

## **Guidance: Exhausting domestic remedies under the African Charter on Human and Peoples' Rights**

### **Overview**

It is a principle of international law that the protection of human rights should be carried out by national governments. Domestic judicial procedures are viewed as easier to access and more efficient at resolving a claim. Enforcement by international bodies is typically the last means of achieving justice for the claimant if the national government has failed to provide a remedy for the violation of rights. This is because access to international enforcement mechanisms is a last resort, since a state must be given an opportunity to correct the violation or to carry out justice.

Therefore, before submitting a complaint to any international or regional body, such as the African Commission on Human and Peoples' Rights or the European Court of Human Rights the individual or non-government organization (NGO) must first attempt to remedy the violation using national law: this is known as 'exhausting domestic remedies'. Exhaustion of domestic remedies requires use of all available procedures to seek protection from future human rights violations and to obtain justice for past abuses. Local remedies can range from making a case in court to lodging a complaint with local police.

The aim of this guide is to:

1. introduce the admissibility criteria for exhausting domestic remedies set forth in Article 56 of the African Charter on Human and Peoples' Rights;
2. explain how to submit a communication before the Charter's oversight body, the African Commission on Human and Peoples' Rights;
3. provide general guidance to exhausting domestic remedies under the African Charter;

4. describe various exceptions to the requirement of exhausting domestic remedies.

## **Article 56**

Article 56 of the African Charter on Human and People's Rights (the 'Charter') sets forth the criteria for consideration and admissibility of a communication from complainants seeking to lodge a case before the African Commission on Human and Peoples' Rights (the 'Commission') or the African Court on Human and Peoples' Rights (the 'Court'). There are several admissibility criteria<sup>1</sup> set out in Article 56,<sup>2</sup> the most critical of which is that communications must be:

- sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged; and
- submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized with the matter.

Most cases fail because of lack of exhaustion. The Charter requires proof of exhaustion so that the Respondent State has the opportunity to remedy the alleged violation in its domestic courts.

### **Step 1: Seek a domestic remedy**

#### ***What does 'exhaustion of local remedies' mean?***

Before submitting a complaint to an international body, a complainant must first seek and exhaust all remedies for the violation under national law. This means using, or attempting to use, all procedures in your home country to rectify a past or recurring violation of rights. 'Local remedies' are any national domestic judicial or legal mechanisms that ensure the settlement of disputes and protection of rights. Importantly, domestic remedies refer to remedies sought from judicial courts. Domestic remedies are considered exhausted if all levels of national courts have been petitioned. Non-judicial remedies are not considered an exhaustion of domestic remedies. The Commission has found, for example, that proceedings before a national human rights commission did not

satisfy the exhaustion requirement and must be followed by an action by a judicial court.<sup>3</sup>

### ***What are the criteria for exhausting local remedies?***

The Commission has established that a complainant must only exhaust domestic remedies that are 'available, effective, and sufficient' before bringing a case under the Charter.<sup>4</sup>

- A remedy is 'available' if the petitioner can pursue it without impediment in practice.
- A remedy is 'effective' if it offers a reasonable prospect of success to relieve the harm suffered.
- A remedy is 'sufficient' if it is capable of producing the redress sought by the complainant.

### **Step 2: Exceptions to the domestic remedies requirement**

Exhaustion of domestic remedies is one of the determining procedural factors of admissibility for a case to be heard by the Commission under Article 56 of the Charter. However, the Commission and the Court recognise that domestic remedies are not available or are ineffective under certain circumstances. That said, the Commission has emphasized<sup>5</sup> the importance of approaching national courts prior to communicating with the Commission if doing so has the slightest likelihood of resulting in an effective remedy. Merely doubting the likelihood of a resulting just remedy due to past or isolated incidents will not guarantee admissibility to the Commission.

Under international law, there are limited exceptions to the exhaustion requirement. The complainant must convincingly demonstrate that no local remedies are available, such that there is no domestic legal action which can lead to resolving the complaint at the national level. According to the Commission's guidelines on the submission of communications, complainants are expected to indicate, for instance, the courts where they sought domestic remedies, the process and the time taken. Complainants must

indicate that they have had recourse to all domestic remedies to no avail. Explanations of any failure to exhaust domestic remedies must be explained in a reasonable and acceptable manner.

