be the victim, a relative, or a person with a direct personal interest. The victims or group must nevertheless be identified, and standing, authorization, informed consent, and protection should be explained according to the circumstances. A communication does not automatically become a case before the Court; the Commission decides whether to refer it under its Rules. The communication should therefore be built as a self-contained case file, accompanied by a reasoned referral request where the relevant grounds exist.[11]

The organization may also support domestic litigation leading to exhaustion of remedies or use United Nations mechanisms or other regional courts where jurisdiction exists. Rules on duplication of proceedings must be examined: Article 56(7) may bar a matter already settled in accordance with the principles of the United Nations, the African Union, or the Charter, whereas a mere communication or non-dispositive international procedure does not necessarily amount to final settlement.[12]

9. Advocacy around the Case

Advocacy serves litigation when it protects the victim, clarifies the case, and promotes implementation, but it may cause harm when it exposes evidence or a witness, uses insulting language, or makes unprovable claims.

---

[11] Rules of Procedure of the African Commission on Human and Peoples' Rights, 2020, provisions governing communications. Observer status is not required to submit a communication to the Commission.

[12] African Charter on Human and Peoples' Rights, Article 56(7).

A communications plan aligned with the pleadings should be established, with one spokesperson and messages based on verified facts; every publication should be reviewed by the legal and protection teams.

- Do not publish a document that has not been filed, or that may prejudice the fairness of proceedings, without legal assessment.
- Distinguish the Applicant's allegations, the Court's findings, and matters that remain unresolved.
- Respect confidentiality requests, Court orders, and privacy rights.
- Use the judgment and operative provisions accurately; do not reduce a complex decision to a misleading slogan.
- Connect advocacy to an implementation plan, responsible actors, and a follow-up date—not only to the date of judgment.

10. Monitoring Implementation

After judgment, the organization should hold a transition meeting from the litigation team to the implementation team. Orders should be translated into domestic tasks, identifying the responsible institutions, budget, and legislative, judicial, and administrative measures. State reports should be reviewed and answered with dated documentation, acknowledging partial implementation while identifying what remains outstanding.

Domestic courts may be used to execute or interpretively invoke the judgment, depending on the constitutional system, together with parliamentary committees, national human rights institutions, professional bodies, and the media. Protection continues after judgment: success may increase risks to victims and defenders. Wider impact should be measured, such as legal amendment, cessation of the practice, or victims' access to compensation.

Chapter Four: Jurisdiction and Admissibility — Tests and Scenarios

1. Personal Jurisdiction Test

Personal jurisdiction asks: Who is bringing the Application, and against whom? Under Article 5 and Rule 39, the Commission, relevant States, and African intergovernmental organizations have specified routes. An individual, and an organization with observer status, require an Article 34(6) Declaration. An organization must additionally provide proof of observer status and the representative's authority. The dates of deposit and withdrawal must be checked because a Declaration that once existed is not necessarily still in force.

2. Material Jurisdiction

Material jurisdiction exists where the allegation concerns the interpretation or application of the Charter, the Protocol, or another human rights instrument ratified by the State. The domestic court need not have cited the same instrument, but the facts must be capable of being linked to a protected right. An alleged error in applying domestic law is insufficient unless it reveals an international violation; the Court is not a fourth-instance appellate court that reweighs every item of evidence or reinterprets every domestic law.

3. Temporal and Territorial Jurisdiction

Temporal jurisdiction examines whether the act, or its continuing legal effects, occurred after the Protocol entered into force for the State and, for direct Applications, after the Declaration became effective within the limits defined by the Court. Jurisdiction may extend to a continuing violation that began before the relevant date but persisted afterward, such as continuing detention or an ongoing deprivation of a right. Continuity requires legal analysis; continuing psychological consequences of a completed act are not sufficient by themselves.

Territorial jurisdiction concerns where the act occurred or where the State exercised control or jurisdiction. Cross-border cases and acts of forces outside national territory require analysis of attribution and effective jurisdiction and are not resolved solely by the victim's nationality.

4. The Seven Admissibility Requirements

Rule 50 restates the requirements of Article 56 of the Charter: identification of the authors even where confidentiality is requested; compatibility with the Constitutive Act of the Union and the Charter; absence of insulting language; no exclusive reliance on the media; exhaustion of domestic remedies unless unduly prolonged; filing within a reasonable time; and the matter not having been settled in accordance with the principles of the United Nations, the African Union, or the Charter.

