

IN THIS ISSUE:

- 1.0 Secretariat News**
- 2.0 News from Our Members**
- 3.0 News from Other Organizations**
- 4.0 Upcoming Events**
- 5.0 Advertisements & Vacancies**

1.0 SECRETARIAT NEWS

Featured news:

PALU and SALC Request African Court Opinion on SADC Tribunal Suspension

The Pan African Lawyers Union (PALU) and the Southern Africa Litigation Centre (SALC) launched a request for an advisory opinion asking the African Court to rule on the Legality of SADC Tribunal's Suspension. PALU and SALC maintain that the decisions taken by SADC Heads of State and Government to suspend the SADC Tribunal were unlawful as they violate judicial independence, access to justice, the right to effective remedies and the rule of law.

“The Courts of the Regional Economic Communities (RECs), such as the SADC Tribunal, are crucial in guaranteeing cross-border and inter-regional business and trade investment, and just rule of law in which the rights of individuals, businesses, groups and Member States are equally protected. Our request for an advisory opinion is part of an initiative by African civil society to realise independent, empowered, effective and efficient REC Courts all over the continent,” Don Deya, Chief Executive Officer of PALU explained.

In the request for an advisory opinion, the African Court was asked to determine whether:

- 1) The decision by the SADC Summit of Heads of State and Government to suspend the SADC Tribunal and not to reappoint or replace members of the Tribunal whose terms had expired is consistent with the African Charter, the SADC Treaty, the SADC Tribunal Protocol and general principles of the rule of law;
- 2) The decisions of the SADC Summits of August 2010 and May 2011 violate the institutional independence of the Tribunal and the personal independence of its judges as provided for in the African Charter and the UN Principles on the Independence of the Judiciary;
- 3) SADC's 18th August 2012 decision violates the right of access to justice and effective remedies as guaranteed in the African Charter, the SADC Tribunal Protocol and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;
- 4) The decision making processes undertaken in the review of the SADC Tribunal's jurisdiction are in compliance with the SADC Treaty.

If the Court rules that the suspension was illegal, it will be a definitive legal determination of the lawfulness of the SADC Summit's actions – a ruling that SADC will find difficult to ignore given that it is required to coordinate its policies and programmes with those of the African Union.

For further information you can visit:

www.lawyersofafrica.org

<http://dailynews.co.tz/index.php/local-news/12134-court-to-determine-authenticity-of-sadc-tribunal-suspension>

African Court Session

PALU participated in the 27th Ordinary Session of the African Court on Human and People's Rights in Balaclava, Mauritius, held from 26th November to 7th December 2012.

The Court also held its 13th Sensitization Workshop with members of the Bar, Judiciary and Diplomatic Corps in attendance. The objective of the meeting was to raise awareness about the African Court, its functions and procedure.

It was an occasion for the Court to reiterate its call for an increased number of State Parties, including the Republic of Mauritius, to make the Declaration 34(6) allowing individuals and NGOs direct access to the Court. It was also an occasion to highlight some challenges faced by the institution regarding the inadequate submission of cases to it, particularly those it could not substantially decide on the merits. This has been attributed to several reasons, says the Court, including the following:

- The lack of adequate ratification of the Court's Protocol;
- The even more rare deposits of the Declaration permitting direct access for individuals and NGOs;
- The lack of knowledge about the existence, function and how to access the Court;
- The reluctance of Member States to seek the Court's advisory opinion.

The Court also held a Public Session to hear the Application 003/2011 - Urban Mkandawire v. Malawi. Reliefs were sought under articles 4, 7 and 15 of the African Charter for wrongful termination of his employment contract and violation of his right to a fair trial.

Under the auspices of the Coalition for an Effective African Court (CEAC), PALU also participated in High-Level Dialogue Visits with the Minister of Foreign Affairs, the Attorney-General, the President of the Mauritius Bar Association and other eminent members of the Bar.

All interlocutors were aware of the importance and relevance of the African Court to the continent and were receptive in ensuring that the Declaration would be made without undue delays.

These meetings also gave an opportunity to discuss the suspension of the SADC Tribunal and the recent advisory opinion sought by PALU and SALC on its legality.

AU High Level Conference on Democratic Governance Trends and Governance Assessments in Africa

PALU participated in a high level Conference on Democratic Governance Trends and Governance in Africa convened by the Department of Political Affairs of the African Union Commission (DPA-AUC) in Dakar, Senegal, from 28th to 30th November 2012.

