

African Court Holds 24th Ordinary Session and First Public Hearing

The African Court held its 24th Ordinary Session from the 19th to 30th of March 2012. The Court had initially planned to have two public hearings, the first being *Femi Falana v. The African Union, Application No. 001 of 2011*, the other being the *Tanganyika Law Society and Legal and Human Rights Centre v. Tanzania, Application 009 of 2011* and *The Reverend Christopher Mtikila v. Tanzania, Application 011 of 2011* as a consolidated case. The Court however adjourned hearing in the latter case to a subsequent date to be communicated by the Court.

In the Femi Falana Case, the Applicant a well know Human Rights lawyer from Nigeria who represented himself filed the matter at the Court challenging the validity of Article 34(6) of the Protocol on the Establishment of the African Court on Human and Peoples' Rights on the basis that it is inconsistent with Articles 1, 2, 7, 13, 26 and 66 of the African Charter which is the primary instrument of the Court. He further contended that the Protocol is subsidiary to the Charter and therefore any attempt to limit access to the Court as purported through Article 34(6) is derogatory to the Charter. He further claimed that he had been unfairly discriminated against on the basis that Nigeria, his country of origin had not made the declaration under Article 34(6) allowing direct access to the Court for individuals. He argued that this restrictive provision prevented African people from gaining access to the Court in circumstances where their rights have been violated ultimately obstructing their right to a fair trial. The Applicant sought orders annulling Article 34(6).

The Respondent who was represented by Advocate Bahame Tom Nyanduga and Bright Mando submitted that the Applicant did not have *locus standi* before the Court as the Applicant had not exhausted local remedies. Furthermore, the Respondent contended that the Court did not have the powers to strike out or annul a Provision of the Charter and that to do so would be *ultra vires*.

After the first round of submissions by the Parties on 22nd March 2012, the Court adjourned and resumed later during the day for a question session by Judges of the Court. The Court resumed the next day allowing the Parties to respond to the questions that were put to them by the Judges. The Court closed the session and observed that it will deliver its judgment on the matter within 90 days.

PALU to hold its Triennial General Assembly

PALU will hold its Triennial General Assembly from the 6th to 8th of September 2012 in Nairobi, Kenya. The meeting will provide an opportunity for Regional Bar Associations and the continent's 54 National Bar Associations to come together and assess the developments of legal profession on the continent. The meeting will also provide a platform for members to discuss organisational progress including setting out its strategic vision.

The General Assembly will be held in September which marks the 10th Anniversary of the birth of PALU which was established on 9th September 2002 in Addis Ababa, Ethiopia. The General Assembly will be preceded by a Council Meeting. The PALU Council is comprised of the Presidents of Regional and National Bar Associations.

Election of the 10 members of the Executive Committee will also be held. The new bureau, the fourth since PALU's establishment is mandated to manage and provide the organisation with policy and strategic advice. Eligibility for candidature and voting will only be open to fully paid up members and those in good standing.

Registration for the General Assembly:

Early registration is already in progress. Contact us at secretariat@lawyersofafrica.org if you wish to register to enjoy early-bird discounts. PALU will facilitate visas on arrival for all participants of the General Assembly who register in good time. PALU Events:

PALU holds Joint Central & Western African Regional Seminar on International Commercial Law

PALU and the African Legal Support Facility (ALSF) organised a sub-regional seminar on Complex International Commercial Transactions and Litigation from 12th to 14th March in Yaoundé, Cameroon. It was the last of a series of seminars organised across Africa under the Joint PALU/ ALSF Capacity Building Project with previous meetings having been held in Kigali, Cape Town and Tunis.

The purpose of the meeting was to assess as well as build capacity for international commercial dispute resolution and also defence of Vulture Fund Litigation in Africa. Vulture Funds are speculators who buy debts deemed to be irrecoverable, of distressed nations at low prices on the secondary debt market. Once acquisition is complete, the vulture fund institutes legal proceedings usually in Anglo Saxon jurisdictions claiming the entire nominal amount, interest as well as damages. The meeting discussed vulture fund activity in the region which included the case of Kensington International which bought \$1.8 million worth of debt and brought a claim against the Republic of Congo at an initial value of \$29.6 million and obtained a conviction in its favour for \$118.6 million. This was a clear evidence of how vulture funds strip developing nations of capital that would otherwise be used for developmental and social programs.