Requirement	Screening Question	Typical Evidence
Identity	Does the Court know the Applicant and the victim?	Identity, authorization, and confidentiality request where necessary
Compatibility	Is the Application rights-based and compatible with the Charter?	Identification of the rights and facts
Language	Is the drafting legal and free from insulting language?	Editorial review of the pleading
Source of Information	Is there evidence other than media reports?	Decisions, records, statements, and documents
Domestic Remedies	Have available, effective, and sufficient remedies been exhausted?	Judgments, applications, and dates
Reasonable Time	Is the period after the final remedy explained?	Chronology and reasons for delay
No Prior Settlement	Has an international mechanism issued a final determination on the merits?	Files and decisions of the other mechanism

5. Exhaustion of Local Remedies

The general rule requires use of available, effective, and sufficient domestic judicial remedies. "Available" means accessible in law and practice; "effective" means capable of providing relief; and "sufficient" means appropriate to the violation. An extraordinary, discretionary remedy that is not part of the ordinary system generally need not be used, but the law and practice must be analyzed rather than relying on labels.

The Applicant bears responsibility for explaining the steps taken and attaching decisions. When an exception is claimed, the Applicant must establish facts showing unavailability, ineffectiveness, or undue prolongation. Some evidential responsibility may shift to the State where it identifies a remedy that was not apparent, but strategy should not depend on the hope that the State will fail to raise the objection.

6. Reasonable Time

The Charter does not prescribe a fixed number of months; it requires filing within a reasonable time assessed in light of the circumstances: the date of the final decision or commencement of the exception, complexity, personal circumstances, detention, access to counsel, excusable lack of knowledge of the mechanism, and time needed to prepare the file. Every period of inactivity should be explained by a fact or document. It is insufficient merely to say that the victim was poor or uneducated without showing the temporal effect.

7. Prior Settlement

This requirement prevents relitigation of a matter already determined by an international mechanism under the stated principles. The identity of the parties, facts, rights, nature of the decision, and whether it addressed the merits or only procedure must be examined. Filing a complaint or urgent communication with another mechanism does not automatically constitute "settlement." Every relevant international proceeding must nevertheless be disclosed to avoid an appearance of concealment or inconsistency.

8. Five Practical Scenarios

Scenario One — State with an effective Declaration: an organization with observer status documents legislation restricting an association in Ghana after constitutional remedies have been exhausted. Possible route: a direct Application, after verifying the relevant instruments, filing period, and authorization. The Declaration does not dispense with exhaustion or proof of harm.

Scenario Two — State Party without a Declaration: a violation in Kenya affecting an individual or organization. Ratification by Kenya alone does not currently permit direct access by the individual or organization. Route: a communication to the Commission with consideration of a referral request, or another domestic or international route. The Ogiek case reached the Court through the Commission.

Scenario Three — Organization without observer status: a violation in a State with an effective Declaration, but the organization lacks observer status. The individual victim may apply directly if the requirements are met, with the organization providing support or representation under authorization; an Application filed by the organization in its own name requires observer status.

Scenario Four — Withdrawn Declaration: a matter concerning Rwanda, Tanzania, Benin, Côte d'Ivoire, or Tunisia. The dates of deposit, effectiveness of withdrawal, and filing must be checked. The Court has held that withdrawal is not retroactive and takes effect after one year; it does not affect pending cases or Applications lodged before the effective date. Tunisia's withdrawal took effect on 8 March 2026.[13]

Scenario Five — Urgent risk: a convicted person faces imminent execution of a penalty that may cause irreparable harm. The principal Application and a request for provisional measures should be filed with current evidence and specific relief, together with a compliance-monitoring plan. The team should not wait for completion of all merits evidence where the risk is imminent.

9. Route-Selection Decision Tree

1. Is the State a member of the African Union and a party to the Charter? If not, identify another forum; if so, proceed to the next question.

2. Has the State ratified the Protocol establishing the Court? If not, no contentious case may be brought against it before the Court; use the Commission or another route.

3. Is the prospective Applicant the Commission, a State, or an African intergovernmental organization? Apply the relevant Article 5 route.

[13] Belgeith v. Tunisia, ruling of 6 July 2026, paragraphs 2 and 14; and the Court's 2025 Activity Report. Taking account of the effective withdrawal by Tunisia on 8 March 2026, seven Declarations remained in force at the cut-off date.

4. Is the prospective Applicant an individual or an organization? Check the Article 34(6) Declaration as at the filing date.

5. If there is no effective Declaration, prepare a Commission communication and, where grounds exist, request referral.

6. If the Declaration is effective and the prospective Applicant is an organization, verify observer status; if absent, consider an individual Application or complete the status process without missing the filing period.

