



UNIVERSITEIT VAN PRETORIA  
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Centre for Human Rights  
Faculty of Law

## PRESS STATEMENT

# CENTRE FOR HUMAN RIGHTS EXPRESSES CONCERN ABOUT TANZANIA'S WITHDRAWAL OF ACCESS TO THE AFRICAN COURT BY INDIVIDUALS AND NGOS

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The Centre for Human Rights, University of Pretoria, is deeply concerned about the recent decision of the Government of the United Republic of Tanzania to withdraw its declaration made under article 34(6) of the Protocol of the African Charter on the Establishment of an African Court on Human and Peoples' Rights allowing individuals and NGOs to take cases directly to the African Court.

The African Court is one of the main organs of the African Union responsible for strengthening the human rights protection system in the continent, and ensuring respect for and compliance with the African Charter on Human and Peoples' Rights and other human rights instruments ratified by AU member states. Notably, in addition to ratification of the African Court's Protocol, state parties to the Protocol have the option to make a declaration under article 34(6) allowing individuals and NGOs to take cases *directly* to the African Court after exhausting domestic judicial remedies. Only 10 African states (Benin, Burkina Faso, Cote d'Ivoire, Gambia, Ghana, Malawi, Mali, Rwanda, Tanzania, and Tunisian) have ever made this declaration since the Protocol was adopted in 1998, gravely hampering access to remedy for many victims of human rights violations across the continent. Tanzania ratified the African Court's Protocol in 2006 and made the article 34(6) declaration in 2010. Tanzania becomes the second country after Rwanda to withdraw its article 34(6) declaration.

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The United Republic of Tanzania stated that the Declaration has been implemented contrary to the reservations it made as part of its declaration. For the record, the only caveat in Tanzania's article 34(6) declaration is to the effect that 'entitlement is only to be granted to such NGOs and Individuals once all domestic legal remedies have been exhausted and in adherence to the Constitution of the United Republic of Tanzania.' It is not clear how the Court has implemented the declaration contrary to this caveat. Such vague grounds of withdrawal by the host state sets a negative precedent for other African countries and is a setback to efforts made by the African Union towards ensuring a united Africa which protects and respects human rights and access to justice.

Apart from discharging its moral obligation as a member state of the African Union and the host state to the Court, Tanzania also affords to its citizens the opportunity to effectively and readily access justice for violated rights – rights provided for in the Constitution of Tanzania and other human rights instrument it ratified.

The African Court held in its ruling concerning Rwanda's withdrawal that a withdrawal only becomes effective after 12 months and does not affect cases that are already pending before the Court or filed during the 12 months transitional period. State parties also have an obligation to cooperate with the Court in good faith until all the cases pending before the Court have been dealt with, since the withdrawal has no retrospective effect. Evidently, Rwanda stopped cooperating with the Court after depositing the instrument of withdrawal, a situation which must be avoided by Tanzania, especially in its capacity as the host state.

The African Court is the central institution in creating an effective regional accountability mechanism that plays a part in providing 'African solutions to African problems'. A withdrawal by the United Republic of Tanzania contributes to the polarization of states and a further restriction of access to remedy, an outcome that must be avoided at all cost.

We urge the government of the United Republic of Tanzania to reconsider its decision to withdraw the declaration. We also urge the African Union and other stakeholders to use all diplomatic and other means to engage the government of Tanzania to reverse this decision. Should Tanzania notwithstanding maintain its withdrawal, we urge that it fully cooperate with the Court on all pending cases.

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