The conference had the dual aims of assessing the state of governance and democracy in Africa while identifying challenges and prospects in the continent's development. It was observed that, while governance performance especially at the level of norm setting has greatly improved over the last decade, implementation still remains a concern. The AU, Regional Economic Communities and Member States would need to continue to step up to incidences of unconstitutional changes of government, electoral violence, manage Africa's resource boom as well as the challenges of inequity, deepening unemployment and disaffected youth.

The meeting came at the backdrop of launching of the African Governance Platform (AGP) in June 2012. The African Governance Platform aims to serve as the central coordinating mechanism for monitoring compliance and implementation of agreed governance standards.

For more information on the Conference as well as the outcome statement please view the link below:

<http://au.int/en/dp/pa/content/au-high-level-conference-democratic-governance-trends-and-governance-assessments-africa-daka>

Inaugural Forum of AUCIL

PALU participated in the inaugural African Union Forum on International Law and African Union Law, from 6th to 7th December 2012, in Addis Ababa, Ethiopia, organized by the African Union Commission on International Law (AUCIL).

The meeting was attended by an impressive list of scholars, professors and academicians to discuss topics of paramount importance to the continent. The non-exhaustive list of topics included *Africa's Contribution to the Progressive Development of International Law* and *African Union Law: Challenges Faced in the Changing International Context*.

It was decided to hold the Forum annually to ensure the effective coalescence of all development of international law made in Africa.

Workshop on regional approaches to international criminal justice

PALU took part in a workshop on East African perspectives on regional approaches to International criminal justice from 12th-14th December 2012. The workshop was organised

by the East Africa Law Society (EALS) in collaboration with the Raoul Wallenberg Institute in Arusha, Tanzania.

The training was facilitated by regional and international experts and attended by stakeholders in both the state and non-state institutions from Burundi, Kenya Rwanda Tanzania and Uganda.

The objectives of the meeting were:

- 1) To appreciate the existing legal and policy regimes governing transitional justice at universal, regional and national levels within an East Africa Context;
- 2) To provide a Forum for discussing East African perspectives on regional approaches to international criminal justice and linkages with developments within the East African Community to extend the jurisdiction of EACJ;
- 3) To formulate concrete recommendations on the establishment of an effective transitional justice regime for East Africa, pursuant to the principle of complementarity.

During the workshop, PALU CEO, Don Deya made a presentation on the interplay between domestic, regional and universal Transitional Justice Mechanisms and the implications, possibilities and legal prerequisites for a sub-regional criminal court in East Africa. Mr. Deya emphasised the importance of strengthening the African Justice system through professional and progressive CSOs that will successfully promote the domestication and implementation of African legal instruments and in particular use the current political will to put forward the ratification of the Protocol for the African Court of Justice and Human and People's Rights once it is adopted.

2.0 NEWS FROM OUR MEMBERS

East Africa Law Society (EALS) Elects New Council

The East Africa Law Society (EALS) at its 17th Annual Conference and General Meeting held on the 16th and 17th November, 2012 elected and installed a new leadership led by Mr. James Mwamu from Kenya.

The new leadership replaces that of Dr. Wilbert Kapinga which has led the Regional Bar Association over the past two years in the process building it into a more visible and sustainable institution capacitated to execute its mandate of enhancing legal professional development, rule of law and good governance within an integrated East African Region.

The new Executive Council of the EALS is composed as follows:

Ref	Name	Position	Law Society
1	Mr. James Mwamu	President	Law Society of Kenya

2	Mr. Stephen Musisi	Vice President	Uganda Law Society
3	Mr. Emmanuel Butare	Vice President	Kigali Bar Association
4	Ms. Emily Gakiza	Treasurer	Uganda Law Society
5	Mr. Aloys Bahebe	Deputy Treasurer	Tanganyika Law Society
6	Mr. Muhuzenge Jean de Dieu	Deputy Treasurer	Burundi Bar Association
7	Captain Ibrahim Bendera	Secretary General	Tanganyika Law Society
8	Ms. Fatma Saleh Amour	Deputy Secretary General	Zanzibar Law Society
9	Ms. Faith Waigwa	Deputy Secretary General	Law Society of Kenya
10	Mr. Eric Mutua	Chairman Law Society of Kenya and Ex- Officio	Law Society of Kenya
11	Mr. Francis Stolla	President Tanganyika Law Society and Ex- Officio	Tanganyika Law Society
12	Mr. James Mukasa Sebugenyi	President Uganda Law Society and Ex – Officio	Uganda Law Society
13	Mr. Athanase Rutabingwa	Bâtonnier Kigali Bar Association and Ex-Officio	Kigali Bar Association
14	Mr. Isidore Rufyikiri	Bâtonnier Burundi Bar Association and Ex- Officio	Burundi Bar Association
15	Mr. Awadh Ali Said	President Zanzibar Law Society and Ex-Officio	Zanzibar Law Society
16	Mr. Albert Msando	Resident Council Member	Tanganyika Law Society
17	Ms. Maria Goretti Nyariki	Council Member	Law Society of Kenya
18	Ms. Aisha Naiga Kiwola	Council Member	Uganda Law Society
19	Mrs. Anita Mugeni	Council Member	Kigali Bar Association
20	Ms. Gatete Mireille	Council Member	Burundi Bar Association
21	Mr. Mussa Kombo	Council Member	Zanzibar Law Society