7. Test material, temporal, and territorial jurisdiction, followed by the seven admissibility requirements.

8. If urgent irreparable harm exists, add a specific and substantiated request for provisional measures.

9. If the tests are satisfied, proceed to build the evidence, relief, and reparations file.

Chapter Five: States, Ratification, and Direct Access

1. General Position as at 28 July 2026

As of 28 July 2026, 34 of the African Union's 55 Member States had ratified the Protocol establishing the Court. According to the most recent official ruling concerning Tunisia, Article 34(6) Declarations remained in force in seven States: Burkina Faso, Ghana, Malawi, Mali, The Gambia, Niger, and Guinea-Bissau. Tunisia deposited its instrument withdrawing the Declaration on 7 March 2025, and the withdrawal took effect on 8 March 2026, without retroactive effect on cases and Applications filed before that date. The existence of an effective Declaration does not by itself make every case admissible; all requirements of jurisdiction and admissibility remain applicable.[14]

Egypt: Egypt is a member of the African Union and a party to the African Charter, but it was not among the 34 States that had ratified the Protocol establishing the Court as at the date of preparation of this report. Accordingly, neither an individual nor an organization may currently bring a contentious case against Egypt before the Court under the existing Protocol; the African Commission route and other mechanisms should be considered.

2. States Parties to the Protocol

State	Signature	Ratification/Accession	Deposit	Article 34(6) Declaration	Direct Access at Present
Algeria	13/07/1999	22/04/2003	03/06/2003	No	No direct access
Benin	09/06/1998	10/06/2014	22/08/2014	Withdrawn	Direct access ended when the withdrawal took effect
Burkina Faso	09/06/1998	31/12/1998	23/02/1999	Effective	Yes, subject to all remaining requirements

[14] Ingabire Victoire Umuhoza v. Rwanda, ruling on jurisdiction of 3 June 2016, paragraphs 52–68; and Belgeith v. Tunisia, ruling of 6 July 2026, paragraph 14.

State	Signature	Ratification/Accession	Deposit	Article 34(6) Declaration	Direct Access at Present
Democratic Republic of the Congo	09/09/1999	08/12/2020	08/12/2020	No	No direct access
Burundi	09/06/1998	02/04/2003	12/05/2003	No	No direct access
Cameroon	25/07/2006	09/12/2014	17/08/2015	No	No direct access
Chad	06/12/2004	27/01/2016	08/02/2016	No	No direct access
Republic of the Congo	09/06/1998	10/08/2010	06/10/2010	No	No direct access
Côte d'Ivoire	09/06/1998	07/01/2003	21/03/2003	Withdrawn	Direct access ended when the withdrawal took effect
Comoros	09/06/1998	23/12/2003	26/12/2003	No	No direct access
Gabon	09/06/1998	14/08/2000	29/06/2004	No	No direct access
The Gambia	09/06/1998	30/06/1999	15/10/1999	Effective	Yes, subject to all remaining requirements
Ghana	09/06/1998	25/08/2004	16/08/2005	Effective	Yes, subject to all remaining requirements
Guinea-Bissau	09/06/1998	03/11/2021	03/11/2021	Effective	Yes, subject to all remaining requirements
Kenya	07/07/2003	04/02/2004	18/02/2005	No	No direct access

State	Signature	Ratification/Accession	Deposit	Article 34(6) Declaration	Direct Access at Present
Libya	09/06/1998	19/11/2003	08/12/2003	No	No direct access
Lesotho	29/10/1999	28/10/2003	23/12/2003	No	No direct access
Madagascar	09/06/1998	12/10/2021	12/10/2021	No	No direct access
Malawi	09/06/1998	09/09/2008	09/10/2008	Effective	Yes, subject to all remaining requirements
Mali	09/06/1998	10/05/2000	20/06/2000	Effective	Yes, subject to all remaining requirements
Mauritania	22/03/1999	19/05/2005	14/12/2005	No	No direct access
Mauritius	09/06/1998	03/03/2003	24/03/2003	No	No direct access
Mozambique	23/05/2003	17/07/2004	20/07/2004	No	No direct access
Niger	09/06/1998	17/05/2004	26/06/2004	Effective	Yes, subject to all remaining requirements
Nigeria	09/06/1998	20/05/2004	09/06/2004	No	No direct access
Rwanda	09/06/1998	05/05/2003	06/05/2003	Withdrawn	Direct access ended when the withdrawal took effect
Sahrawi Arab	25/07/2010	27/11/2013	27/01/2014	No	No direct access

State	Signature	Ratification/Accession	Deposit	Article 34(6) Declaration	Direct Access at Present
Democratic Republic					
Senegal	09/06/1998	29/09/1998	30/10/1998	No	No direct access
South Africa	09/06/1999	03/07/2002	03/07/2002	No	No direct access
Tanzania	09/06/1998	07/02/2006	10/02/2006	Withdrawn	Direct access ended when the withdrawal took effect
Togo	09/06/1998	23/06/2003	06/07/2003	No	No direct access
Tunisia	09/06/1998	21/08/2007	05/10/2007	Withdrawn; withdrawal effective 08/03/2026	No direct access for new Applications after 08/03/2026; earlier Applications remain protected
Uganda	01/02/2001	16/02/2001	06/06/2001	No	No direct access
Zambia	09/06/1998	28/12/2022	10/01/2023	No	No direct access

3. States not Party to the Protocol

The following States were not among the 34 States Parties as at the date of preparation of this study. Some may have signed the Protocol or announced an intention to ratify it; however, signature or a political undertaking does not establish the Court's jurisdiction without deposit of an instrument of ratification or accession.

