

Working Group on Communications - 75OS

May 20, 2023

INTRODUCTION

1.The Working Group on Communications (“WGC or Working Group”) was established by Resolution ACHPR/Res.194 (L) 11, pursuant to Rule 23 (1) and Rule 97 (2) of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission) 2010.

2.At its 11th Extraordinary Session, held in Banjul, The Gambia from 21 February to 1 March 2012, the Commission adopted Resolution ACHPR/Res.212 (EXT.OS/XI)12 defining the mandate of the Working Group. Its various tasks have been extensively outlined in the previous reports of the Working Group.

3.This report, presented in accordance with Rules 25(3) and 64 of the Rules of Procedure of 2020, is structured as follows: A. Activities of the WGC; B. Communications considered during the reporting period; C. Communications pending before the Commission; D. Challenges, Recommendations and Way forward.

A. Activities of the Communications Working Group

Meetings of the Communications Working Group

4.The Working Group met virtually on 23 February 2023 and 1 March 2023. During these meetings, the Working Group examined:

- i.The Draft decisions on seizure of the Complaints lodged;
- ii.The communications eligible for transfer to the Court;
- iii.The proposal for the establishment of the Commission's transitional legal aid scheme;
- iv.The proposal for criteria on the handling and scheduling of communications;
- v.The preliminary progress report on the establishment of the physical registry, including the status of Egyptian cases;
- vi.Communications audit report;
- vii.The Report on administratively seizure of complaints, in accordance with Rule 115(5) of the Commission’s Rules of Procedure (2020);
- viii.the issue of decisions rendered by default: possibility of opposition by the defaulting party.

5.The Report of these two meetings was adopted by the Commission during the plenary session of the 74th Ordinary Session of the Commission.

6.The second meeting of the Working Group, which was to be held virtually prior to the 75th Ordinary Session, was adjourned to take place in the margins of the same.

B. Communications examined during the reporting period

7.The Working Group recalls that as at the 74th Ordinary Session, there were two hundred and four (204). During the 74th ordinary session, the Commission considered and ruled on twenty-two (22) communications, namely:

- Four (4) communications on the merits were concluded;
- Five (5) communications were declared admissible;
- Five (5) communications were declared inadmissible;
- Eight (8) communications were struck out of the list.

8.The Working Group notes that at the end of the 74th ordinary session, one hundred and eighty-seven (187) communications were still pending. Between the end of the 74th and the beginning of the 75th ordinary session, five (6) new complaints were administratively examined for admission, including one with requests for interim measures. Five (5) of the new complaints were admitted and one (1) was rejected.

9.The Secretariat also received one (1) Request for a Review, which is being processed, and one (1) Request for an Advisory Opinion submitted by an individual. The request was de plano rejected, as under Article 45(3) of the Charter, only a State Party, an institution of the Organisation of African Unity or an African organisation recognised by the African Union are entitled to submit a Request for Advisory Opinion to the Commission.

C. Communications Pending before the Commission

10.The Working Group notes that by adding the five (5) communications seized after the 74th ordinary session to the one hundred and eighty-seven (187) communications pending at the end of the 74th ordinary session, the number of pending communications should be one hundred and ninety-two (192). However, after the centralisation of communications and the inherent audit of the Communications Matrix, it turned out that in reality the number of pending communications is one hundred and ninety-seven (197), of which:

- Forty-three (43) at the merits stage;
- One hundred and fifty (150) at the admissibility stage;
- One (1) for review;
- Three (3) communications under processing for seizure.

11.With respect to communications submitted by States Parties, the situation has not changed with respect to the previous Intersession Report. Consequently, no communications Inter States is pending before the Commission.

D. Challenges, recommendations and perspectives

a)Challenges

12.With the recruitment of an Arabic lawyer in December 2022 and the Arabic, Portuguese and French translators/interpreters in April this year, there has been a significant improvement in the human resources available in the Secretariat, which is expected to have a positive impact on the Commission's work.

13.With particular reference to communications in Arabic, the Working Group believes that with the recruitment of an Arabic legal officer and the Arabic translator/interpreter, it will be possible to speed up the processing of communications in Arabic which have been slow in terms of their processing due to the lack of a permanent translator and an Arabic legal officer to handle complaints in Arabic.

14.Notwithstanding the improvements indicated above, the challenges related to the limited funds allocated for the translation of communications and submissions by Parties, particularly to/from Arabic where most communications are in English and must be translated into Arabic, will still persist in the medium term because of the backlog of documents to be translated. The Parties' failure to meet the deadlines stipulated in the Commission's Rules of Procedure and the low rate of implementation of the Commission's decisions also persist.

b) Recommendations

15. The Working Group

i. urges States Parties to implement Commission decisions and inform the Commission of all measures taken or in the process of being taken to implement decisions concerning them within the 180-day period provided for in Rule 112(2) of the Rules of Procedure (2010) and Rule 125(1) of the Rules of Procedure (2020);

ii. reiterates its request that all Parties to the Communications apply the relevant provisions of the Rules of Procedure, particularly with regard to the deadlines for submitting arguments and evidence at the different stages of the procedure;

iii. encourages parties to use the Standardised Complaint Forms available on the following Commission websites:
<https://t.co/K6uvGhu2ZZ?amp=1> - English
<https://t.co/w54RAKzmTW?amp=1> - French
<https://t.co/Gt7lkcdgOf?amp=1> - Portuguese

iv. refers Litigants to the Practice Directives on the temporal scope of the Rules of Procedure (2020), as long as they are not yet changed. The Practice Directives can be accessed on the Commission's web pages:
<https://t.co/wwxYJtcMdK?amp=1> - English
<https://t.co/9nykd1lKir?amp=1> - French
<https://t.co/WOQOuFBn3b?amp=1> - Portuguese

c) Perspectives

16. The WGC believes that its establishment was essential to ensuring streamlined and more efficient handling of Communications. However, the achievement of this objective still depends on the collaboration of all relevant stakeholders at the regional and national levels.

17. The Working Group believes that the complementarity between the Commission and the African Court is an important mechanism for strengthening the protection of human rights in Africa. For this purpose, the Commission has instructed the Secretariat to process the transfer of two (2) cases to the African Court, and encourages Parties to cooperate with the Commission in this regard.

18. The Working Group encourages the Secretariat to continue working towards completing the establishment of the transitional legal aid scheme of the Commission, as well as amending the Practice Directives to create a mechanism for opposition to default decisions, a defence mechanism which will make the proceedings before the Commission more balanced.

19. The Working Group is ready to cooperate with the high courts of the States Parties, national bar associations, research institutions and universities in the dissemination and popularisation of the Commission's jurisprudence and the procedure for the protection of the human and peoples' rights.

20. The WGC, therefore, continues to gather diverse perspectives and suggestions from all stakeholders with a view to strengthening the fulfilment of its mandate and, by extension, to enhance the Commission's mandate entrusted to it by the States Parties.

21. I would not want to conclude without congratulating Pedro Rosa C3, Head of Communication Coordination Team, and his entire team for the remarkable work accomplished since he took office.

Thank you for your kind attention!