The seminar aimed at enhancing the capacity of African lawyers in drafting and negotiating better commercial agreements

The seminar trained lawyers from the region to avoid the predatory practice of vulture funds increasing their capacity in contract drafting and negotiations.

Central Africa Regional Seminar on the Continental Human Rights System

PALU organised a Regional Seminar on the African Continental Human Rights System on the 15th and 16th of March in Yaoundé, Cameroon. It was the third of the series of seminars organised across Africa under our advocacy programme on International Human Rights Law.

The two-day seminar discussed many issues including challenges to regional protection of Human Rights and also encouraged Bar Associations to create awareness of Human Rights protection mechanisms. There were in-depth discussions most notable the Special Panel on the Independence of the Bar. The discussions brought to the fore the desperate situation facing the former Bâtonnier of Central African Republic Advocate Symphorien Balemby, who took part as one of the panellists during this session. Bâtonnier Balemby is currently living in exile in France after being forced to vacate his position as Bâtonnier of the National Bar Association of Central African Republic after many threats on his life. His wife unfortunately could not escape with him and is currently imprisoned in the Central African

Republic together with associates from his law firm accused of committing several offences. PALU commends Advocate Balembly for his bravery and continues to advocate for the independence of the Bar and for the protection of Human Rights Defenders.

PALU Upcoming events:

- Southern Africa Regional Seminar on the Continental Human Rights System to be held on the 3rd and 4th of May 2012 in Lusaka, Zambia.
- Western Africa Regional Seminar on the Continental Human Rights System to be held in Dakar, Senegal, dates to be confirmed.

From the PALU Secretariat

Lawyers Training on using the Protocol on the Rights of Women

PALU took part in a training session organised by Equality Now in partnership with the Solidarity for African Women's Rights (SOAWR) Coalition held on the 26th and 27th of March 2012 at Snowcrest Hotel in Arusha, Tanzania. It targeted lawyers from law firms and lawyers associations from English speaking West and Southern Africa and specifically countries that have ratified the Protocol. It provided a step by step guide for using the Protocol in litigating cases at national and regional levels including the African Commission and African Court.

Roundtable Consultations on Recent Developments at the East African Court of Justice

In conjunction with the East Africa Law Society (EALS), PALU convened a consultation on recent developments at the East African Court of Justice (EACJ). This follows the move of the East African Community Sectoral Council on Legal and Judicial Affairs to revise the jurisdiction of the EACJ to cover trade matters but exclude an explicit Human Rights jurisdiction.

Concerns have also been raised with the EACJ's recent decision in the case of *Attorney General of the Republic of Kenya v. Independent Medical Legal Unit, Appeal No. 1 of 2011*. The Court, which delivered its decision on 15th March 2012, overturned the principle of continuing violations providing for a strict interpretation of Article 30(2) of the EACT which provides for a two month limitation period for institution of suits. A follow up meeting that will bring together Bar Associations and Civil Society Organisations to consider these matters and define a strategy on the way forward will be held on the 18th of April 2012 in Zanzibar. For a copy of the decision please view the link below:

<http://www.eacj.org/docs/judgements/Attorney-Gen-of-Kenya-v-IMLU-15-03-2012.pdf>

PALU in the Press

1. PALU President visits Tanzania on APRM mission:
<http://foreign-tanzania.blogspot.com/2012/03/hon-membe-bids-farewell-cocktail-to.html>

<http://www.shout-africa.com/politics/barrister-akere-muna-commends-tanzania-for-joining-aprm/>

