

The ACtHPR Monitor

Independent news, comment and debate on the African Court on Human and Peoples' Rights

Essential Guide to the African Court on Human and Peoples' Rights

This guide is intended to provide basic information on the African Court on Human and Peoples' Rights (Court). The guide should be viewed as a starting point only and does not constitute legal advice.

Why was the Court established?

Every country in the African Union except South Sudan has ratified the African Charter on Human and Peoples' Rights. Countries that have ratified the African Charter must ensure that they uphold the rights contained in it, as well as rights contained in other human rights instruments they have ratified. African Charter rights include the right to health, education and a fair trial. The African Charter is freely available on the internet and via The ACtHPR Monitor's links page. The Court was established to hear applications from AU member states, Intergovernmental Organizations, the African Commission on Human and Peoples' Rights (Commission), individuals, NGOs and peoples' claiming a country has violated the rights found in the African Charter or other international human rights instruments.

Who can make an application to the Court?

In order for any party to make an application, the country subject to the application must have signed the Protocol establishing the Court. So far, 30 countries have signed this Protocol. For these 30 countries, the Court has the jurisdiction to hear cases referred to it either by an AU country including itself, an Intergovernmental Organization, or by the Commission. If a country has not signed this Protocol the Court cannot consider an application concerning it. For individuals and NGOs to apply directly to the Court, the country in question must have signed the Protocol and signed an additional declaration allowing individuals and NGOs to make direct applications. Currently, only eight countries have made this declaration, although Rwanda has now withdrawn its declaration, which will take effect on 1 March 2017. You can use The ACtHPR Monitor Country Tracker to find out more about your country www.athprmonitor.org/country-tracker.

When can I make an application?

It is important to remember that the Court is a court of last resort. Therefore it will only, save in exceptional circumstances, consider a case when an applicant has exhausted all possible avenues within the country itself. This usually means that before making a claim before the Court an applicant should have taken their case to the highest court in their country. If the Court finds you have not taken your case as far as possible domestically, it may decline to consider your application further even if it has jurisdiction. If you have taken your case as far as possible in your country, and are considering bringing a case before the Court it is important to first determine whether the Court can consider your case by establishing whether the country has signed the Protocol and the declaration.

How do I make an application?

If you have exhausted local remedies and the Court has jurisdiction to consider your case, applications can be made free of charge directly to the Court via post, fax or email. Applications can be written in any of the Court's official languages (English, French, Arabic and Portuguese) or another language if applicants do not speak these languages. An application must always state the applicant's details, the country subject to the claim, the alleged violations, the outcome sought and proof of exhaustion of local remedies. The Court has established a legal aid programme allowing applicants to access legal advice. A list of lawyers and more details on the legal aid programme are on the Court's website.

What powers does the Court have?

If the Court finds that a country has breached a person or peoples' rights, it can order that country to amend its laws to fix the breach. The Court can award reparations to successful applicants. Between an application and a judgment, the Court can also issue provisional measures to stop a country taking actions that could have a very serious consequence on an applicant's case before the Court, for example, to stop the sale of land subject to an application. Once a judgment has been rendered it is final and there can be no appeal. An application to review a judgment is possible, but only if new information not known at the time of the original application comes to light.

Want to know more, or need more information before making an application? Visit www.athprmonitor.org and contact us at contact@athprmonitor.org or [@athpr_monitor](https://twitter.com/athpr_monitor)