As stated above, the Commission has specifically stated that domestic remedies must be available, effective and sufficient for the individual to seek justice for a violation of rights.<sup>6</sup> If domestic remedies do not meet these criteria, the complainant should claim this by providing full details of the existing conditions in the respondent State.

Under human rights law, the right to appeal is universally accepted under various charters and conventions including the International Covenant on Civil and Political Rights, the American Convention on Human Rights, the European Convention of Human Rights, and the African Charter. However, appeal processes may vary between legal systems- for example one may be required to obtain permission to appeal or may only appeal on paper without an oral hearing. Additionally, the basis of appeals may differ. For example, the European Court of Human Rights ('ECtHR') has established that, in common law jurisdictions, a judgment from the court of first instance (the trial court) may be appealed only on the basis of an error in fact or law (which may concern an error of substantive or procedural law).<sup>7</sup> Similarly, the East African Court of Justice has explained that a higher court only has jurisdiction to decide matters of appeal based on errors of law or fact or jurisdiction, or procedural irregularity.<sup>8</sup> Thus, it is important for a complainant to understand the basis of his or her appeal from the court of first instance and whether or not it must be exhausted.

### ***Domestic remedies are unavailable***

A complainant may claim that domestic remedies are unavailable if they are not readily accessible or 'cannot be invoked by the State to the detriment of the complainant.'<sup>9</sup>

One example of an inability to exhaust domestic remedies is a significant and unduly prolonged legal process within the judicial system due to the existence of multiple courts and the lack of coordination and resources, including dismal conditions of service, staff shortages, lack of adequate training, debilitating infrastructure and logistical problems.<sup>10</sup>

A complainant may be able to seek an exception to the requirement of exhausting

domestic remedies if he can convincingly demonstrate that no remedy would be acquired within a reasonable period of time.<sup>11</sup>

### ***Note on indigence***<sup>12</sup>

The Commission has not clarified its position on whether an indigent complainant may claim unavailability of a domestic remedy due to a lack of legal aid provided by the State. Indigence may not be a sufficient exception to the exhaustion of local remedies requirement *per se* on the ground that they are inaccessible. For example, assistance from a NGO may qualify as legal aid. Additionally, the Commission may consider remedies to be unavailable for indigent complainants who were subjected to detention based on mental health factors and who do not have representation or assistance in their communication.<sup>13</sup> The complaint must be substantiated by particular details of the violations, legal proceedings, the need of the complainant for legal assistance, and past effort of the complainant to secure legal aid which was unavailable.

### ***Domestic remedies are ineffective***

A remedy will be deemed to be effective if it is useful or offers a prospect of success that is sufficiently certain or which would produce an expected result. A domestic mechanism to achieve justice would be considered ineffective if it is not a valid and functioning service that would produce a practical and real remedy to the violations claimed.

### ***Domestic remedies are insufficient***

A remedy will be found sufficient if it is capable of redressing the complaint. It *may* be deemed insufficient if, for example, the complainant cannot rely on the judiciary of his country because he believes there is a fear for his life or even those of his relatives.<sup>14</sup> Some human rights bodies like the Inter-American Commission on Human Rights ('IACHR') and the Convention on the Elimination of all Forms of Discrimination Against Women Committee ('CEDAW Committee') have found that administrative and extraordinary remedies may fall under the exhaustion requirement if they can provide independent and enforceable decisions through a due process of law under the

particular circumstances of the case.<sup>15</sup> However, the African Commission has clearly stated that to meet the exhaustion requirement, a complainant must take his or her case to the highest *judicial* authority of the state exercising mandatory (not discretionary) powers to provide a remedy, and the judicial authority must be independent from the power of public authorities. Quasi-judicial bodies are explicitly exempted from the exhaustion requirement under the Charter.<sup>16</sup> Thus, there is no requirement to exhaust multiple local remedies, such as lodging a complaint with an ombudsman or national human rights institution, especially where an effort to obtain a remedy has been attempted and use of another remedy would achieve the same objective.

The Commission has also declared a remedy to be insufficient because its pursuit depended on extrajudicial considerations, such as discretion or some extraordinary power vested in an executive state official which would prevent an independent and fair hearing. The complainant must adequately demonstrate that domestic mechanisms are unsatisfactory for the purpose of producing a remedy for the complainant.

