Inter-Session Activity Report of Honourable Commissioner

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71st ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

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INTRODUCTION

1. This Report is presented to the 71st Ordinary Session of the African Commission on Human and Peoples’ Rights (the Commission). It is a summary of intersession activities I carried out in my capacity as a Member of the Commission and within the framework of the various thematic and special mandates entrusted to me.

2. During the reporting period, i.e. from the 69th Ordinary Session to the present Session, I took part in activities contained in the Commission’s Work Plan.

A. ACTIVITIES UNDERTAKEN IN MY CAPACITY AS MEMBER OF THE COMMISSION – PARTICIPATION IN SESSIONS OF THE COMMISSION

3. As a member of the African Commission, I participated in the 69th Ordinary Session (15 November to 5 December 2021 held in hybrid mode in Dakar, Senegal), the 70th Ordinary Session (held in virtual mode from 23 February to 9 March 2022) and the 35th Extraordinary Session held on 4 April 2022 in virtual mode.

4. Details on these Sessions can be found in the Final Communiqués adopted at the end of each Session. The Final Communiqués are available on the Commission’s website.

B. PARTICIPATION IN THE MISSION TO MOROCCO

5. I was part of the Commission’s delegation, led by its Chairperson, to Morocco from 11 to 15 April 2022.

6. This mission was undertaken at the invitation of the Moroccan National Council for Human Rights, which is conducting advocacy actions for the Kingdom of Morocco to ratify the African Charter on Human and Peoples’ Rights.

7. The Chairperson of the Commission will certainly provide details in his Report on this mission, which was of importance to me not only from a personal point of view, as it was the first mission in which I took part since my election to the Commission, but also from a thematic perspective. Indeed, I was able to exchange with members of this NHRI on issues relating to persons with disabilities, in particular.

8. I wish to commend the positive interactions and lessons learned during this mission and thank all parties who worked to make it possible.

9. I am sure that the Kingdom of Morocco will, very soon, join the list of States Parties to the Charter thereby making this a Treaty ratified by all countries on the continent.

I. ACTIVITIES CARRIED OUT UNDER THE SPECIAL MECHANISMS
10. **Regarding** thematic and special mechanisms, I **chair** the Working Group on the Rights of Older Persons and People with Disabilities, the Working Group on Specific Issues Related to the Work of the Commission (WGSI), and the Working Group on Communications. I am also a member of the Committee on Resolutions and the Working Group on Indigenous Populations/Communities and Minorities in Africa.

11. As Commissioner-Rapporteur, I cover Angola, Burundi, Congo, Democratic Republic of Congo and Gabon.

12. The Working Group on Specific Issues Related to the Work of the Commission (WGSI) did not undertake any activity during the reporting period.

**A. ACTIVITIES CARRIED OUT AS CHAIRPERSON OF THE Working Group on Communications (WGC)**

i. **WGC meeting of 21 February 2022**

13. On 21 February 2022, in my capacity as WGC Chairperson, I presided over a virtual meeting of the Working Group attended by Honourable Maria Teresa Manuela, WGC Vice-Chairperson and members of the Secretariat.

14. The meeting considered Communications at the Seizure stage containing requests for provisional measures, as well as requests for referral of Communications to the Court and requests for guidance submitted by the Secretariat.

15. It is worth noting that the effective performance of the Working Group is hampered by difficulties relating to the translation of working documents and the availability of its members often caught up in their respective activities on meeting dates. It is therefore imperative that we review our working methods for better coordination of our work. In this respect, one of the best solutions moving forward would be to hold face-to-face meetings, to the extent possible.

16. A report of the proceedings of this meeting was presented and adopted at the 70th Ordinary Session.

ii. **WGC meeting of 18 April 2022**

17. The WGC also met under my chairmanship on 18 April 2022 in preparation for this Session. The Report of this meeting, attended by almost all WGC members, shall be considered at this Session by the Commission during its private session.

**B. ACTIVITIES CARRIED OUT AS A MEMBER OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES AND MINORITIES IN AFRICA**
18. On 31 January 2022, the Working Group on Indigenous Populations/Communities and Minorities in Africa held a virtual planning meeting.

19. The purpose of this meeting, presided by Commissioner DERSSO who is the Chairperson of the Working Group, was to provide members with information on activities that had been carried out, those that had not been carried out, and those that have been partially implemented.

C. ACTIVITIES CARRIED OUT AS CHAIRPERSON OF THE WORKING GROUP ON OLDER PERSONS AND PEOPLE WITH DISABILITIES

i. Panel on Advocacy for the ratification of the Protocol on the Rights of Older Persons and the Protocol on the Rights of Persons with Disabilities


21. The Panel was part of an overall strategy to advocate for the ratification of the aforementioned Protocols. The main objective of this strategy, which I developed when I took office, is to bring these important Treaties into force.

