

## **Resolution on a Human Rights-Based approach to the Implementation and Monitoring of the African Continental Free Trade Area Agreement - ACHPR/Res.551 (LXXIV) 2023**

Mar 21, 2023

**The African Commission on Human and Peoples' Rights (the Commission), meeting at its 74th Ordinary Session, held virtually from 21 February to 07 March 2023:**

RECALLING its mandate of promotion and protection of human and peoples' rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (African Charter);

BEARING IN MIND SPECIFICALLY, Articles 21, 22 and 24 of the African Charter, on the rights of all peoples: to freely dispose of their wealth and natural resources; to economic, social and cultural development; and to a generally satisfactory environment favourable to their development;

REAFFIRMING its previous Resolutions on the need for enhanced protection of human rights and the environment, especially through the development of effective mechanisms for holding non-state actors accountable for human rights violations in Africa, including Resolution ACHPR/Res. 148(XLVI) 2009 and Resolution ACHPR/Res. 367(LX) 2017;

FURTHER RECALLING its State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter, as well as its Background Study on the Operations of the Extractive Industries Sector in Africa and its Impacts on the Realisation of Human and Peoples' Rights under the African Charter on Human and Peoples' Rights - both of which elaborate, among others, on the contents of Articles 21 and 24 of the African Charter, as well as the corresponding rights and duties thereunder;

CONSIDERING the obligations undertaken by African Union Member States under the African Charter (especially Article 1) and the Constitutive Act of the African Union (AU) (Article 4(m)), to promote, protect and give effect to human and peoples' rights on the African Continent;

NOTING Articles 22(1), 22(2) and 24 of the African Charter which, cumulatively provide for the right of all peoples to participate in their economic, social and cultural development, and the corresponding duty of States, individually or collectively, to ensure the exercise of the right to development;

MINDFUL that the African Union Theme of the Year for 2023 is "Acceleration of AfCFTA Implementation";

RECOGNISING the requirements to ensure increased and beneficial participation in the operationalization of the African Continental Free Trade Area Agreement (AfCFTA) as spelt out in article 7 thereof, and also that the African Continental Free Trade Area (AfCFTA) is one of the flagship projects of the African Union's Agenda 2063, which equally emphasizes inclusion and participation (Aspirations 1, 3 and 6);

APPRECIATING that more than twenty African countries have already set up national strategies to implement the AfCFTA Agreement, and CONSCIOUS of the paramount importance of protecting the rights of vulnerable populations and ensuring respect for human rights during the roll-out of these national strategies, especially given that business enterprises are currently the major beneficiaries of the operationalization of the AfCFTA Agreement;

STRESSING that the principle of "Leaving No One Behind" and the use of a human rights based approach must guide the operationalization of the AfCFTA Agreement, as both the Charter of the Organisation of African Unity and the preamble to the African Charter stipulate that 'freedom, equality, justice and dignity are essential for the achievement of the legitimate aspirations of African peoples';

The African Commission:

1.Decides:

(a)To collaborate, using its various working methods as applicable, with AU Member States, National Human Rights Institutions and relevant AU Organs, to promote the mainstreaming of human and peoples'rights in the negotiations on and the implementation of the AfCFTA Agreement, including in relation to national strategies that are adopted by member States;

(b). To collaborate with AU Member States and relevant AU Organs, as applicable, to ensure in particular the recognition and protection of the roles of workers, women, people living with disabilities, youths and other vulnerable groups, including but not limited to those engaged in micro, small and medium-size enterprises, in the context of trade in Africa and the impact of the AfCFTA Agreement on them, and to ensure the promotion and protection of their rights within the framework of implementing the AfCFTA, including through the adoption of necessary supplementary instruments;

(c). To conduct a human rights impact assessment of the AfCFTA Agreement, in line with its established best practices, focusing on the human rights implications and the proffering of recommendations to address any governance or other gaps and issues that detract from compliance with the standards under the African Charter;

2.Urges States:

(a)To protect and promote greater policy coherence by adopting and strengthening fiscal, environmental, labour, and human rights regulatory measures as stipulated in the State Reporting Guidelines and Principles on Articles 21 & 24 of the African Charter, in relation to the implementation of the AfCFTA Agreement;

(b)To ensure that business enterprises in their territories respect human rights and are held accountable for any adverse impact that their actions or those of their suppliers, produce on human rights;

(c)To develop and implement as part of the implementation of the AfCFTA, frameworks to protect the rights of individuals and peoples to development, including those of workers, women, indigenous people and minorities, and entailing such component rights as land ownership, intellectual property, biodiversity, traditional knowledge, and cultural expression;

(d)To ensure broad consultation and active, free, informed, and meaningful participation of vulnerable and marginalized populations in the revision, implementation and assessment of the AfCFTA Agreement, as well as the negotiation of subsequent protocols to the Agreement;

(e)To preserve, in the development of targeted trade and investment liberalization policies, the responsibility of the State for the minimum guarantee of provision of public and social services in accordance with the General Comments of the African Commission on Social Services, so as to ensure that benefits of trade and investment policies do not lead to the erosion of the primary responsibility of the State to deliver public services;

3. Requests the AfCFTA Secretariat to establish a close working relationship with the African Commission, with a view to facilitate the operationalization of the AfCFTA in a way that respects and promotes human and peoples' rights as required under Articles 3 and 4 of the Constitutive Act of the AU; and

4. Tasks the Working Group on Extractive Industries, Environment and Human Rights in Africa, as the special mechanism of the African Commission dealing with human rights and the environment in the context of extractive industries, and in view of the direct relevance of its work on business and trade issues as envisaged under Article 21 of the African Charter, to lead on the follow up of the foregoing decisions.

**Done virtually, on 7 March 2023**