

RESOLUTION ON THE DRAFTING OF A GENERAL COMMENT ON ARTICLE 26 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS. ACHPR/Res.618 (LXXXI) 2024

The African Commission on Human and Peoples' Rights (the Commission), meeting in its 81st Ordinary Session, held from 17 October to 6 November 2024 in Banjul, Republic of The Gambia;

Recalling its mandate to promote and protect human rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling Article 26 of the African Charter which requires States Parties to guarantee the independence of the courts and to permit the establishment and development of appropriate national institutions responsible for the promotion and protection of the rights and freedoms guaranteed by the Charter;

Bearing in mind its Resolution ACHPR/Res.21(XIX) on respect for and reinforcement of the independence of the judiciary (1996) and its Guidelines and Principles on the Right to a Fair Trial and Legal Assistance in Africa (2003);

Noting its Resolution ACHPR/Res.570 (LXXVII) on the appointment of a Focal Point on Judicial Independence in Africa (2023);

Aware of the risks of excessive State interference in judicial systems that can undermine attempts to deepen and consolidate the rule of law and compromise progress made in advancing human rights and economic development in Africa;

Recognising the importance of National Human Rights Institutions (NHRIs) as well as Ombudspersons and various statutory and constitutional bodies with responsibility for promoting and protecting human rights, in the effective implementation of international human rights law in Africa;

Considering the need to meet contemporary challenges and ensure an approach adapted to the specific context of Africa by guaranteeing the independence of the courts and strengthening NHRIs and other national institutions responsible for the protection and promotion of human rights in Africa;

Recalling the function of the Commission under Article 45 of the Charter, namely "to formulate and lay down, with a view to serving as a basis for the adoption of legislative texts by African governments, principles and rules for the solution of legal problems relating to the enjoyment of human and peoples' rights and fundamental freedoms" ;

Recognising the need to assist States Parties in the implementation of Article 26 of the Charter and in reporting to the Commission under Article 62 of the Charter, taking into account, inter alia, evolving practice in the implementation of this provision as well as new challenges in law and practice;

The Commission has decided to:

1. Instruct its Focal Point on Judicial Independence in Africa to prepare a General Comment on Article 26 of the Charter; and
2. Work with all relevant stakeholders to ensure an appropriate contextualised approach in the development of this General Comment.

Done at Banjul, Gambia, on 6th November 2024