22. For entry into force, each Protocol must be ratified by at least 15 Member States of the African Union and Parties to the Charter.

23. Efforts deployed in this respect by the Working Group on Older Persons and People with Disabilities (Working Group) are yielding relatively positive results, compared to the ratification trend of African Union treaties by Member States as indicated in the Study of the Office of the Legal Counsel of the African Union Commission on the Ratification of Treaties, presented in 2008 to Ministers of Justice in Kigali, Rwanda.

24. Indeed, four out of the eighteen States that have signed the Protocol on Older Persons to date, did so after I was entrusted with the Special Mandate on older persons in 2020. Similarly, four of the six ratifications were done during my current term.

25. This is an opportunity to recall that the Draft Protocol on the Rights of Older Persons in Africa was adopted by the African Commission on Human and Peoples’ Rights at its 52nd Ordinary Session and transmitted to the African Union Commission by letter dated 9 November 2012. It was adopted by the African Union at its 26th Summit held from 21 to 31 January 2016 in Addis Ababa, Ethiopia.

26. Regarding the Protocol on Persons with Disabilities, five of the eleven signatures were obtained during my current term, and all three ratifications were made after I took over the Special Mechanism on persons with disabilities.
ii. Emergency meeting on the flagrant violation of the Code of Conduct for mandate-holders

27. On 17 November 2021, following an incident which occurred during the aforementioned Panel, an emergency meeting presided over by the Chairperson of the Commission was held with the members of the Working Group, the Commission and the Secretariat to clarify the framework for collaboration with external expert members, appointed to help implement the mandates of the Commission’s Special Mechanisms.

28. At this meeting, the parties were heard and the strict legal framework for such collaboration was re-emphasized, including the rights and obligations of parties involved as well as the related sanctions.

29. The Commission subsequently took key decisions which were formalised through a Resolution adopted at the 69th Ordinary Session.

30. I seize this opportunity to reiterate the need for all stakeholders and partners of the Commission to strictly respect the legal framework governing all interactions with the Commission.

iii. Webinar to Commemorate International Day of Older Persons 2021

31. On 19 November 2021, the Working Group commemorated International Day of Older Persons (IDOP) 2021 through a webinar.

32. It served as a platform for raising awareness on the existence of the Protocol and the urgency of its entry into force. The webinar highlighted the importance of older persons in African cultures and traditions.

33. Professor Charles Binam Bikoi, Administrator and Executive Secretary of the Regional Centre for Research and Documentation on Oral Traditions and for the Development of African Languages (CERDOTOLA), took part in the meeting and masterfully highlighted the positive value of older persons in African cultures and traditions, and thus demonstrated the legitimacy of the Protocol and the logic for its ratification by African States.

34. Using examples based on the concepts of ‘endogenism’ and ‘industradition’, he underscored the vital importance of African traditions and cultures, of which older persons are the custodians, in achieving the development goals of States Parties.

35. Challenges and solutions for ratification were identified at this webinar and participants provided with the relevant tools to advocate within diplomatic and other relevant circles in their respective countries, for the ratification of the Protocol and the promotion of the rights enshrined therein. The content of the Protocol was presented, in particular the fundamental rights guaranteed and the mechanisms for protecting older persons.

36. I would like to seize this opportunity to reiterate my gratitude and appreciation to Professor Binam for his availability and valuable contribution. I am certain that
this collaboration will continue and the Working Group looks forward to welcoming him in the near future within the framework of its activities to raise awareness on the need to ratify protocols for the benefit of vulnerable categories protected under our Special Mechanism.

iv. End-of-year internal meeting of the Working Group on Older Persons and People with Disabilities

37. On 22 December 2021, I chaired the Working Group’s end-of-year meeting to review the activities of the past year and plan for the upcoming year.
38. It was noted that all activities on the Working Group’s 2021 Work Plan were implemented, though they were not in-person events as was initially planned.
40. I would like to acknowledge the effective participation of Honourable Commissioners Mudford Zachariah Mwandenga (Vice-Chairperson of the Working Group) and Idrissa Sow (Member) in this meeting, which was their first since their appointment as Working Group members at the 69th Ordinary Session. I have no doubt that their contributions will have a positive impact towards attaining the Working Group’s objectives.
41. I would also like to pay a heartfelt tribute and express my gratitude to Honourable Maya Sahli-Fadel, current Vice-Chairperson of the Commission and former Vice-Chairperson of the Group, with whom I enjoyed working for the past two years before she left the Working Group to take up her new responsibilities within the Commission’s Bureau.