### ***Domestic remedies are unreasonably delayed***

A case regarding the violation of human rights must initially go through all levels of national jurisdiction. Domestic remedies are not considered exhausted if a case is still ongoing. This is typically when a national court is examining the application. However, the Commission has found an exception when it is obvious that the national judicial procedure is unduly prolonged and protracted. The Commission has admitted cases where the domestic case is pending at an appellate court.<sup>17</sup> While there is no fixed defined period that can be understood as 'undue prolongation,' the Commission has found on two separate occasions that a case pending for 12 years and a case pending for 5 years was deemed to be unjustifiable<sup>18</sup> and therefore found that the requirement to exhaust domestic remedy did not apply. Additionally, when the complainant(s) are minors, the Commission may likely find that a five year period during which a case is pending at the national level is particularly long in relation to the lifespan of a child, who would no longer be a child if ever a decision would be rendered by a national court.<sup>19</sup> Also, the more serious the violation committed by the State, the more likely the

Commission may find the communication admissible within a shorter period of time (see further below, under 'Additional Criteria').

### ***Additional criteria***

The Commission will examine all the facts and circumstances surrounding the complaint when making a decision on admissibility.<sup>20</sup> Below are examples of circumstances a complainant may cite to request an exception to the exhaustion of domestic remedies requirement in the communication. *This list is not comprehensive.*

1. There is a 'state of emergency' in the country where the complainant has suffered grievances which would hinder the administration of justice. Examples of public emergencies include, but are not limited to, armed conflicts, civil and violent unrest, and environmental or natural disasters. Such a situation is considered<sup>21</sup> by the African Commission to be an attempt to submit the case to domestic tribunals. This can also occur when the State invokes a derogation clause rendering domestic remedies non-existent or illegal, preventing all recourse for the complainant.
2. The human rights violations are so extensive or pervasive that it is neither practical nor advisable to pursue domestic remedies. Examples include widespread torture, institutionalized practices of human rights violations<sup>22</sup>, extrajudicial executions and restriction to fundamental freedoms. The complainant must fully explain the scope and nature of the mass violation, for example, that it is impractical to bring the violation before the courts.
3. The exhaustion of domestic remedies is not 'logical' or when access to justice is obstructed. For example, a complainant who escaped imprisonment or systematic torture and fled his country, later claiming his detention illegal, would not be required to return to his country to seek or exhaust domestic remedies.<sup>23</sup>
4. The legal framework of the State prevents an available, effective and sufficient domestic remedy. This may be where the State has adopted a law or passed a

decree that results in an ouster of local jurisdiction such that any domestic remedy is non-existent.<sup>24</sup> This action by the State prevents courts from effectively and validly adjudicating any complaint or yielding any result.<sup>25</sup> It may also apply where the State has passed an amnesty law preventing prosecution of perpetrators.<sup>26</sup>

### **Step 3: Submit the complaint to an international body**

Once domestic remedies have been exhausted, or if there is no available, sufficient or effective domestic remedy available, the complainant may submit a communication to the Commission. There is no limitation on who may submit a communication to the Commission. An individual who has been a victim of human rights abuses may submit a communication regarding the violation or may submit a complaint on behalf of the minority group to which they are a member. Additionally, a local organisation or an organisation based outside Africa may submit a communication under the Charter. Indeed, 'human rights NGOs have become important in providing legal representation and legal aid to indigent complainants bringing their communications before the Commission.'<sup>27</sup>

All communications must be as detailed as possible. Depending on the resources available to the complainant, communications may include affidavits from witnesses, other victims, relatives, and individuals who possess relevant and timely information about the issues contained in the complaint, as well as photographic and video evidence. For example, a communication can include the type of treatment by police, texts of applicable national or local laws, local judicial decrees, and relevant publications or documents.<sup>28</sup> Under Article 56(7), the Commission will not consider communications that have been decided by some other international judicial mechanism similar to the Commission, but will consider communications previously discussed by non-judicial international bodies.<sup>29</sup> The complaint should therefore detail whether the case has been referred to any other international settlement body, has already been decided, or is being heard by some other human rights body. The complaint should also indicate the stage of the case in those other treaty bodies.



Although there is no defined time limit during which a communication must be submitted before the Commission, it is advisable to submit the communication as soon as possible after all domestic legal remedies have been exhausted, or when the complainant realizes the remedies are not available, effective, and sufficient. The Commission has previously interpreted the 'reasonable time period' requirement in light of all facts surrounding a particular complaint and considered individual reasons for delay to ensure a just and fair determination.

