

**51st ORDINARY SESSION OF THE AFRICAN COURT ON HUMAN AND
PEOPLES' RIGHTS**

12 NOVEMBER - 7 DECEMBER 2018, TUNIS, TUNISIA

**OPENING STATEMENT OF HONOURABLE SYLVAIN ORÉ, PRESIDENT,
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS**

- Excellency, Advocate Lazhar Karoui Chebbi, Minister, Personal Representative of the President of the Republic of Tunisia
- Honourable Ben Kioko, Vice-President of the African Court on Human and Peoples' Rights
- Honourable Judges of the African Court
- Honourable Judges of the Tunisian national Courts
- Distinguished personalities representing State institutions
- Distinguished Guests, Ladies and Gentlemen
- All protocols observed

“In the Name of God, the Merciful, the Compassionate...We, the representatives of the Tunisian people, members of the National Constituent Assembly... With a view to building a republican, democratic and participatory system, ... where the state guarantees the supremacy of the law and the respect for freedoms and human rights, the independence of the judiciary, the equality of rights and duties between all citizens, male and female, and equality between all regions; We, in the name of the Tunisian people, with the help of God, draft this Constitution”.

As I begin my statement, I make reference to this excerpt from the preambular provisions of the Constitution of the Republic of Tunisia because it is seems to me indispensable, and indeed inevitable, I would say, to first underscore the basis for choosing Tunis to host the 51st Ordinary Session of the African Court on Human and Peoples' Rights. When, on 9 June 1998, Member States of the Organization of African

Unity, now the African Union, adopted the Protocol Establishing the African Court on Human and Peoples' Rights, it was these same ideals of participatory democracy, independence of the judiciary, equality and respect for the fundamental rights of the human person, that at the time inspired the sovereign determination of the respective Member States. The Republic of Tunisia has never ceased to be the torch bearer of these fundamental and imperative ideals of the open society all along its history steeped in cultural, historical, political and social riches which it has offered to humanity since the formation of Carthage up to the Arab Spring. In addition to assuming the mantle of pioneering a more or less fourth wave of democratization in Africa inaugurated by the Arab Spring, Tunisia has masterfully re-enacted the proof that Africa and democratic Africa are far from being an antinomy. The constitutional ingenuity recently demonstrated by the Tunisian elite with the backing of a people unchained by the intense drive for freedom has indeed become a political learning house, a social inspiration and a universal celebration, as eloquently recognized at the Nobel Peace Hall of Fame.

Your Excellency, Minister and Personal Representative of the Head of State, my statement on the choice of Tunis to host this Session of the Court would be partial if I did not mention two other crucial actions undertaken by the Government and the Tunisian people with His Excellency the President of the Republic at the helm. In June 2014, the Republic of Tunisia endorsed the nomination and backed the election of the eminent Tunisian academician, Professor Rafâa Ben Achour, a Judge of the African Court. While confirming Tunisia's undeniable interest for human rights justice, the election brought to bear on the African Court the long and rich experience of one of the continent's most renowned scholars. In what may be aptly describe as a logical sequence of events, Tunisia in May 2017, deposited the declaration recognizing the jurisdiction of the African Court, thus entering the very restricted circle of eight Member States of the African Union to have done so, out of 55. If the new Tunisia amply deserves the laurels that I have tried to edify, we must however know how to give to Caesar what is Caesar's and to God what is to God's. Honourable Minister, we are seeing right before us, the Member State Tunisia celebrating the African Court on Human and Peoples' Rights here in Tunis. May I, on my own behalf and on behalf of the Judges and all the officials of the Court ask you to kindly convey to His Excellency the President of the Republic our heart-felt gratitude for having accepted to welcome

us to this land, the melting pot of civilizations, this new *el dorado* of human rights in Africa; this is for me, what Tunisia deserves to be called.

Excellency Minister, Distinguished Guests, as some of you are well aware, the African Court on Human and Peoples' Rights was established in 1998 with the primary mission to ensure the judicial protection of human rights in Africa. With its Seat in Arusha in the United Republic of Tanzania, the Court opened its doors in 2006 and rendered its first judgment in 2009. As of today, it has received over 180 Applications and delivered numerous judgments on issues as crucial as the right to participation in politics, freedom of expression, independence of electoral bodies, women's rights, the right to nationality, the rights of indigenous peoples and the right to a fair trial, such as the right to defense, legal aid or to presumption of innocence. In some of these cases, the Court ordered provisional measures or indeed the payment of damages where the alleged violations were proven and the State's liability was actually established. The Court holds four ordinary sessions each year, each session lasting four weeks, and extraordinary session where conditions so permit. The Court is a fully fledged judicial *imperium* in as much as it is empowered to take and order all such measures as are necessary to ensure effective administration of justice, including the conduct of investigations, holding of public hearing for the parties, ordering various measures and rendering judgments with immediate binding effect. In the course of the session which commences today and ends on 7 December 2018, the Court will examine pending Applications at different stages of proceedings, be it the stage of deliberation or that of judgment delivery. As is the practice, the cases heard and the date of delivery of judgment by the Court even here in Tunis will be communicated to the public. The Court will also consider administrative or other matters that relate to its operation, particularly issues concerning the Registry. I would like to solemnly invite you to participate in the public activities set out in the agenda of the session.

Excellency Minister, Distinguished Guests and personalities here present, these are the tenets and the menu of this high mass of continental human rights justice in Africa to which Tunis has invited us. May I point out that it is the entire African Court that has made the journey to Tunis; not only the judges of the Court who are nationals of 11 different African countries, namely: Kenya, Tunisia, Burundi, Senegal, Mozambique, Algeria Malawi, Rwanda, Cameroon, Nigeria, Tanzania and Congo; but

also Court officials from Cameroon, Burkina Faso, Kenya, Benin, Ethiopia, Guinea Bissau, Uganda, Togo, Mauritania, Nigeria, Algeria, South Sudan, Tanzania, The Sudan, Côte d'Ivoire and Tunisia. Honourable Minister, as you can see, it is Africa in miniature that has come to Tunisia; an Africa of the rule of law and freedoms; an Africa of women's rights and women's participation in socio-political and economic life; an Africa of open public governance involving all citizens irrespective of status; an Africa where justice has progressed from necessity to become an imperative; and, hence, an Africa for which Tunisia has become, as I emphasized at the beginning of my statement, the worthy torchbearer.

In this context, I have no doubt that the holding of the 51st Ordinary Session of the Court in Tunisia will be a landmark in the annals of human rights justice not only in Africa but in Tunisia as well, in as much as this event has gained for the Government and people of Tunisia, a support which has been growing from strength to strength since the agreement in principle given by the President of the Republic right from the start of this process which has today come to its climax. The program and protocol lead me to realize that I will take the floor at a later date to express in a special way the Court's gratitude to the Tunisian authorities for the measures taken to make the session possible. It is therefore on this note of renewed gratitude that I conclude my statement. I thank you for your kind attention.

Sylvain ORE