

**African Governance Architecture Support Project  
(AGA-SP)**

**Contract: PANAF/2020/419-773**

**Technical Assistance - Short-Term Expertise Mission  
Terms of Reference**

|                               |  |             |                     |
|-------------------------------|--|-------------|---------------------|
| <b>Subject</b>                | <b>THE ACHPR, THE ACERWC AND THE ACTHPR, IN THE CONTEXT OF THE AFRICAN GOVERNANCE ARCHITECTURE SUPPORT PROJECT (AGA-SP), AIM TO DEVELOP A MASSIVE OPEN ONLINE COURSE (MOOC) ON LITIGATION BEFORE THE AFRICAN UNION (AU) HUMAN RIGHTS BODIES AND THEIR JURISPRUDENCE.</b> |             |                     |
| <b>Country</b>                | <b>VARIOUS – ETHIOPIA/LESOTHO, TANZANIA, THE GAMBIA,</b>   |             |                     |
| <b>Number of working days</b> | <ol style="list-style-type: none"> <li><b>1. PREPARATION PHASE: 4</b></li> <li><b>2. REALISATION PHASE: 23</b></li> <li><b>3. REPORTING PHASE: 3</b></li> </ol>  |             |                     |
| <b>Responsible expert</b>     | <b>KEY EXPERT, NAME</b>  |             |                     |
| <b>Author</b>                 | <b>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</b>  | <b>Date</b> | <b>23 JULY 2021</b> |

**i. Background of the technical assistance mission**

(Description of the need for action by underlining the added value of this assistance in terms of impact for the Organ and the global AGA-SP project.)

**1.1 Background on the AU Human Rights Bodies**

The ACHPR, the ACERWC and the ACtHPR are charged with the responsibility to protect and ensure the effective enjoyment of human, children's, and peoples' rights in Africa. Since their operationalisation in 1987, 2001 and 2006, respectively, these bodies have charted a viable path for the protection of human rights in Africa. Their establishment has brought renewed hope and optimism on the African continent, and since their operationalization, the three organs have positioned themselves firmly as some of the pivotal instruments in the quest for continental integration, peace, greater unity and solidarity, good governance, respect for human rights and development.

The jurisprudence of the ACHPR, ACERWC and the ACtHPR covers a wide range of human rights issues shaping the socio-economic and political landscape of the continent, including non-discrimination, nationality, elections, independence of the judiciary, freedom of expression, indigenous peoples' rights to economic, social and cultural development, child marriage, the death penalty, etc. This reinforces the widely held principles of indivisibility, interrelatedness and interdependency of human rights, and the view that respect for human rights provides a foundation upon which rests the political structures of human freedoms. The achievement of human freedoms, in turn, generates the will as well as the capacity for economic and social progress, leading to the attainment of economic and social development, that subsequently provides the basis for durable peace.

## **1.2 Rationale of developing a MOOC on litigation before the ACHPR, ACERWC and ACtHPR and their jurisprudence**

For the AU human rights bodies to have a positive impact on the lives of African citizens, it is essential that the litigators appearing before these bodies have a thorough understanding about their procedures, so that they can maximise the use of the said bodies and adequately represent the needs of individuals, children, peoples and the general public.

It is for that reason that the ACHPR, ACERWC and ACtHPR intend to organise a Massive Open Online Course (MOOC) on their procedures and their jurisprudence. The project aims to offer tailored educational resources to (potential) litigators before the AU human rights bodies, including legal counsel for the Applicants as well as counsel representing States, to enhance their knowledge relating to the respective litigation procedures and to improve their skills in overcoming commonly experienced practical issues in the domain of African international litigation. It is envisaged that this will improve the quality of proceedings before the human rights bodies.

This improved level of quality of the AU human rights bodies' proceedings will be reflected in the avoidance of pleadings that are vague, incoherent, incomplete, verbose, contain factual and linguistic mistakes, lack adequate evidence for the different legal arguments, and which do not take recent developments in African human rights law, including the AU human rights bodies' own evolving jurisprudential practice, into account.

The goal of explaining in greater detail the various steps of the AU human rights bodies' procedures and identifying quality assurances based on their evolving practice would also aim to address the issue of under-utilisation of certain special procedures, such as third party interventions, amicable settlement procedures and compliance procedures.

For example, by increasing the number of third party interventions by States and other legal experts as *amicus curiae* in proceedings before them, the AU human rights bodies may benefit from access to essential expertise and information that it might otherwise not have at its disposal, which may result in better decision-making.