PALU would like to extend its congratulations to the new Council.

The Law Society of Namibia elects new Council:

The Law Society of Namibia elected its new council to serve from November 2012 to November 2013. Those elected were:

- Dee Sauls (President)

- Daan Small (Vice-President)
- Retha Steinmann (Director)
- Nolan Swarts
- Carol Williams
- Ramon Maasdorp
- Beatrix Greyvenstein
- Alwyn Harmse
- Pieter de Beer.

PALU would like to extend its congratulations to the new Council.

Conferment of the Rank of Senior Counsel to PALU Treasurer

In the exercise of the Powers conferred by section 81(1)(ee) of the Advocates Act, the Council of the Law Society of Kenya (LSK) with the approval of the Chief Justice made the Senior Counsel Conferment and Privileges Rules, 2011 which provided for the establishment of the Committee on Senior Counsel which has been duly constituted.

Pursuant to Rule 5 of the Advocates (Senior Counsel Conferment and Privileges) Rules, 2011 as Amended May 2012 and by a notice dated 28th August 2012, the Committee on Senior Counsel invited applications from persons who qualify for conferment of the rank of Senior Counsel.

Forty Nine (49) applications were received by close of the deadline of 1st Day of October 2012. Pursuant to Rule 11 of the said Rules, the Committee has had meetings, considered the applications and recommended the conferment of the Rank of Senior Counsel.

Among those selected for conferment was PALU treasurer, Prof. Tom Ojienda.

PALU congratulates Prof. Ojienda on the conferment.

3.0 NEWS FROM OTHER ORGANIZATIONS

Appeals Chamber confirms ICC jurisdiction

On 12th December 2012, the Appeals Chamber of the International Criminal Court (ICC) dismissed unanimously the appeal submitted by the Defence of Mr. Laurent Gbagbo and confirmed the decision by Pre-Trial Chamber I on the Defence's challenge to the jurisdiction of the ICC.

On 15th August 2012, Pre-Trial Chamber I had declined to grant Mr. Gbagbo's request to find that the Court would lack jurisdiction over the post-2010 election period and events on which the warrant of arrest and the charges laid against him are based. The Defence alleged that Côte d'Ivoire, which is not a State Party to the Rome Statute, the Court's founding treaty, accepted the ICC's jurisdiction on 18th April 2003 only in relation to the events in 2002 and 2003, and not in relation to future crimes. In the alternative, the Defence asked

the Pre-Trial Chamber to stay the proceedings in the case because of alleged violations of Mr. Gbagbo's fundamental rights during the period of his detention in Côte d'Ivoire.

Judge Anita Ušacka, Presiding Judge of the Appeals Chamber on this appeal, delivered a summary of the judgment in open session. The Appeals Chamber highlighted that under the terms of Article 12 (3) of the Rome Statute, a State may accept the jurisdiction of the Court generally. The Appeals Chamber could not find a temporal limitation in the 2003 Declaration, contrary to what the Defence argued. "To the contrary, the last paragraph of the 2003 Declaration suggests that Côte d'Ivoire explicitly accepted the jurisdiction of the Court with respect to crimes committed after the 2003 Declaration", stated Judge Ušacka.

The Presiding Judge also explained that the grounds of appeal related to the Pre-Trial Chamber's denial of the request to stay the proceedings could not be presented directly before the Appeals Chamber and were dismissed for procedural reasons.

Mr Gbagbo allegedly bears individual criminal responsibility, as an indirect co-perpetrator, for four counts of crimes against humanity, namely, murder, rape and other sexual violence, persecution and other inhumane acts, allegedly committed in the context of post-electoral violence in the territory of Côte d'Ivoire between 16th December 2010 and 12th April 2011.

For further information, please contact Fadi El Abdallah, Spokesperson and Head of Public Affairs Unit, International Criminal Court, by telephone at: +31 (0)70 515-9152 or +31 (0)6 46448938 or by e-mail at: fadi.el-abdallah@icc-cpi.int.

