

## Resolution on Action to be taken by the Commission in the event of a prolonged delay in the Submission of an Initial State Report under Article 62 of the African Charter on Human and Peoples' Rights (Proactive Approach - ACHPR/Res.566 (LXXVI) 2023

Aug 04, 2023

*The African Commission on Human and Peoples' Rights, meeting at its 76th Ordinary Session, held virtually from 19 July to 2 August 2023:*

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

Recalling also Article 45(1) (b) of the African Charter which mandates the Commission to "formulate and lay down, principles and rules which make it possible to solve legal problems relating to the enjoyment of human and peoples' rights and fundamental freedoms upon which African governments may base their legislation";

Considering Article 62 of the African Charter, which provides that "Each State Party shall undertake to submit every two years, from the date of entry into force of the present Charter, a report on the legislative or other measures taken to give effect to the rights and freedoms recognized and guaranteed by the present Charter";

Considering also Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), which provides that "States shall ensure the implementation of the present Protocol at the national level and shall include in their Periodic Reports submitted in accordance with the terms of Article 62 of the African Charter, information on the legislative or other measures they have taken for the full realisation of the rights recognised in the present Protocol";

Considering Article 14(4) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), which states that "States Parties shall, when submitting their Reports in accordance with Article 62 of the African Charter on Human and Peoples' Rights [...] indicate the legislative and other measures they have taken to give effect to this Convention";

Bearing in mind Rule 80(2) of the 2020 Rules of Procedure of the African Commission on Human and Peoples' Rights, which provides that: "Representatives of States Parties shall be required to answer questions prepared by the Commission as well as questions from members of the Commission and to provide, where appropriate, any additional information requested before, during or after the session. Where such questions or requests have been made prior to the session, States Parties may be requested to respond in writing within a time period expiring prior to that session.";

Bearing in mind also Rule 81(2) of the Rules of Procedure which stipulates that: "At the beginning of each ordinary session, the Secretary shall notify the Commission of all cases of non-submission of Reports or additional information requested by the Commission. In such cases, the Chairperson of the Commission may send, through the Secretary, a reminder letter to the States Parties concerned indicating the date by which the Report or information requested should be received.";

Referring to the various decisions of the Executive Council requesting States Parties to submit their Periodic Reports in accordance with Article 62 of the African Charter, Article 26 of the Maputo Protocol and Article 14 of the Kampala Convention;

Recalling its Resolution ACHPR/Res. 108(XXXXI)07 reiterating the importance of compliance with reporting obligations under the African Charter;

Recalling also its Resolution ACHPR/Res.517 (LXX) 2022 on the method for calculating deadlines for the submission of Periodic Reports;

Expressing its concern that, to date, six (6) States Parties have not yet submitted their Initial Reports on the implementation of the provisions of the Charter, some of which are more than thirty-five (35) years overdue;

Acknowledging the absence of guidelines for determining what to do in the event of non-submission of Periodic Reports by States Parties to the Charter.

**The Commission:**

1. Resolves to adopt the following:
  - i. In the event of a prolonged delay on the part of State Parties that have not yet submitted their Initial State Reports under Article 62 of the African Charter, the Commission may, on receiving a proposal from the Commissioner-Rapporteur, address written questions on the implementation of the provisions of the Charter to the State Party ;
  - ii. The State Party to which the matter is referred shall be required to prepare responses within a reasonable time as indicated by the Commission and to forward them to the Commission within the time frame stipulated ;
  - iii. The Commission may invite the State Party to present these responses at a Public Ordinary Session, in order to promote a constructive dialogue with Commissioners ; and
  - iv. In the light of the responses and the ensuing dialogue, the Commission shall adopt Concluding Observations for the attention of the State Party concerned; and
2. Calls on States Parties to redouble their efforts to comply with the obligation to submit Periodic Reports, in due and proper form, in accordance with Article 62 of the African Charter, Article 26 of the Maputo Protocol, Article 14 of the Kampala Convention and other relevant standards.

**Adopted virtually on 02 August 2023**