

GUIDELINES FOR ADVISORY OPINION BY THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC)

Preamble

The African Committee of Experts on the Rights and Welfare of the Child (Committee), during its 47th Ordinary Session held in Maseru, Lesotho from 17 to 25 April 2026.

Recognizing that the Committee is established to promote and protect children's rights in Africa by virtue of Article 32 of the African Charter on the Rights and Welfare of the Child (Charter);

Noting that the Committee is entrusted with the mandate to 'where necessary give its views and make recommendations to Governments' pursuant to Article 42(a)(i) of the Charter;

Further noting the Committee's mandate to interpret the Charter under Article 42(c) and to clarify the obligations of States under Article 1 of the Charter

Considering that these provisions of the Charter serve as foundations for the consideration of requests for Advisory Opinion on matters of children's rights

Emphasizing that such opinions provide strong persuasive authority, aiming to guide States, AU Organs, and recognized organisations in the implementation of children's rights;

Acknowledging that Advisory Opinions serve as a proactive, noncontentious mechanism to clarify legal obligations and questions concerning children's rights and welfare

Recognising the need to establish a clear, accessible, and child-sensitive procedure for the Committee to receive and consider requests for advisory opinions on matters of child rights and welfare

The Committee hereby adopts the following Guidelines.

Section 1: Purpose

These Guidelines govern the request, consideration, issuance, and followup of advisory opinions by the Committee on legal questions concerning the rights and welfare of the child under the Charter.

Section 2: Nature of Advisory Opinions

Advisory opinions are formal interpretations and explanations that do not resolve contentious disputes between parties nor award remedies but provide legal guidance to authorized requesters on child rights issues.

Section 3: Request for Advisory Opinion

The following entities may request an advisory opinion from the Committee:

- i. Member States of the African Union
- ii. African Union, Organs of the African Union, and African Union Commission
- iii. Regional Economic Communities
- iv. International Organisations
- v. National Human Rights Institutions
- vi. Civil Society Organisations with observer status before the Committee
- vii. Children's Parliaments or recognized child participation platforms in Member States of the AU

Section 4: Form and Content

- i. A request for advisory opinion shall be submitted in written form addressed to the Committee providing the name and address of the requesting entity.
- ii. The request must contain the background and justification for seeking the opinion of the Committee and the specific legal issue on the rights and welfare of the child on which the opining of the Committee is sought.
- iii. In cases where domestic laws are cited and referenced, the request may attach the laws mentioned and provide other relevant supporting documents.

Section 5: Registration and Transmission of requests for advisory opinion

- i. The Secretariat of the Committee shall receive and conduct a preliminary review of the request to assess if it fulfils the requirement of form and content within 15 days.
- ii. The Secretariat shall then register and transmit the request to the Bureau of the Committee with its assessment.
- iii. Incomplete applications will be returned to the requesting entity which can re-submit a full application.

Section 6: Admissibility Criteria

A request for advisory opinion:

- i. Shall identify the legal issue in question in relation to children's rights;
- ii. Shall not raise a matter that is being considered under the Communications Procedure of the ACERWC, or by other judicial and quasi-judicial organs of the African Union;
- iii. Shall not raise issues already settled by prior decisions or normative standards of the Committee or other judicial and quasi-judicial organs of the African Union unless the requesting entity demonstrates a distinct interpretative need;
- iv. Shall not raise purely political, factual, or hypothetical questions lacking legal content;
- v. Shall stipulate the legal uncertainty, ambiguity, conflicting interpretation or factual and legal context giving rise to the request for opinion; and
- vi. Shall not be motivated by solely individual cases and must demonstrate public interest for children or demonstrate an impact on children's rights.

Section 7: Discretion to Decline

Even where admissibility criteria are met, the Committee retains discretion to decline a request if it determines that issuing an opinion would not serve the best interests of the child or the development of children's rights jurisprudence.

Section 8: Process of Consideration

- i. The Committee may transmit the request for opinion with Member States, the African Union and its Organs, and other relevant entities and organisations to receive submission and observations on the questions at hand.
- ii. The Committee shall allow 45 days for the aforementioned entities to submit written observations on the issues raised. Extensions may be granted upon request.
- iii. The Committee may convene a public hearing to consider oral arguments from the requesting entity, and other experts or organisations invited by the Committee.
- iv. The Committee may conduct an inquiry or separate assessment of the issues raised in a manner it deems fit to clarify the legal question presented.
- v. Whenever possible, the Committee shall take into account children's views in the consideration and determination of advisory opinions.
- vi. The Committee shall use its best efforts to finalise a request for an advisory opinion within 12 months from the date it is declared admissible.

Section 9: Advisory Opinion

- i. The Committee shall deliberate on the request in a closed session and adopt its opinion by simple majority of Members present.
- ii. The advisory opinion of the Committee shall include:
 - a. A summary of the request and proceedings;
 - b. The legal question(s) as framed by the Committee;
 - c. Interpretation of the relevant provisions of the Charter and inspirations drawn from other regional and international instruments on child rights, with reasoning;
 - d. Any separate or dissenting opinions;
 - e. The date and signatures of the Chairperson.

Section 10: Publication and use

- iii. The Advisory Opinion of the Committee shall be transmitted to the requesting entity and published on its website and transmitted to all AU Member States.
- iv. Member States may take the opinion of the Committee into account in the development of their laws, policies and other measures.
- v. The Committee may monitor the implementation of its Advisory Opinions through its mandates of monitoring implementation as stipulated in the Charter, its Rules of Procedures and other Guidelines.

Section 11: Relationship with other Organs

These Guidelines do not prevent the Committee from requesting Advisory Opinion from other organs such as the African Court on Human and Peoples' Rights on the same matters and legal questions presented before their jurisdiction.

Section 12: Final Provisions

- vi. On procedures and matters not covered in this Guidelines, the Guidelines for Consideration of Communications and Monitoring Implementation of Decisions applies *mutatis mutandis*.
- vii. These Guidelines may be amended by a twothirds majority of Members of the Committee.
- viii. These Guidelines shall enter into force upon adoption by the Committee.
- ix. The Guidelines shall be published upon adoption.

Adopted on 25 April 2026 during the 47th Ordinary Session of the African Committee of Experts on the Rights and Welfare of the Child in Maseru, Kingdom of Lesotho