ICC Trial Chamber II acquits Mathieu Ngudjolo Chui

On 18th December 2012, Trial Chamber II of the International Criminal Court (ICC) acquitted Mathieu Ngudjolo Chui of the charges of war crimes and crimes against humanity. The decision was taken unanimously by the Chamber composed of Presiding Judge Bruno Cotte (France), Judge Fatoumata Dembele Diarra (Mali) and Christine Van Den Wyngaert (Belgium). Judge Van Den Wyngaert filed a concurring opinion.

Mathieu Ngudjolo Chui, a Congolese national, was charged with three counts of crimes against humanity and seven counts of war crimes allegedly committed in the context of an armed conflict in Ituri during the attack against the Bogoro village on 24th February 2003. The presiding Judge Cotte read a summary of the judgment in public. He explained that in view of the evidence before the Chamber as well as the testimonies of witnesses called by the Prosecution, the Defence, the Legal Representatives of Victims and the Chamber itself, it has not been proven beyond reasonable doubt that Mathieu Ngudjolo Chui was the commander of the Lendu combatants from Bedu-Ezekere during the attack against the Bogoro village on 24th February 2003. As a result, the Chamber was of the view that the Prosecution had not proved beyond reasonable doubt that Mathieu Ngudjolo Chui was responsible, within the meaning of Article 25 (3) of the Rome Statute, for the crimes allegedly committed during the attack. Hence, the judges decided to acquit the accused.

The Chamber emphasised, however, that the approach it adopted does not mean that, in its opinion, no crimes were committed in Bogoro on 24th February 2012, nor does it question

what the people of this community have suffered on that day. The Chamber also emphasised that the fact of deciding that an accused is not guilty does not necessarily mean that the Chamber finds him innocent. Such a decision simply demonstrates that, given the standard of proof, the evidence presented to support his guilt has not allowed the Chamber to form a conviction beyond reasonable doubt.

The Office of the Prosecutor of the International Criminal Court (ICC) then undertook a comprehensive review of the Trial Chamber's written decision to acquit Mathieu Ngudjolo Chui. On the basis of its preliminary review and in accordance with the provisions of the Rome Statute, the Prosecution decided to appeal the verdict. The Prosecution made an application requesting the continued detention of Mr Ngudjolo Chui pending the outcome of the appeal which was rejected by the Trial Chamber. This decision was announced in public by Presiding Judge Bruno Cotte and may be subject to appeal pursuant to Article 81 (3) (c) of the Rome Statute, the founding treaty of the ICC.

For further information, please contact Fadi El Abdallah, Spokesperson and Head of Public Affairs Unit, International Criminal Court, by telephone at: +31 (0)70 515-9152 or +31 (0)6 46448938 or by e-mail at: fadi.el-abdallah@icc-cpi.int.

Mr. Bongani Majola Appointed Registrar of the UN-ICTR

The United Nations Secretary – General, Mr. Ban Ki-moon has appointed Mr. Bongani Majola as the new Registrar of the United Nations International Criminal Tribunal for Rwanda (UNICTR) effective from 1st January 2013 for a term of four years or until the closure of the ICTR, whichever is sooner. Mr. Majola, former Deputy Prosecutor of the Tribunal, holds an L.L.B from the University of Zululand in South Africa and an L.L.M from Harvard University in the United States of America. Prior to accepting the position of ICTR Deputy Prosecutor, Mr. Majola served as the Executive Director of the Legal Research Centre in Johannesburg, South Africa. He also brings numerous years of experience as District Court Magistrate and as Dean of the Faculty of Law at the University of Limpopo.

Palu would like to congratulate Mr. Majola on his appointment and wishes him all the best as he serves as registrar of the UNICTR.

4.0 UPCOMING EVENTS

Business Law Training in Zambia

The Law Association of Zambia in conjunction with Southern African Institute for Policy and Research (SAIPAR) will be conducting a one week Business Law Training to be held in Lusaka from 7th to 11th January 2013.

The Training is targeted for Legal Practitioners, Directors, Chief Executive Officers, Chief Financial Officers, Entrepreneurs, Senior Public Office Holders and any other interested persons.

Topics will include:

- 1) Commercial Arbitration and Investor State Dispute (Professor Muna Ndulo, Professor of Law, Cornell University Law School and Sara Lulo, Yale Law School, formerly with White and Case);
- 2) Legal Aspects of Corporate Acquisitions (Professor Charles Whitehead, Professor of Law, Cornell University Law School);
- 3) Private Equity and Venture Capital Funds and Financing (Professor Olufunmilayo Arewa, Professor of Law, University of California-Irvine);
- 4) Using Internet in the Practice of Law (Professor Peter Martin, Professor of Law Emeritus, Cornell University).