v. Side event at the Global Disability Summit, organised by the Global Coalition for Deinstitutionalization – “Bringing Deinstitutionalization Back on the Agenda”

42. On 16 February 2022, I participated in a side event at the Global Disability Summit organised by the Global Coalition for Deinstitutionalization. The theme of this activity was “Bringing Deinstitutionalization Back on the Agenda”.
43. Allow me to recall the background and rationale for this activity to which I was invited by the Validity Foundation, a partner of the Working Group. According to the concept note I received, "The COVID-19 pandemic has had a horrendous impact on people with disabilities worldwide, many of whom were significantly and disproportionately affected. Death, isolation and segregation have been some of the consequences. At the global level, the collective testimonies of persons with disabilities, including those captured in the COVID-19 Disability Rights Monitor, have highlighted the urgent situation of persons in institutions. Data has shown that underrepresented/marginalized groups, such as women and girls with disabilities, have been disproportionately affected by the COVID-19 pandemic and are also more likely to be at risk of institutionalization. Despite the consensus on the importance of
deinstitutionalization – deinstitutionalization is not explicitly on the GDS 2022 agenda. This side event, organized by major global disability right groups gathered around the Global Coalition on Deinstitutionalization, aims to overcome this gap and bring attention to the important process of development of the CRPD Committee’s Guidelines on deinstitutionalization. It aims to raise awareness about the Guidelines on Deinstitutionalization and help build momentum and interest among stakeholders - policymakers, funders, international organizations, civil society organizations, persons with disabilities and their representative organizations, and other important stakeholders. »

44. A number of high-profile speakers were scheduled for the event, including Gerard Quinn, UN Special Rapporteur on the Rights of Persons with Disabilities, Rosemary Kayess, Chairperson, Committee on the Rights of Persons with Disabilities, and Helena Dalli, Commissioner for Equality, European Union.

45. As the 70th Ordinary Session of the Commission, which I attended, was being held at the same time, I was not able to participate in the entire activity and simply made my presentation on the theme assigned to me by the organisers. The theme of my presentation was “Expectations regarding the Guidelines: Perspectives from the Global South”.

46. Taking Article 14 of the Protocol on the Rights of Persons with Disabilities in Africa as a benchmark, the main argument in my presentation was that Africa is in favour of deinstitutionalization from a cultural, traditional and legal perspective, with the adoption of the Protocols on Older Persons and Persons with Disabilities, in which it appears that institutionalization is not the rule, but rather the exception and as a last resort, according to my understanding of these treaties.

47. I would like to thank our partner Validity Foundation – Mental Disability Advocacy Centre including its representative whom we work with, Mr. William Aseka, Africa Advocacy Officer, for the continuous collaboration on matters of common interest.

vi. Planning Meeting of the Working Group on Older Persons and People with Disabilities

48. The Working Group held its first planning meeting for 2022 on 23rd March 2022. All members of the WG were present with the exception of Ms. Deborah Grace Awulira Mukhwana Wangusa who sent her apologies.

49. During this online activity, the Working Group adopted the final 2022 Work Plan and strategies for its implementation. Responsibilities were shared among the Working Group members and other stakeholders for the implementation of the activities contained in the Work Plan.

50. There are two key events for which the participation and collaboration of all stakeholders are necessary. The in-person meeting scheduled from 3 to 4 August 2022 in Abidjan, Côte d'Ivoire, to draft the initial Report of the Working Group
on the situation of the rights of older persons and persons with disabilities in Africa, as planned within the framework of the European Union financial support to the Commission’s Special Mechanisms, and the webinar to raise awareness among States Parties on the need to ratify the two Protocols on older persons and persons with disabilities. This latter activity is set for 1 October 2022 on the occasion of the celebration of the International Day of Older Persons.

D. MY WORK AS COMMISSIONER-RAPPORTEUR

51. As previously mentioned, my portfolio as Commissioner-Rapporteur includes 5 countries, namely Angola, Burundi, Congo, Democratic Republic of Congo and Gabon.

52. The status regarding the submission by these countries of periodic reports to the Commission has remained unchanged since my previous Activity Report, and as indicated in the Commission’s report on periodic reporting by States Parties.

53. I have thus initiated contact as well as advocacy work with countries in my portfolio so as to obtain their authorization for the conduct of promotion missions in order to strengthen ties between those States and the Commission.

54. Notes Verbales were sent to them for this purpose in early April 2022. I look forward to a positive response, with a view to achieving the objective of bringing these States into compliance with all their obligations under the Charter, including the submission of periodic reports which allow the Commission to assess the level of implementation of the Charter in its entirety, and of human and peoples’ rights in general.