Furthermore, through an increased use of the amicable settlement procedure, more disputes can be effectively resolved through dialogue under the auspices of the ACHPR, ACERWC or the ACtHPR. These amicable procedures to which the parties voluntarily agreed would more likely lead to mutually satisfactory solutions of human rights disputes.

Through an increased involvement of relevant actors in the procedures relating to the implementation of the AU human rights bodies decisions, while being better informed about the scope and modalities of such compliance procedures, it will also be more likely to avoid or at least mitigate non-compliance with their decisions. These actors may include diplomats, journalists, parliamentarians, governmental officials, judges, staff from National Human Rights Institutions (NHRIs), staff from civil society organizations (CSOs) and other staff from international organisations. This result is of vital importance since non-compliance or partial compliance with the AU human rights bodies' decisions erode the confidence by African peoples in the commitments and human rights credentials of their governments, undermine the credibility in the effectiveness and added value of the African human rights system and ultimately leads to a denial of justice.

## ii. Objectives of the technical assistance mission

The Expert (Team) deployed under the mission will manage the project, deliver all course content and produce a Massive Online Open Course (MOOC) on litigation before the human rights organs of the African Union (AU), namely, the African Commission on Human and Peoples' Rights (ACHPR), the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) and the African Court on Human and Peoples' Rights (ACtHPR) and their jurisprudence.

The MOOC has as its **primary objectives** to:

- i. Make available relevant and practical information to (possible) litigators, who are geographically dispersed over the continent, about the procedural aspects of litigation before the AU human rights bodies and their jurisprudence.
- ii. Support litigators before the AU human rights bodies in developing skills, competencies and practical knowledge about their different litigation procedures and their jurisprudence.
- iii. Create an environment where litigators before the ACHPR, ACERWC and the ACtHPR can share ideas from their professional practice with other litigators across the African continent, building a network of African international litigators and supporting them in collaboratively developing new ideas for their practice.

The MOOC's **secondary objectives** are to:

- i. Increase public awareness about the existence of the AU human rights bodies, their functioning, their jurisprudence and their added value to the African human rights landscape.
- ii. Complement existing initiatives of the AU human rights bodies on developing the capacity of litigators before them.
- iii. Familiarise African decision makers and scholars with certain human rights aspects of continental integration.

- iv. Enhance respect for African human rights/international law by developing the competencies and skills of government officials and legal practitioners to ensure effective and efficient implementation of the AU human rights bodies' decisions
- v. Promote teaching and research on the AU human rights bodies, including the integration of African perspectives on international law practice in the curriculum and research agendas of African universities, in the curriculum of continuing judicial education offered by national judiciaries and the curriculum of continuous learning programs offered by African bar associations.
- vi. Strengthen partnerships between the AU human rights bodies and other institutions in matters of litigation before international human rights bodies.

### iii. **Participants and institutions involved**

The target participants of the MOOC can be divided into two groups. It is expected that the full course will primarily be of interest to actors intervening directly and regularly in the procedures before the AU human rights bodies.

For the course's secondary audience, it is expected that only some modules will be of interest, or certain combinations of modules, rather than the entire course.

#### 3.1 Primary audience

- i. **Possible applicants** to the AU human rights bodies (including CSOs) and their legal representation.
- ii. **State counsel** from countries that have ratified the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child.
- iii. **State counsel** from countries that have ratified the African Court's Protocol and made the Article 34(6) Declaration and as well as state counsel from countries that are considering making the Declaration or ratifying the African Court's Protocol.
- iv. **Civil society organisations** involved in public interest litigation considering filing matters before the AU human rights bodies
- v. **Experts** considering intervening as *amicus curiae*.
- vi. **Law school students**
- vii. **Judicial Training Institutes**

#### 3.2 Secondary audience

The following actors may have an interest in some aspects of the MOOC:

- i. **National and international judges:** to gain relevant information about pertinent developments in the African human rights legal regime so that they can take that respective jurisprudence into account when resolving human rights related disputes and thereby facilitate a continental harmonisation of human rights law.

