

The African Regional Human Rights Courts

The African human rights system is the youngest operational regional system for protecting human rights.

Comprising the African Court on Human and Peoples' Rights, established under the African Union, and two sub-regional courts, the East African Court of Justice, established by the East African Community, and the ECOWAS Community Court of Justice, established in the context of the Economic Community of West African States, these courts have proven themselves to be solid adjudicators of alleged human rights violations committed in the region.

This brief information note sets out the key characteristics of these courts and the options for pursuing human rights claims before them.

African Court on Human and Peoples' Rights

The African Court on Human and Peoples' Rights is based in Arusha, Tanzania. It is the counterpart of the African Commission on Human and Peoples' Rights in the African Union's human rights system and can issue binding decisions on human rights violations. The Court can hear complaints brought by **individuals** against the governments of **Benin, Burkina Faso, Ivory Coast, The Gambia, Ghana, Malawi, Mali and Tanzania**. It also has the power to issue advisory opinions.

The Court has **jurisdiction** over disputes concerning the interpretation and application of the **African Charter on Human and Peoples' Rights** as well as **any other human rights treaty ratified by the State concerned**. For example, the African Charter on Democracy, Elections and Governance, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, African Charter on the Rights and Welfare of the Child, and the African Union Convention Governing Specific Aspects of Refugee Problems in Africa. The Court has also handed down judgments finding violations of the International Covenant on Civil and Political Rights.

Complaints have to be brought within a **"reasonable period of time" from the individual's exhaustion of domestic remedies**. Remedies available include declaratory relief, orders for legislative change and compensation/reparations. **Judgments handed down by the Court so far include** the right to participate in government, freedom of expression, the right to life, and the right to a fair trial.

Economic Community of West African States Community Court of Justice

The ECOWAS Community Court of Justice is based in Abuja, Nigeria. It has the power to issue binding decisions on human rights violations. The Court can hear complaints brought by **individuals** against the Member States of **Benin, Burkina Faso, Cape Verde, Ivory Coast, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo**.

The Court has a wide jurisdiction. It can consider cases alleging **violations of any human rights that occur in any of the Member States**. Individuals can bring their complaint to the Court directly, without having to exhaust domestic remedies. Individuals preferably need to bring their complaints to the Court **within three years** of the alleged violation.

The **remedies available** include declaratory relief, compensation/reparations and specific orders such as release from custody. The court has handed down around **150 human rights decisions** so far, on a wide range of issues including slavery, torture, freedom of expression, the right to education, child rights, access to justice, fair trial and arbitrary detention, access to medical treatment and the right to a family life.

East African Court of Justice

The East African court of Justice is located in Arusha, Tanzania. The Court's major responsibility is to ensure Partner States of the East African Community act in accordance with the Community's establishing treaty. **Article 5, 6 and 7 of the East African Community Treaty** incorporates human rights principles and the Court has decided it can consider human rights violations in the context of considering a complaint about a Treaty violation.

Any individual residing in one of the Community's Partner States can bring complaints directly to the Court, challenging the legality of any Act, regulation, directive, decision or action of a Partner State. The Partner States are **Burundi, Kenya, Rwanda, Uganda and Tanzania**. There is no need to exhaust domestic remedies before applying to the Court, but individuals must lodge their complaint **within two months** of the decision they wish to challenge.

Remedies available include declaratory relief and sometimes orders for legislative change. So far, the Court has handed down **judgments** concerning *habeas corpus*, freedom of expression and the right to a fair trial.

Contact us

If you are considering filing a human rights claim in the African regional courts and would like to discuss and explore your options with us, please do not hesitate to get in touch. Please contact us at africanhrcourts@leighday.co.uk for an initial consultation, free of charge.

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