- Angola

- Botswana
- Cabo Verde
- Central African Republic
- Djibouti
- Egypt
- Equatorial Guinea
- Eritrea
- Eswatini
- Ethiopia
- Guinea
- Liberia
- Morocco
- Namibia
- São Tomé and Príncipe
- Seychelles
- Sierra Leone
- Somalia
- South Sudan
- Sudan
- Zimbabwe

4. States with an Effective Declaration

State	Date of Signature of Declaration	Date of Deposit
Burkina Faso	14/07/1998	28/07/1998

State	Date of Signature of Declaration	Date of Deposit
Ghana	09/02/2011	10/03/2011
Malawi	09/09/2008	09/10/2008
Mali	05/02/2010	19/02/2010
The Gambia	23/10/2018	03/02/2020
Niger	28/10/2021	28/10/2021
Guinea-Bissau	03/11/2021	03/11/2021

5. Withdrawal of Declarations and its Effect

Five States have withdrawn their Declarations: Rwanda in 2016, Tanzania in 2019, Benin and Côte d'Ivoire in 2020, and Tunisia in 2025. In Ingabire, the Court held that although the Declaration is optional at the time of deposit, once deposited it produces legal effects and procedural rights for individuals and groups. It may be withdrawn subject to reasonable notice, which the Court fixed at one year, and withdrawal has no retroactive effect. The Court applied that principle to Tunisia, holding that the withdrawal deposited on 7 March 2025 became effective on 8 March 2026, while cases and Applications filed before that date remained unaffected.[15]

State	Deposit of Withdrawal	General Procedural Effect
Rwanda	2016	Withdrawal became effective after one year; earlier cases remained pending

[15] Ingabire Victoire Umuhoza v. Rwanda, ruling of 3 June 2016, paragraphs 52–68; and Belgeith v. Tunisia, ruling of 6 July 2026, paragraphs 2 and 14.

State	Deposit of Withdrawal	General Procedural Effect
Tanzania	21/11/2019	Effective on 22/11/2020 under the Court's jurisprudence
Benin	25/03/2020	Effective on 26/03/2021 under the Court's decisions
Côte d'Ivoire	2020	Effective after the one-year notice period; dates of pending Applications must be examined
Tunisia	07/03/2025	Withdrawal became effective on 08/03/2026; no retroactive effect on Applications filed before effectiveness

Verification warning: dates of deposit and effectiveness of a withdrawal must be checked against the withdrawal instrument and the relevant Court decision when assessing a particular case. The year shown in a general table is insufficient for deciding an Application filed close to the effective date.

6. Significance of the Figures

The fact that only seven Declarations remain effective means that the overwhelming majority of people in States Parties have no direct route through an individual or NGO Application. This produces geographical concentration in the Court's docket, increases the importance of the Commission, and magnifies the political and legal effect of any further withdrawal. At the same time, the Court's effectiveness should not be measured by Application numbers alone; referred cases, advisory opinions, and structural judgments may have effects beyond the parties.

Organizations may use the table to advocate ratification and deposit of the Declaration, but the message should be precise: ratification expands judicial access for States, the Commission, and other eligible entities, while the Declaration opens direct access for individuals and NGOs. The two demands are connected but are not the same legal act.

Chapter Six: Case Studies and Practical Lessons

1. APDH v. Côte d'Ivoire — An NGO as Direct Applicant

Actions pour la Protection des Droits de l'Homme (APDH) filed Application No. 001/2014 against Côte d'Ivoire. APDH had observer status and the State had deposited an Article 34(6) Declaration. The Court established personal jurisdiction on that basis at paragraphs 43–46. At paragraphs 57–63, it also examined the standard for treating another instrument as a "relevant human rights instrument" within Article 3 of the Protocol. On the merits, particularly at paragraphs 118–136, the Court held that the independence of an electoral body depends not only on institutional autonomy but also on balanced composition and sufficient safeguards of independence and impartiality. The operative part at paragraph 153 found violations, ordered amendment of the law, and required an implementation report.[16]

The case confirms that an NGO may be a direct party where the three-part gateway is complete: State ratification, an effective Declaration, and observer status. It also demonstrates that a claim may rely on another regional human rights instrument ratified by the State—the African Charter on Democracy, Elections and Governance—alongside the African Charter. The drafting lesson is to explain how institutional law affects participation and equality rights, rather than merely objecting politically to the composition of the body.