Recently, the Commission has drawn on jurisprudence from the IACHR and the ECtHR, and their respective charters, where it concerns the 'reasonable time period' requirement. The Commission now requires that a communication be submitted within a six month period<sup>30</sup> to meet the reasonable time requirement, but it may consider a delayed communication submitted after this time frame if compelling reasons are presented or if it is an unusual standard in relation to the merits of the case.

Because the Commission is demonstrating more stringent application of the six month rule, the complainant may wish, depending on the circumstances of the case, to submit a complaint within 6 months after the adverse ruling from the court of first instance while simultaneously appealing to the higher domestic courts, especially if domestic remedies have been unreasonably delayed. This avenue will allow the complainant to explain his or her attempt to exhaust all domestic remedies in a jurisdiction where they are not available, effective, or sufficient whilst still lodging a complaint within the specified time frame imposed by the Commission.

### ***Who has the burden of proof?***

The Commission applies a shifting burden of proof.

The complainant bears the initial burden of proof and is responsible for providing the Commission with all information which demonstrates that domestic remedies exist and have been exhausted, or that the complainant has attempted to exhaust such remedies and an exception provided for in Article 56 of the Charter applies.<sup>31</sup> The complainant should include detailed *prima facie* evidence about any complaints to, and decisions

made by, national authorities and/or legal proceedings that took place in the country but failed to culminate in sufficient justice for the alleged violation of rights. The Commission may request additional information from the complainant but failure to provide such information will result in a finding of inadmissibility.

The burden of proof then shifts to the State, if it disputes the complainant's position. It must respond to the complainant's allegations by showing how and why the complainant has not exhausted existing available, effective and sufficient remedies which are suitable to solve the complaint and cure the alleged violation. The complainant may then reply in writing to the State's response, and if the State does not respond or does not contest the allegations, the Commission may accept the allegations as true. If the complainant does not submit further communications to the Commission, it may treat the complainant's silence as a wish to withdraw his/her communication and would usually try to establish whether the silence is indicative of a lack of interest or whether it reflects circumstances beyond the complainant's control that prevent them from pursuing the communication.

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<sup>1</sup> The following are the complete list of admissibility criteria under Article 56: 'The name, nationality, and signature of the person or persons filing it, or in the case of NGOs the name(s) and signature(s) of the legal representatives; whether the complainant wishes his or her identity to be withheld from the State concerned; an address for correspondence, possibly including fax and/or email; a detailed description of the alleged human rights violations, specifying date, place, and nature of the alleged violations; the name(s) of the State(s) alleged to have violated the African Charter; any steps taken to exhaust domestic remedies, or an explanation why an exhaustion of domestic remedies would be unduly prolonged or ineffective; an indication that the complaint has not been submitted to another international settlement proceeding.' See 'A Conscientious Objector's Guide to the International Human Rights System,' available at <http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-communication-procedure>.

<sup>2</sup> Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

<sup>3</sup> African Commission, *Cudjoe v. Ghana* Communication 221/98, §12-14, Twelfth Annual Activity Report (1998-1999), §13. While the complainant was granted a decision in his favour by the

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Ghanaian Human Rights Commission, the African Commission found that ‘ the internal remedy to which Article 56(5) refers entails remedy sought from courts of a judicial nature, which the Ghanaian Human Rights Commission is clearly not,’ thus declaring the communication inadmissible.

<sup>4</sup> The leading authority on these criteria is African Commission, *Dawda Jawara v Gambia*, Communication Nos 147/95 & 149/96 (2000).

<sup>5</sup> African Commission, *Anuak Justice Council v. Ethiopia*, Communication No. 299/05 §58 (2006). ‘In the view of this Commission, the complainant is simply casting doubts about the effectiveness of the domestic remedies. This Commission is of the view that it is incumbent on every complainant to take all necessary steps to exhaust, or at least attempt the exhaustion of, local remedies. It is not enough for the complainant to cast aspersion on the ability of the domestic remedies of the State due to isolated or past incidences. In this regard, the African Commission would like to refer to the decision of the Human Rights Committee in *A v Australia* in which the Committee held that ‘mere doubts about the effectiveness of local remedies ... did not absolve the author from pursuing such remedies’. The African Commission can therefore not declare the communication admissible based on this argument. If a remedy has the slightest likelihood to be effective, the applicant must pursue it. Arguing that local remedies are not likely to be successful, without trying to avail oneself of them, will simply not sway this Commission.’