- ii. **Parliamentarians:** to better understand the necessity and salience of enacting legislation to implement the AU human rights bodies' decisions and holding government accountable for their commitments in relation to African human rights law.
  - iii. **Government officials of respective ministries related to implementation of the AU human rights bodies' decisions:** to enhance their capacity in ensuring effective, timely and well-coordinated implementation of the decisions.
  - iv. **Journalists:** to be better equipped to provide the general public with objective and unbiased information about relevant human rights developments that may concern citizens.
  - v. **National Human Rights Institutions (NHRI) staff:** to increase competencies in making relevant submissions as *amicus curiae*, follow-up on the implementation of AU human rights bodies' decisions, disseminating information about their jurisprudence, ensuring harmonisation between national human rights strategies and the work of the AU human rights bodies.
  - vi. **Bar Associations / Law Societies:** to develop greater expertise in training lawyers and promoting exchanges of information on developments in African human rights law, including the jurisprudential developments of the AU human rights bodies.
  - vii. **Universities, including law schools:** to develop a better understanding of how to train the next generation of international lawyers, to ensure their familiarity with the African human rights law/jurisprudence, and make relevant submissions as part of legal aid clinics or as *amicus curiae*.
  - viii. **Civil society organisations (CSOs):** to increase competencies in monitoring the implementation of the AU human rights bodies' decisions, monitoring human rights trends more generally as well making relevant submissions as *amicus curiae*.
  - ix. **International organisation staff:** to better identify new opportunities for fostering enhanced collaboration with the AU human rights bodies in executing the shared mission of guaranteeing greater respect for human rights on the continent.
- iv. **Expected results and deliverables of the technical assistance mission**

The following are the expected results and deliverables of the technical assistance mission

#### 4.1 Project inception report

- i. Based on an initial meeting with the MOOC Steering Group, to discuss the project, validate critical objectives, agree on learning objectives and outcomes, and to develop a project plan to guide the project through completion.
- ii. Based on desk review of the content as well as interviews with relevant experts from diverse geographical and institutional contexts to support the planning and development of the MOOC content.

- iii. Based on a comprehensive needs-assessment and SWOT analysis, taking into account experiences with similar pre-existing MOOCs and other complementary activities related to building the capacity of litigators before the AU human rights bodies.
- iv. Sets out in detail the methodology, work programme and approach to the project, including liaison modalities with the MOOC Steering Group and other relevant stakeholders.

#### **4.2 Detailed course overview and plan**

- i. The overall course will consist of eight modules, with each module comprising of 5-6 sessions lasting 8-12 minutes each. The total duration of the MOOC would be around 8 hours.
- ii. Provide a detailed plan of the module structure, learning objectives, course content, learning outcomes as well as the measurement of those learning outcomes.
- iii. Identification of specific learning resources and assessment tools of the MOOC that will need to be collected or developed; specific pedagogical approaches that will be adopted; and feedback opportunities that will be provided to participants.
- iv. Identification of a pool of candidate lecturers and securing the participation of a geographically diverse, gender balanced, multicultural experts - ideally with different professional backgrounds and experience with the AU human rights bodies' procedures.

#### **4.3 Course content and design specifications**

- i. Identify for each module a selection of mandatory reading materials and a longer list of suggested (optional) readings for course participants who want to explore the topics in greater detail. Both the required and suggested readings should be made freely available to course participants by selecting material that are open access or for which the open access rights will be negotiated.
- ii. Compile a faculty consisting of renowned experts in African human rights law, including eminent scholars as well as highly qualified practitioners with experience in intervening in procedures before the AU human rights bodies.
- iii. While the language of instruction is expected to be in English and/or French, subtitles and/or dubbing should be made available in all four AU working languages (English, French, Arabic, Portuguese) for all sessions.
- iv. Develop an optional multiple-choice test of 1-3 questions for at the end of each session. At the end of the course an optional final exam with 20 multiple choice

questions should be organised drawing on the content of both the video material and the required reading material attached to the 8 modules.

- v. Provide the possibility of awarding an optional certificate to those participants who completed all modules, passed the majority of the multiple-choice tests at the end of each session and passed the final exam at the end of the course.
- vi. Create a discussion forum as a part of the MOOC where course participants can ask questions and share ideas about their professional practice with other participants.
- vii. Design the course content in such a way to allow each of the target audiences for the course to select different learning pathways. Accordingly, the proposed structure would provide flexibility for distinct learner pathways, with the possibility for learners to self-select which pathway(s) they follow.
- viii. Deliver all educational components of the MOOC, including all course content, required and suggested reading materials, and evaluation and assessment tools.
- ix. Ensure course material is suitable for online learning and that the final product will have a consistent look and feel, is easy to navigate and has consistency in messaging. Tensions in opinions or approaches among multiple presenters in multiple modules need to be either aligned or the differences of opinion need to be at least acknowledged. Repetition of messages or content between sessions or modules also needs to be avoided.
- x. Deliver a detailed project plan for the development of the videos for all the modules of the MOOC.