- Attach proof of observer status and the authority of the organization's representative.
- Establish that any additional instrument was in force for the Respondent State.
- Translate the requested institutional reform into a measurable and executable order.
- Assess the effect of Côte d'Ivoire's later withdrawal of its Declaration on new Applications, not on this earlier case.

2. African Commission v. Kenya — The Ogiek Case

Application No. 006/2012 reached the Court by referral from the African Commission, not through a direct Application by Ogiek individuals or an NGO. In its merits judgment of 26 May 2017, the Court found violations of Articles 1, 2, 8, 14, 17(2), 17(3), 21, and 22 of the Charter. Among other points, the judgment explains that exhaustion of local remedies is intended to give the State an opportunity to address the substance of the violation domestically (paras. 93–94); that the Ogiek are an indigenous community with a historical connection to the Mau Forest (paras. 105 et seq.); and that eviction without effective consultation infringed rights to

[16] APDH v. Côte d'Ivoire, Application No. 001/2014, Judgment on the Merits of 18 November 2016, paragraphs 43–46, 57–63, and 118–136, and the operative part at paragraph 153.

property, culture, religion, and development. In the 2022 reparations judgment, the Court awarded pecuniary compensation at paragraph 77 and non-pecuniary compensation at paragraph 93, then formulated non-pecuniary measures at paragraphs 94–156 and the operative orders at paragraph 160. In its compliance order of 4 December 2025, it found partial compliance with the merits judgment and non-compliance with several orders on compensation, land, consultation, the community fund, and publication, particularly at paragraphs 39–46, 64–73, 95–120, and 145.[17]

The Court awarded KES 57,850,000 for pecuniary harm and KES 100,000,000 for collective non-pecuniary harm. On 4 December 2025, following a compliance hearing, it found that Kenya had not implemented major aspects of the judgments and ordered immediate payment and completion of land and consultation measures. The case illustrates the value of referral through the Commission, collective reparations, and the organization's role in supporting the community, evidence, experts, and long-term implementation monitoring.

- Where no Declaration is in force, a strong communication to the Commission may open a route to referral.
- Peoples' rights cases require authorization and internal representation that do not reduce the community to a single spokesperson.
- Land claims require maps, testimony, and historical and legal expertise—not merely a general narrative.
- Implementation requires detailed indicators for compensation, demarcation, title, and consultation.

3. Konaté v. Burkina Faso — Freedom of Expression and Structural Relief

In Application No. 004/2013, journalist Lohé Issa Konaté challenged a twelve-month prison sentence and other penalties imposed for articles concerning alleged corruption. The Court applied the test governing restrictions on freedom of expression and held that custodial criminal sanctions for defamation are, in ordinary circumstances, inconsistent with the necessity and proportionality of restrictions. In the operative part of its judgment of 5 December 2014, it found violations of Article 9 of the Charter, Article 19 of the International Covenant, and Article 66(2)(c) of the Revised ECOWAS Treaty, and ordered legislative amendment. Paragraphs 145–166 contain the principal analysis of legality, purpose, necessity, and proportionality. The reparations judgment of 3 June 2016 addressed pecuniary and non-pecuniary harm, publication, and removal of consequences, particularly at paragraphs 46–59 and the operative part at paragraph 60.[18]

[17] African Commission v. Kenya (Ogiek), Application No. 006/2012: Judgment on the Merits of 26 May 2017, especially paragraphs 93–94 and 105 et seq.; Reparations Judgment of 23 June 2022, paragraphs 77 and 93–160; Compliance Order of 4 December 2025, paragraphs 39–46, 64–73, and 95–120, and the operative part at paragraph 145.

[18] Lohé Issa Konaté v. Burkina Faso, Application No. 004/2013: Judgment on the Merits of 5 December 2014, especially paragraphs 145–166; and Reparations Judgment of 3 June 2016, paragraphs 46–60.

Relief was not confined to compensating the individual. The Court ordered amendment of defamation legislation to remove imprisonment and to ensure necessity and proportionality of other sanctions. Reparations included sums for loss of income, non-pecuniary harm, and some costs, together with publication of the judgment and expungement of related consequences. The case demonstrates how a freedom-of-expression claim is built around legality, legitimate aim, necessity, and proportionality, and how individual harm may lead to broader legal reform.

4. Ingabire v. Rwanda — Withdrawal of the Article 34(6) Declaration

Victoire Ingabire Umuhoza filed Application No. 003/2014 against Rwanda. While it was pending, Rwanda notified the Court of withdrawal of its Declaration. In its ruling on jurisdiction of 3 June 2016, the Court held that it had authority to determine the effects of withdrawal; that a deposited Declaration creates legal effects and procedural rights for third parties; and that legal certainty requires one year's notice. See in particular paragraphs 52–68. The Court also held that withdrawal is not retroactive and does not affect a pending case. This principle became the basis for assessing subsequent withdrawals, including Tunisia's.[19]

The case shows that although a Declaration is voluntary, its immediate effects on pending cases cannot simply be erased. Organizations should preserve proof of the filing date and receipt, verify the deposit and effective dates of any withdrawal, and avoid assuming without temporal analysis that every case against a State that has withdrawn its Declaration is impossible.