55. Below are nonetheless a few elements relating to those States.

i. Republic of BURUNDI

➢ On the general situation of human rights protection

56. As Rapporteur, I pay close attention to all developments and we are still receiving negative reports on the protection of human rights. However, some progress has been observed, the most notable being the reopening of the country to international cooperation and collaboration since 2021. This allows for dialogue with stakeholders on critical issues of human rights protection.

57. I seize this opportunity to reiterate our call to the Burundian authorities at the highest level to re-establish full dialogue with the Commission through its Commissioner-Rapporteur. In this respect, the official correspondence that has been sent requesting authorization for a promotion mission should be considered favourably and viewed as a crucial step in this process of renewed collaboration for a better promotion and protection of human rights in this country.

➢ On the rights of older persons and persons with disabilities
58. BURUNDI signed the Protocol on the Rights of Older Persons but not the Protocol on the Rights of Persons with Disabilities. The above-mentioned promotion mission could be an opportunity to conduct advocacy for the ratification of the Protocols on the rights of older persons and persons with disabilities.

ii. Republic of Gabon
59. The Rapporteur welcomes the fact that this State Party to the Charter will host a delegation from the Commission, led by its Chairperson, at the end of May 2022 for a promotion mission. This mission will allow the Commission to assess the human rights situation in the country, while strengthening the close cooperation ties between the two parties. The mission will also help to ensure that the 2023 general election cycle is conducted in an atmosphere where human rights are respected, contrary to the events that marked the previous general election cycle.

➢ On the rights of older persons and persons with disabilities
60. Gabon has signed the two Protocols relating to older persons and persons with disabilities and is urged to ratify and deposit the instruments of ratification of these two treaties. The above mission will also focus on this important advocacy work so as to achieve this goal in the short term.

iii. Republic of CONGO
61. The Rapporteur’s general interpretation of the human rights situation in Congo is that since the country is not in a conflict situation, as is the case elsewhere in the sub-region, human rights violations are mainly allegedly to have been perpetrated by State actors. There are reports of governance-related issues being increasing challenged due to the socio-economic difficulties faced by the majority of the population in the context of the COVID-19 pandemic, whose management is apparently severely criticised.
62. Human rights defenders, journalists, civil society and whistle-blowers as well as opposition political parties are said to be the targets of a system of control and muzzling of any discordant or critical voice.
63. It goes without saying that a promotion mission would determine the veracity of the facts in an objective manner.

➢ On the specific rights of older persons and persons with disabilities
64. The Republic of Congo has not signed the Protocol on the Rights of Older Persons nor the Protocol on the Rights of Persons with Disabilities.

iv. Democratic Republic of Congo
65. The DRC is caught up in a cycle of violence caused by the various armed groups, resulting in a considerable number of arbitrary deaths and massive displacement of people in areas controlled by such groups.

66. Efforts deployed by the State to bring peace and security to these areas are hampered by major challenges, and the international community should reflect on a complete overhaul of the strategy regarding the issue of violence, war and insecurity in the country.

➤ On the rights of older persons and persons with disabilities

67. Contacts were made with Her Excellency Irène Esambo Diata, the Minister for Social Affairs in charge of persons with disabilities and other vulnerable groups, to set up a framework for collaboration on matters of common interest. Formal meetings are expected to be held.

➤ Republic of ANGOLA

68. General elections are scheduled for August 2022. It is hoped that the process will be conducted free off the human rights violations usually alleged in such circumstances.

69. Furthermore, the inclusion of vulnerable groups, including persons with disabilities and older persons, is necessary in these processes so that their right to participate in the management of public affairs, as stipulated in Article 13 of the Charter, is respected.

➤ On the rights of older persons and persons with disabilities

70. The Republic of Angola has signed the two Protocols relating to older persons and persons with disabilities. The Rapporteur reiterates the call to this country to complete the final stage of ratification and deposit the instruments of ratification of these two treaties.

CONCLUSION

71. I would like to conclude by reiterating my call to Member States of the African Union and Parties to the African Charter to ratify the two Protocols on the rights of older persons and persons with disabilities. The required number of ratifications are yet to be obtained for entry into force of the two Protocols, despite increased awareness-raising on the issue. I therefore urge States to ratify these two instruments, which are important pillars for the protection of the rights of these two categories of vulnerable groups.

72. I wish to thank all individuals and entities who are tirelessly providing the Working Group with support to fulfil its mandate in particular, and for their support to the Commission in general. I urge them to continue in this spirit of
collaboration so as to achieve our common goal of promoting and protecting human rights in Africa.

73. Finally, I call on the States for which I am Commissioner-Rapporteur to respond favourably to our requests to carry out promotion missions in their respective countries, as this will enable us to improve our collaboration and develop action plans for the realisation of human and peoples’ rights.

74. I thank you for your kind attention.