For more information you can email:

secretariat@laz.org.zm

International Conference on Defending Human Dignity and Human Rights

The German Commission for Justice and Peace together with its partner in Zambia, the Jesuit Centre for Theological Reflection will be holding a conference titled Defending Human Dignity and Human Rights – a Challenge for International Cooperation from 7th to 9th February 2013 in Lusaka, Zambia.

Thematic approaches of the conference will be:

- a) Recognition of the inherent dignity of all members of the human family: The axiomatic basis of human rights;
- b) Sources of human rights commitment: Experiences, motivations, convictions;
- c) Selected areas of human rights work (parallel workshops);
- d) Challenges in human rights protection for migrants;
- e) Human Rights Defenders: Working for a Culture of Protection;
- f) Infrastructural Challenges and Lacunae in Human Rights Protection;
- g) Potentials towards Enhanced Cooperation: The Role of State, Civil Society and the Church.

For more information you can visit:

<http://www.Justitia-et-Pax.de>

Training Workshop on the Procedures of the African Court

The Ghana Bar Association in collaboration with the Human Rights Advocacy Centre (Accra), the Legal Defence and Assistance Project (the West Africa Focal Point of the African Court Coalition) and the African Court Coalition will be hosting a one-day training workshop for legal practitioners on the African human rights system and in particular rules of procedure of the African Court on Human and Peoples' Rights (African Court). The meeting will take place on 15th January 2013 at Ghana Bar Association Board Room in Accra, Ghana.

The Training workshop will cover the following topics:

- 1) Public interest litigation and case preparation for litigation at regional courts;
- 2) Skills and techniques in litigation at regional courts;
- 3) Contentious and advisory litigation at the African Court;
- 4) The use of expert witnesses and intervention as *amicus curiae*.

For further information contact:

adaobi@ledapnigeria.org; info@hracghana.org; admin@africancourtcoalition.org;
info@ghanabar.org

5.0 ADVERTISEMENTS & VACANCIES

Program Assistant opportunity with Youth Initiative (YI)

The YI has a vacancy for program assistant with Open Society Foundations in New York, USA. YI supports young people in their efforts to be agents of positive change and advocates for the full and effective participation of all young people in the political, social and cultural life of their communities. It operates globally to identify opportunities and threats to open society values that are particularly relevant to young people making the transition from childhood to adulthood. The goal is to help engage students in the policy issues that will have a lasting impact on their future.

For more information on remuneration, purpose of position, duties and responsibilities you can visit:

http://www.humanrightsjobs.com/index.php?option=com_content&view=article&id=9615:-program-assistantyouth-initiative-open-society-foundations-ny-usa&catid=68:no-password-required&Itemid=96

Become a PALU member:

PALU is the umbrella association of African lawyers and law societies. It brings together the continent's five regional and fifty-four national lawyers associations, as well as individual lawyer-members. Our mission is to work towards the development of the law and legal profession, the rule of law, human rights and socio-economic development of the African continent, including through supporting African regional integration.

Membership of the Pan African Lawyers Union entitles you to:

- Subscription to our monthly E-newsletter and E-bulletins on topical legal news, information and issues pertinent to Africa;
- Access to cutting edge commentaries and legal analyses (that will not be available to non-members);
- Invitation to various conferences, workshops, seminars and other networking events;
- Premier access to our print publications (journals, law reports, magazines, policy briefs, etc) for free or at a subsidized members' rate;

- Premier access to our online resource centre (that will not be available to non-members);
- Premier continental networking platform, and unprecedented access to a broad network of distinguished African legal Dignitaries, decision makers, Professionals and scholars;
- A detailed listing in our online directory of members;
- Participation in our Affinity Programme, whereby we will collectively bargain for benefits for members.

For more information you may email us at joinus@lawyersofafrica.org

Advertise with Us:

Do you have news you would like to share with African lawyers as well as African lawyers in the Diaspora? Do you have an upcoming event you would like maximize event exposure? Do you have advocacy programs you would like to share with the rest of the continent?

PALU is proud to provide its partners, members and all other stakeholders with a variety of marketing, advertising and media exposure opportunities in our newsletter. Take advantage of this wide outreach with a database of over 5000 lawyers through advertising in our newsletters.

For further information, please contact Ms Evelyn Chijarira on:

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