#### **4.4 Sample videos**

- i. Delivery of sample videos.
- ii. Undertake a review of the sample videos in collaboration with the MOOC Steering Group and other relevant stakeholders, and prepare a lessons-learned checklist.

#### **4.5 Final MOOC**

- i. Prepare the final MOOC with all video, reading and assessment materials and the discussion forum integrated into one platform, based on the review by the MOOC Steering Group and other relevant stakeholders.
- ii. Ensure that the final MOOC is ready for launch.

#### **4.6 Marketing and communications**

- i. Prepare a communication and marketing plan, including the use of online platforms, social media, newsletters and other means.

#### **4.7 Monitoring, Evaluation and Lessons Learned**

- i. Develop an evaluation plan, including a self-evaluation,
- ii. Develop tools to gather appropriate learner data including participant's motivations for engaging in the MOOC; prior learning experiences of the MOOC

- participants; demographic information; contextual information; learning behaviour; completion rates; certification rates; and MOOC satisfaction rates.
- iii. Develop systems to monitor the learning activity and behaviour of MOOC participants; to analyse and act on the data collected to continue improving the MOOC; and to collect Key Performance Indicators (KPIs) data and report to stakeholders.
  - i. The monitoring and evaluation plan will include at least the following KPIs to evaluate the quality and overall success of the MOOC:
    - Number of lawyers, state counsel, students, judges, government officials, parliamentarians, NHRI staff, journalists, diplomats, CSO staff, international organisation staff trained on the AU human rights bodies' procedures
    - Diversity of participants in MOOC along gender, age and geographical lines
    - Download rates of required reading materials
    - Download rates of suggested reading materials
    - Completion rates of the videos
    - Completion and success rates of the session questions
    - Completion and success rates of the final examination
    - Certification rates
    - Participant's motivations for engaging in the MOOC
    - MOOC satisfaction rates

#### **4.8 Administration and reporting**

- i. Provide an oral progress report to the MOOC Steering Group at the bi-monthly Steering Group meetings, and a short-written progress report every two months.
- ii. Produce a final completion report outlining recommendations on the delivery of the MOOC for a 3-year period and identifying upcoming challenges and opportunities.
- iii. Deliver all source materials for the developed products to the AU human rights bodies upon completion of the project. They will own copyright for all materials developed or included in the online learning program.
- iv. All data and information received from the AU human rights bodies for the purpose of this assignment are to be treated confidentially and are only to be used in connection with the execution of these Terms of Reference. All intellectual property rights arising from the execution of these Terms of Reference are assigned to the AU human rights bodies. The contents of material obtained and used in this assignment may not be disclosed to any third parties without the expressed advance written authorization of the AU human rights bodies.

#### **5 Profile of the expert (team)**

The consultant or institution is expected to have:



- i. Demonstrated experience in litigation before the AU human rights bodies or other international human rights bodies.
- ii. Demonstrated expert knowledge of the African human rights system.
- iii. Demonstrated experience in developing high quality course content for online and distance learning, specifically MOOCs, including the production of online learning tasks and assessment tools and supporting the production of video content and open educational resources.
- iv. Demonstrated expertise in project management and excellent communication skills.
- v. Demonstrated knowledge of intellectual property considerations and experience in negotiating the use of information and knowledge resources with holders of intellectual property of relevant material.

To apply, interested parties should submit the following:

1. Overview of proposed approach to the assignment, including:
  - Proposed methodology and scope of activities to deliver each requirement of the assignment.
  - Indication of approach to providing the learning technology and media production.
  - A proposed format and content overview of the final course.
  - A proposed project timeline, including total time, number of days and personnel commitment for the assignment
  - A proposed budget.
2. Example(s) of previous work that demonstrate capability to complete the assignment, including examples of layout and design models.
3. A prospectus outlining relevant information about the organisation submitting the proposal that includes relevant experience and achievements together and the detailed CVs of experts who would work on the assignment.

## **6. Dates and location of the technical assistance mission**

The mission will be for a period of 30 days spread across September to December 2021.  
The specific activity dates will be agreed in due course