5. Advisory Opinion Requested by the Pan African Lawyers Union

The Pan African Lawyers Union (PALU) submitted Request for Advisory Opinion No. 001/2018 on the compatibility of vagrancy and related laws with the Charter and other African instruments. The request was filed on 11 May 2018 and the opinion issued on 4 December 2020. The Court verified PALU's status as an African organization recognized by the African Union, relying on its memorandum of understanding with the Union and its continental activities; see paragraphs 17–28. It distinguished the general legal question from an individual dispute and gave authoritative guidance on State obligations regarding laws that criminalize poverty or social status; see paragraphs 36–47 and following, and the operative part at paragraph 155. The matter also demonstrates that the right to request an advisory opinion is not the same as the ability to submit observations

[19] Ingabire Victoire Umuhoza v. Rwanda, Application No. 003/2014, Ruling on Jurisdiction and Continuation of Proceedings, 3 June 2016, paragraphs 52–68.

in existing proceedings, because Rule 84(2) allows interested entities to contribute even when they are not the requesting party.[20]

This route is useful where a problem is transnational and requires authoritative interpretation, but it does not award compensation or replace an individual case. The Court's record also includes requests struck out because organizations failed to prove the required recognition or satisfy other conditions. The request should therefore include proof of recognition, formulate a precise legal question, identify the relevant instruments, and confirm that no similar matter is pending before the Commission.

6. Comparison of the Cases

Case	Route of Access	Central Lesson	Organizational Tool
APDH	Direct NGO Application	Observer status, Declaration, and additional instrument	Institutional litigation
Ogiek	Commission referral	Peoples' rights, collective reparations, and implementation	Documentation, coalition building, and follow-up
Konaté	Direct individual Application	Proportionality and legislative remedy	Representation, support, and documentation of harm
Ingabire	Direct individual Application filed before withdrawal became effective	Temporal effect of withdrawal	Verification of dates
PALU	Advisory opinion	Organizational standing and a general legal question	Normative research and expert submission

[20]Request for Advisory Opinion No. 001/2018 submitted by the Pan African Lawyers Union (PALU), Advisory Opinion of 4 December 2020, paragraphs 17–28 and 36–47 and the operative part at paragraph 155; and Rules of Court, Rule 84(2).

Conclusion and Recommendations

1. Conclusion

The Court combines broad judicial potential in the range of applicable rights with a narrow gateway in terms of States and persons. It may apply the Charter and other human rights instruments ratified by the State and order provisional measures, individual and collective reparations, and structural reforms; however, direct access remains limited by the Article 34(6) Declaration, and an NGO may exercise it only if it has observer status.

Organizations should translate this reality into institutional design: a jurisdiction-verification function, a deadline-management system, evidence and protection policies, a roster of lawyers, a standing process for obtaining observer status, capacity to work before the Commission, and an implementation plan that begins before judgment. Competitive advantage lies not in the number of files, but in selecting cases with a legal foundation, sufficient evidence, and executable relief.

2. Recommendations for Human Rights Organizations

- Adopt a mandatory assessment form before accepting any case for proceedings before the Court.
- Verify the Protocol, the Declaration, and observer status as at the filing date, and retain copies of the sources.
- Obtain observer status and maintain it through periodic activity reports.
- Establish protection, informed-consent, and data-management protocols for every litigation file.
- Build each claim on a matrix linking the standard, fact, evidence, anticipated counterargument, and reparation.
- Use the Commission route seriously where direct access is unavailable; do not treat it as a merely formal alternative.
- Frame compensation and structural measures with monitorable indicators, responsibilities, and deadlines.
- Allocate more time and financial resources to implementation than to the judgment phase.
- Build coalitions with lawyers, national institutions, academics, and financial and medical experts.
- Update training materials and tables annually, or immediately after any new ratification, Declaration, or withdrawal.

3. Recommendations for States

- Ratify the Protocol establishing the Court without delay and deposit the instrument with the African Union Commission.

- Deposit an Article 34(6) Declaration and refrain from withdrawing it, thereby enabling direct access for victims and organizations.
- Establish a permanent national focal point for the Court linked to a governmental mechanism for implementing judgments.
- Include implementation of judgments in budgets and legislative plans, and publish public compliance reports.
- Protect litigants, witnesses, and defenders from reprisals and cooperate with service and investigation.
- Review national laws in light of the Court's judgments and do not reduce implementation to payment of compensation.