2. PALU President advocates against corrupt practices in the judiciary:
<http://tribune.com.ng/index.php/the-friday-edition/37688-transparency-international-and-war-against-corrupt-judges>
3. AfDB, ALSF invest in peace in Rwanda through a joint-project with PALU;
<http://allafrica.com/stories/201203210173.html>
4. Audiocast of PALU CEO discussing the challenges facing international justice at the BBC Africa Debate on the theme 'International Justice: Is Africa on Trial?'
<http://www.bbc.co.uk/programmes/p00q9kwj>
5. Is the African Court worth the wait? Article by PALU CEO
<http://www.osisa.org/openspace/regional/african-court-worth-wait>

News from our Sister Bar Associations:

Law Association of Zambia Conference and Annual General Meeting

The Law Association of Zambia will be holding its Annual General Meeting preceded by the Law Conference from the 26th to 28th of April at the Zambezi Sun Hotel in Livingstone, Zambia. For further information please contact the Law Association of Zambia at:

Email: secretariat@laz.org.zm

Tel: +260-211-254401/252168

Statement by the West African Bar Association on the Coup d'état in the Republic of Mali

On the 23rd of March PALU received a statement from the West African Bar Association (WABA) on the coup in the Republic of Mali. PALU takes note of the situation in Mali and strongly condemns this illegal and unconstitutional means of change of government. It contravenes the provisions of the ECOWAS Supplementary Protocol on Democracy and Good Governance and the AU Charter on Democracy, Elections and Governance specifically Article 25.

Darfur Bar Association: Ibrahim Almaz Deng and others sentenced to death

On the 20th of March 2012 the Judge Mutasim Tagalsir issued a judgement against Ibrahim Almaz Deng, Alsir Gibril Tia, Mahgoub Ahmed Mohammed, Ibrahim Abderahman Safialnur, Muhammed Khamis Dawood and Yahia Abakar Musa sentencing them to death with Abdella Abdella Hassan being sentenced

to ten years imprisonment. The condemned persons were arrested on the 11th January 2010 in West Algenena, a Western Darfurian State and brought to Khartoum to a National Security and Intelligence Services premises. They were held under the provisions of the Criminal Law Act, Terrorist Combat Act and the Arms Act and severely tortured while under custody. The unfair trial and inhumane conditions they were held under contravenes the Geneva Conventions and other international Human Rights instruments.

AGM of the Uganda Law Society:

The Uganda Law Society held its AGM in Entebbe, Uganda on the 31st of March on the theme “*Challenges of Today’s Legal Practice: Constraints in the Delivery of Effective Legal Services.*” PALU was represented by Mr. Bruce Kyerere, Deputy Secretary-General of PALU and former President of the Uganda Law Society. Elections were also held and there were no changes to the Council. For more information please visit their website on:

www.uls.or.ug

Advertisements and Vacancies

International Commission of Lawyers Training on International Law

The International Commission of Lawyers has issued a statement of an upcoming training session on the 26th and 27th of April 2012 in Paris, France. The goal of the program will be to provide comprehensive tools in specific areas of international law through the intervention of renowned trainers. Training will be on a wide range of areas a few of which include: The African Charter on the Protection of Human and People’s Rights, introduction of the African Charter, incorporation of International Law into national law, use of international Human Rights law in national courts, signature, ratifications and reservation of treaties, the African Commission and the African Court.

For further information, please contact the International Commission of lawyers on:

Email: uiacentre@uianet.org

Tel +33 1 44 88 55 66

Executive Secretary – Coalition for an Effective African Court

The Executive Committee of the Coalition for an Effective African Court is in the process of recruiting an Executive Secretary to head the Secretariat in Arusha, Tanzania. For more information please visit their website.

<http://www.africancourtcoalition.org/>

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 unparalleled online monthly E-newsletter and E-bulletins on topical legal issues pertinent to Africa
- Access to cutting edge commentary and legal analysis
- Unprecedented access to a broad, continent-wide network of distinguished African legal scholars and professionals
- Premier access to our online resource centre
- Invitation to various seminars, trainings, conferences and networking events
- A detailed listing in our directory of members.

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.

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