Opening Statement

by

Hon. Judge Fatsah Ouguergouz

(Member of the African Court on Human and Peoples’ Rights)

delivered at the

Opening Ceremony of the 50th Ordinary Session
of the African Commission on Human and Peoples’ Rights

held in

Banjul, The Gambia,

from 24 October to 7 November 2011
• Honourable Mr. Edward Gomez, Attorney General and Minister of Justice of the Republic of The Gambia,

• Honourable Commissioner Reine Alapini-Gansou, Chairperson of the African Commission on Human and Peoples’ Rights,

• Honourable Acting Vice-Chairperson and Honourable Members of the African Commission on Human and Peoples’ Rights,

• Dear colleague, Honourable Justice Augustino S.L. Ramadhani, Judge of the African Court on Human and Peoples’ Rights,

• Honourable Members of the Government of The Gambia,

• Honourable Representative of the Member States of the African Union,

• Honourable Representative of the African Union Commission,

• Distinguished Delegates of States Parties to the African Charter,

• Excellencies, Members of the Diplomatic and Consular Corps,

• Distinguished Representatives of National Human Rights Institutions and Non-Governmental Organizations,

• Distinguished Ladies and Gentlemen,

I bring fraternal and warm greetings from the President of the African Court and from other Members of the Court, to you personally Madam.
Chairperson, and to the Honourable Commissioners and other distinguished participants to this session of the Commission.

It is a great honour for me to speak on the occasion of the 50th Ordinary Session of the Commission. That the African Court continues to be invited and accorded the opportunity to speak at the opening of the ordinary sessions of the Commission and, through this forum, to reach the entire African human rights family, is deeply appreciated.

This session comes at a time of tremendous changes and developments within the African human rights system. Firstly, this marks thirty (30) years of the adoption of the African Charter and almost twenty five (25) years of the establishment of the Commission. Secondly, the Commission, unlike a few years ago, is now operating in a new dispensation with many other organs with human rights and human rights related mandate. These changes provide the Commission with challenges as well as opportunities as it continues its marvellous work.

Madam Chairperson,

Distinguished Ladies and Gentlemen,

Twenty five (25) years in the life of an institution is not small. If we look at it in human terms, the person would be considered an adult, capable of exercising
all civic responsibilities. In my view, the Commission has thus come of age and the Court is privileged to be part of this celebration and in the various events that took place last week. The Commission must in particular be congratulated for having convened the two-day Colloquium to take stock of thirty years of existence of the Charter and reflect on the current challenges and future opportunities in the promotion and protection of human rights in Africa; this was indeed a very stimulating and cross-fertilizing colloquium and it has definitely provided our two institutions and other stake-holders with rich food for thought.

Coming of age comes with responsibilities as well. For most of the past twenty-five (25) years, the Commission was the only continental body entrusted with the promotion and protection of human rights on the continent. During this period, the Commission worked tirelessly to discharge its mandate. The Commission was very instrumental in the adoption and entry into force of the Protocol establishing the Court and the Protocol on the rights of women. The Commission has over the years established a very rich human rights jurisprudence through its communication procedure and through the State reporting mechanism; in so doing, it has established a constructive dialogue with African States on the promotion and protection of human rights. The special mechanisms of the Commission have also enormously contributed to set standards and adopt regulations and policies on thematic human rights issues on the continent.
including on indigenous issues, the rights of women, refugees, internally displaced persons, asylum seekers and migrants. All these achievements took place under very difficult conditions, including lack of human and financial resources, and timid cooperation from some Member States.

On the occasion of this 50th Ordinary Session, we salute the Commission for all these achievements and its commitment to continue working in the promotion and protection of human and peoples’ rights on the continent, in spite the very difficult conditions in which it operates.

Madam Chairperson,

Distinguished Ladies and Gentlemen,

In 1994, that is just over a decade after the establishment of the Commission, the African States realised that there were weaknesses that impede the effectiveness of the Commission, and that there was need to take measures to strengthen the system. In the wisdom of the African leaders, the 1998 Ouagadougou Protocol was adopted and has established a Court to complement the protective mandate of the Commission. It is this complementarity that we hope will enhance the promotion and protection of human and peoples’ rights on the continent.
It is in the spirit of effecting this complementarity that our two institutions have met three (3) times to discuss and harmonise their respective rules. Today, we have new rules governing our respective institutions and our relationship. These rules are not perfect, and no one expected them to be so just after three meetings. What is important however is our common determination to continue working together to improve on the rules as well as on the approach in the promotion and protection of human rights on the continent.

We have already had occasion to put into practice our respective rules to test the complementarity envisaged in the Protocol. The historic filing by the Commission, before the Court, of the case against Libya in March 2011 will go down in the annals of human rights, not only because it was the first case referred by the Commission to the Court, but also because it demonstrates what the two institutions can achieve when they cooperate.

It is indeed cooperation that will strengthen our relations and enhance the protection of human rights on our continent. We believe that there is room for more cooperation; as a matter of fact, this is just the beginning of our cooperation.

As indicated earlier, our rules may have some deficiencies, but we are committed to improve them. We have also committed ourselves to meet at least once a year, and during such meetings we can discuss challenges facing our two

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institutions, especially challenges arising from the implementation of our respective rules.

Madam Chairperson,

Distinguished Ladies and Gentlemen,

I will conclude my statement by reiterating the Court’s commitment to work closely with the African Commission and all other human rights stakeholders on the continent to enhance the protection of human rights in Africa. This is the only way we can improve the human rights situation and implant a truly human rights culture on the African continent.

I thank you for your kind attention.