4. Recommendations for the Court, the Commission, and the African Union

- Publish consolidated, current, and historical datasets on ratifications, Declarations, and withdrawals.
- Expand Arabic-language resources, simplified forms, and practical training for civil society.
- Strengthen legal aid, protection of victims and witnesses, and translation support.
- Clarify the Commission's referral criteria and stages without compromising the independence of the referral decision.
- Publish searchable compliance data and implementation indicators for every order.
- Strengthen political follow-up on non-compliance and involve parliaments and national institutions.

Practical Annexes

Annex 1: Pre-Filing Checklist

- ☐ Identify the Applicant, standing, authority, and authorization.
- ☐ Document the State's ratification of the Protocol and the deposit date.
- ☐ Document the Article 34(6) Declaration and its effective date or withdrawal.
- ☐ Attach the decision granting observer status where the organization is the Applicant.
- ☐ Identify the relevant rights, instruments, and ratifications.
- ☐ Complete a chronology of the facts and domestic proceedings.
- ☐ Identify every domestic remedy, its outcome, or the reason it was not required.
- ☐ Explain the period between the final domestic step and filing.
- ☐ Examine any other international proceedings and the possibility of prior settlement.
- ☐ Review the language and remove insulting or unsupported allegations.
- ☐ Prepare the evidence matrix and chain-of-custody log.
- ☐ Obtain informed consent and prepare a victim-communication plan.
- ☐ Conduct a risk assessment covering reprisals, confidentiality, and protection.
- ☐ Identify any provisional measures and attach recent evidence.
- ☐ Formulate the relief and reparations and prove the harm.
- ☐ Number the annexes, arrange them chronologically, and prepare an index.
- ☐ Designate one representative for correspondence and an emergency alternate.
- ☐ Verify the official form, language, address, and current Registry email.
- ☐ Have the file reviewed legally and factually by someone other than the drafter.
- ☐ Freeze a final version and record the date and method of filing and receipt.

Annex 2: Proposed Structure of an Application

1. Cover page: Application number, if any; parties; State; correspondence representative; and any request for confidentiality or provisional measures.

2. Particulars of the Applicant and victim, basis of representation, and the organization's observer-status decision.

3. An executive summary of no more than two pages stating the essence of the case and the reparations sought.

4. Statement of personal, material, temporal, and territorial jurisdiction.

5. Statement of facts in chronological order with references to annexes.

6. Domestic proceedings: each level, date, result, and copy of the decision.

7. Admissibility: a separate analysis of each requirement in Article 56 and Rule 50.

8. Violations: a separate heading for each right, setting out the standard, application, and conclusion.

9. Evidence: the method of submission and any request to hear a witness or expert.

10. Provisional measures: a separate section where applicable.

11. Reparations and relief: individual and general measures and implementation indicators.

12. Numbered and dated list of annexes, signature, and certification that the information is accurate.

Note: this structure is an internal drafting tool and does not replace the Court's official form or any case-specific direction issued by the Registry.

Annex 3: Evidence Matrix Template

Claim	Criterion	Fact to be Proved	Evidence	Reliability	Gap
Claim 1	Right and Provision	Fact requiring proof	Annex/Witness	Source and Authenticity	Gap/Follow-Up
Claim 2	Right and Provision	Fact requiring proof	Annex/Witness	Source and Authenticity	Gap/Follow-Up

Claim	Criterion	Fact to be Proved	Evidence	Reliability	Gap
Harm	Reparation Sought	Pecuniary/Non-Pecuniary Harm	Medical/Financial Record	Date and Custody	Expert/Translation

Annex 4: Provisional Measures Checklist

- ☐ Identify the anticipated harm and the person exposed to it.
- ☐ Establish extreme gravity and urgency using the most recent information.
- ☐ Explain why the harm cannot later be repaired.
- ☐ Specify the measure sought and the authority able to implement it.
- ☐ Link the request to the Application without prejudging the merits.
- ☐ Attach evidence and explain any gaps.
- ☐ Provide round-the-clock contact details where necessary.
- ☐ Plan compliance monitoring and accurate updates.