<sup>6</sup> *Anuak Justice Council v. Ethiopia*, §51.

<sup>7</sup> *Krombach v France*, ECHR App. No. 29731/96 (2001).

<sup>8</sup> *The Attorney General of the United Republic of Tanzania v. African Network for Animal Welfare*, Appeal No. 3 of 2014 (2014) §61-62.

<sup>9</sup> *Id.*

<sup>10</sup> In *Nixon Nyikadzino v Zimbabwe*, the Commission stated, ‘The African Commission through its jurisprudence made it clear that the whole purpose of asking Complainants to exhaust local remedies before approaching the Commission is to give the Respondent State a chance to redress the alleged human rights violations through its structures and organs. This is derived from the principle of complementarity which dictates that international or regional mechanisms do not and cannot substitute national courts; it is only when national courts or tribunals fail to deliver justice that international or regional organs will have jurisdiction to receive cases. This is why the African Commission has been stringently applying the exhaustion of local remedies rule and only in few justified circumstances has it waived such condition.’ Thus, a systematic lack of

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access to the courts may demonstrate that the domestic legal order does not provide an effective remedy for Charter violations. Any claim submitted by the complainant should include the legal argument that a lack of access to the courts may also be a violation of the State's obligation to provide a domestic remedy. The Commission warns, however, not to merely anticipate the outcomes of court proceedings or cast aspersion on the ability of the domestic remedies of the State due to isolated incidences.

<sup>11</sup> In *Odjouriby Cossi Paul v. Benin*, the African Commission declared the communication admissible on the ground that the proceedings pending for 18 months before the Appeal Court of Cotonou were unduly prolonged. In particular, all notifications and other requests for clarification sent addressed to the Appeal Court by the Commission through its Secretariat received no response, establishing 'evidence of silence of the State of Benin' Communication No. 199/97 (2004).

<sup>12</sup> African Commission, *Purohit and Moore v The Gambia*, Communication No. 241/2001 (2003).

<sup>13</sup> *Purohit and Moore v The Gambia*, §53. The Commission concluded, based on the facts of the case, that the right of legal redress and legal aid assistance would only in practice be available to the wealthy because individuals detained under the Lunatics Detention Act (LDA) were typically 'picked up from the streets or from poor backgrounds' and therefore indigent. This was considered a failure to meet non-discrimination standards and equal protection of the law vis-à-vis the detentions under the LDA which fell short of international norms.

<sup>14</sup> African Commission, *Gabriel Shumba v Zimbabwe*, Communication 288/2004 (2012), §63, 74; African Commission; *Rights International v Nigeria*, Communication No. 215/98 (1999), §24; African Commission, *Alhassan Abubakar v Ghana*, Communication No. 103/1993 (1996), §31; African Commission, *John D. Ouko v Kenya*, Communication No. 232/99 (2000), §19. 39, African Commission, *Dawda Jawara v Gambia*, Communication Nos 147/95 & 149/96 (2000), §35. See also Kudla v. Poland, Judgment, Application No. 30210/96, 26 October 2000 (ECHR 2000-XI), §159.

<sup>15</sup> Sullivan, D.J., *Overview of the Rule Requiring the Exhaustion of Domestic Remedies Under the Optional Protocol to CSDAW*, International Women's Rights Action Watch Asia Pacific 5-7 (2008).

<sup>16</sup> African Commission, *Priscilla Njeri Echaria (represented by Federation of Women Lawyers, Kenya and International Center for the Protection of Human Rights) v. Kenya*, Communication 375/09, (2011) §§ 54-57.

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<sup>17</sup> African Commission, *El Hadj Boubacar Diawara v. Benin*, Communication No. 18/88 (1994); African Commission, *Kenya Human Rights Commission v. Kenya*, Communication No. 135/94 (1995).

<sup>18</sup> African Commission, *Enga Mekongo v Cameroon*, Communication No. 59/91 (1995) (12 years pending); African Commission, *Oudjouriby Cossi Paul v Benin*, Communication No. 199/97 (2004) (5 years ongoing).