Annex 5: Implementation Monitoring Matrix

Court Order	Responsible Actor	Deadline	Indicator	Status	Evidence
Order 1	Ministry/Judiciary/Parliament	Date of judgment or deadline	Law/Payment/Decision	Not started	Required document
Order 2	Implementing Authority	Due Date	Measurable indicator	Partial	Victim's comment
Order 3	Coordinating Authority	Due Date	Publication/Training/Guarantee	Completed?	Independent source

Annex 6: Arabic–English–French Glossary

العربية	English	French
المحكمة الأفريقية لحقوق الإنسان والشعوب	African Court on Human and Peoples' Rights	Cour africaine des droits de l'homme et des peuples
اللجنة الأفريقية	African Commission	Commission africaine
طلب/دعوى	Application	Requête
بلاغ	Communication	Communication
الاختصاص	Jurisdiction	Compétence
المقبولية	Admissibility	Recevabilité
استنفاد سبل الانتصاف المحلية	Exhaustion of local remedies	Épuisement des recours internes
التدابير المؤقتة	Provisional measures	Mesures provisoires
التعويضات/الجبر	Reparations	Réparations
صفة المراقب	Observer status	Statut d'observateur
صديق المحكمة	Amicus curiae	Amicus curiae
التسوية الودية	Amicable settlement	Règlement à l'amiable
المذكرات	Pleadings	Mémoires
قلم المحكمة	Registry	Greffe
المسجل	Registrar	Greffier
الحكم في الموضوع	Judgment on merits	Arrêt au fond

العربية	English	French
طلب التفسير	Application for interpretation	Demande en interprétation
طلب المراجعة	Request for review	Demande en révision
التنفيذ/الامتثال	Enforcement/compliance	Exécution/conformité
إعلان المادة 34(6)	Article 34(6) Declaration	Déclaration au titre de l'article 34(6)

Annex 7: Core Sources

[S1] African Charter on Human and Peoples' Rights, 1981. https://au.int/en/treaties/african-charter-human-and-peoples-rights

[S2] Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, 9 June 1998. https://achpr.au.int/index.php/ar/node/886

[S3] Rules of Court of the African Court on Human and Peoples' Rights, adopted on 1 September 2020 and in force from 25 September 2020. https://www.african-court.org/afchpr/documents-2/

[S4] Practice Directions of the Court, 5 March 2024. https://www.african-court.org/wpafc/wp-content/uploads/2024/03/EN-Practice-Direction-Adopted-5-March-2024_.pdf

[S5] Guidelines on Amicable Settlement before the Court, adopted in June 2025 and published in July 2026. https://www.african-court.org/afchpr/

[S6] 2025 Activity Report of the Court, EX.CL/1660(XLVIII), 12 February 2026. https://www.african-court.org/wpafc/wp-content/uploads/2026/02/EX-CL-1660-XLVIII_En-AFCHPR-Activity-Report-2025_compressed.pdf

[S7] Basic Information and Status of Ratifications and Declarations, Court website; subject to priority being given to more recent judgments and decisions in the event of conflict. https://www.african-court.org/afchpr/basic-information-2/

[S8] Ruling in Brahim Ben Mohamed Ben Brahim Belgeith v. Tunisia, 6 July 2026, especially paragraphs 2 and 14 on the effective withdrawal of Tunisia's Declaration on 8 March 2026. https://www.african-court.org/cpmt/storage/app/uploads/public/6a4/fa9/e8f/6a4fa9e8f12ba776195117.pdf

[S9] Resolution ACHPR/Res.572 (LXXVII) 2023 on the Criteria for Granting and Maintaining Observer Status. https://achpr.au.int/en/adopted-resolutions/572-resolution-criteria-granting-and-maintaining-observer-status

[S10] Rules of Procedure of the African Commission, 2020. https://achpr.au.int/en/rules-procedure-2020

[S11] APDH v. Côte d'Ivoire, Application No. 001/2014, Judgment on the Merits, 18 November 2016, and Interpretation Judgment, 28 September 2017. https://www.african-court.org/cpmt/details-case/0012014

[S12] African Commission v. Kenya (Ogiek), Application No. 006/2012: Judgment on the Merits, 26 May 2017; Reparations Judgment, 23 June 2022; Compliance Order, 4 December 2025. https://www.african-court.org/cpmt/details-case/0062012

[S13] Lohé Issa Konaté v. Burkina Faso, Application No. 004/2013: Judgment on the Merits, 5 December 2014; Reparations Judgment, 3 June 2016. https://www.african-court.org/cpmt/details-case/0042013

[S14] Ingabire Victoire Umuhoza v. Rwanda, Application No. 003/2014, Ruling on Jurisdiction and Continuation of Proceedings, 3 June 2016. https://www.african-court.org/cpmt/details-case/0032014

[S15] Advisory Opinion No. 001/2018, requested by the Pan African Lawyers Union (PALU), 4 December 2020. https://www.african-court.org/ajudata/download-file/1064/5fd0c649b6658574074462.pdf

[S16] AJUDATA, the Court's official jurisprudence database. https://www.african-court.org/ajudata/

[S17] Filing a Case, Forms, and Legal Aid, Court website. https://www.african-court.org/afchpr/

[S18] Consolidated Activity Report of the African Commission, February 2026, concerning communications and observer status. https://achpr.au.int/sites/default/files/files/2026-03/ex-cl-1659-xlviiieng.pdf