<sup>19</sup> See generally African Commission on Human and Peoples' Rights, 'Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa' (2003). Available at: <http://www.achpr.org/instruments/principles-guidelines-right-fair-trial/>.

<sup>20</sup> African Commission, *Mohammed Abdullah Saleh Al-Asad v. Djibouti*, Communication No. 383/110, (2014) §123-124.

<sup>21</sup> International Federation for Human Rights, *Practical Guide: The African Court on Human and Peoples' Rights towards the African Court of Justice and Human Rights*, pp. 87-88, (2010) ('The plaintiff in *Civil Liberties Organisation v. Nigeria* alleged that the normal application of law had been made difficult because of the state of emergency declared in the country. Due to the political situation in Nigeria, the Commission declared the communication admissible and proclaimed that in such a case, 'the procedure of domestic remedies would take too much time, but would also fail to produce any result' . . . 'Here the application of the exception can be matched with the condition of at least attempting to submit a case to domestic tribunals, as it had been expected in the case 220/98 *Law Office of Ghazi Suleiman v. Sudan*'). See African Commission, *Civil Liberties Organisation v. Nigeria*, Communication No. 129/94 (2000).

<sup>22</sup> The ECtHR has found that '[t]he (domestic exhaustion) rule is also inapplicable where an administrative practice consisting of a repetition of acts incompatible with the Convention and official tolerance by the State authorities has been shown to exist, and is of such a nature to make proceedings futile or ineffective', or where 'national authorities (have remained) totally passive in the face of serious allegations of misconduct or infliction of harm by State agents, for example where they have failed to undertake investigations or offer assistance". *Akdivar and Others v Turkey* (1996) ECHR App. No. 21893/93 Rep.143 § 67; *Mentes and Others v Turkey* (1997) ECHR, 58/1996/677 /867.

<sup>23</sup> African Commission, *Institute for Human Rights and Development in Africa (on behalf of Jean Simbarkiyé) v Democratic Republic of Congo*, Communication No. 247/02 (2006).

<sup>24</sup> African Commission, *Media Rights Agenda and Others v Nigeria* Communication 105/93, 128/94, 130/94 and 152/96 (1998).

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<sup>25</sup> African Commission, *Civil Liberties Org v Nigeria*, Communication No. 129/94 (1995).

<sup>26</sup> African Commission, *Zimbabwe Human Rights NGO Forum v Zimbabwe*, Communication No. 245/02 (2006); African Commission, *Monim Elgak, Osman Hummeida and Amir Suliman, (represented by International Federation for Human Rights (FIDH) and World Organization Against Torture (OMCT)) v. Sudan*, Communication No. 379/09 15<sup>th</sup> Extra-Ordinary Session (2014).

<sup>27</sup> Gumedze, S., *Bringing Communications Before the African Commission on Human and Peoples' Rights*, 3 African Human Rights Law Journal 122, 2003.

<sup>28</sup> Office of the High Commissioner for Human Rights, United Nations Guide for Minorities, Pamphlet No. 6 *Minority Rights Under the African Charter on Human and People's Rights*.

<sup>29</sup> *SHRO & COHRE v Sudan*, Communication Nos. 279/03 and 296/05 (2009); *Bakweri Land Claims Committee v Cameroon* Communication No. 260/02 (2004); *Amnesty International v. Tunisia* Communication No. 69/92 (1994); *Mpaka-Nsusu v. Zaire* Communication No. 15/88 (1994).

<sup>30</sup> International Federation for Human Rights, *Filing a Communication before the African Commission on Human and Peoples' Rights*, 2013, pp. 15-16. In *Michael Majuru v. Zimbabwe* the Commission stated that 'The provisions of other international regional instruments like the European Convention on Human Rights and Fundamental Freedoms and the Inter-American Convention on Human Rights, are almost similar and state that they ... may only deal with the matter...within a period of six months from the date on which the final decision was taken', after this period has elapsed the [European/ Inter-American] Court/Commission will no longer entertain the communication.' In this case, the Commission considered that a 22 months delay in bringing the case before the Commission was outside a 'reasonable' time period (citing African Commission, *Michael Majuru v. Zimbabwe*, Communication No. 308/05 §108)).

<sup>31</sup> International Federation for Human Rights, *Practical Guide: The African Court on Human and Peoples' Rights towards the African Court of Justice and Human Rights*, pp. 86, (2010).