

**African Governance Architecture Support Project
(AGA-SP)**

Contract: PANAF/2020/419-773

**Technical Assistance - Short-Term Expertise Mission
Terms of Reference**

Subject	DEVELOPMENT OF COMPARATIVE STUDY AND INTERNAL AND EXTERNAL GUIDES ON AMICABLE SETTLEMENT		
Country	UNITED REPUBLIC OF TANZANIA		
Number of working days	<ol style="list-style-type: none"> 1. Preparation phase: 4 2. Realisation phase: 23 3. Reporting phase: 3 		
Responsible expert	Key Expert, NAME		
Author	AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS	Date	October 2021

1. Background of the technical assistance mission

The Strategic Plan of the Court for 2021 – 2025 has identified the Court's enhanced use of amicable settlement as a method for improving its judicial processes, as this procedure may contribute to the faster resolution of cases and offer greater guarantees for compliance with the negotiated settlement.

In view of the limited use of this procedure, the Court deems it necessary to conduct a comprehensive study on the use of amicable settlement by other regional human rights courts and by regional human rights quasi-judicial bodies. This study would then inform the development of guides on amicable settlement for internal use by the Court and external use including by Parties, Counsel and other stakeholders.

2. Objectives of the technical assistance mission

It is envisaged that the mission will provide the technical expertise for preparation of a comparative study on amicable settlement drawing on the experiences of similar human rights courts. The findings of the study will inform the development of an amicable settlement manual and standard operating procedures for the Court's internal use in management of amicable settlement processes and an amicable settlement practice guide for external use by litigants on the procedure on amicable settlement.

3. Participants and institutions involved

The participants to be involved can be deduced from the following tasks to be undertaken:

- i. Desk study of amicable settlement frameworks and processes of the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the Community Court of Justice of the Economic Community of West African States (ECOWAS Court of Justice), the East African Community (EAC) Court of Justice, the European Court of Human Rights, the Inter-American Court of Human Rights and other relevant institutions. This study would cover issues including, criteria for determining cases to be proposed for amicable settlement, how parties are approached with the proposal, what is the uptake rate of the proposal by the parties, reasons for rejection or acceptance of the proposal, how to deal with challenges arising in amicable settlement in order to ensure success of the procedure, how to manage the process, how to ensure equality of arms, who manages the process and what role is foreseen for other actors at the national level.
- ii. Conduct stakeholder interviews on the use of amicable settlement with representatives of the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the Community Court of Justice of the Economic Community of West African States (ECOWAS Court of Justice), the East African Community (EAC) Court of Justice, the European Court of Human Rights, the Inter-American Court of Human Rights and other relevant institutions. The interviews would cover similar issues as those covered in the desk study.
- iii. Conduct stakeholder interviews with representatives of the States that have filed the Declaration required under Article 34(6) of the Protocol Establishing the Court on their perspectives on amicable settlement.
- iv. Conduct stakeholder interviews with Applicants who have been involved in Amicable Settlement processes before the African Court.
- v. Conduct a survey of all African Union Member State's perspectives on amicable settlement of human rights disputes filed before international tribunals.
- vi. Undertake an analysis of findings of the desk study, the stakeholder interviews and surveys and prepare a comprehensive comparative study on the procedure and practice on amicable settlement of similar regional human rights courts and quasi-judicial bodies.
- vii. Develop for the Court's internal reference, a manual on the conduct of amicable settlement of cases pending before it together with detailed standard operating procedures and relevant template documents in this regard to improve the quality of this procedure.
- viii. Develop for Parties, Counsel and other stakeholders, a practice guide to create greater awareness about the amicable settlement procedure, to support the

increased use of this alternative dispute resolution mechanism and to inform litigants of the details of the procedure.

- ix. Present the draft study and draft Internal and External Guides to a validation workshop involving the Judges and staff of the African Court, the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the Community Court of Justice of the Economic Community of West African States (ECOWAS Court of Justice), the East African Community (EAC) Court of Justice, the European Court of Human Rights, the Inter-American Court of Human Rights and other relevant institutions.

4. Expected results and deliverables of the technical assistance mission

- i. Inception Report for the Consultancy
- ii. Survey Responses
- iii. Interview Transcripts/Reports
- iv. Draft Study for Validation
- v. Programme for Validation Workshop
- vi. Final Comparative Study
- vii. Manual for the Court on Amicable Settlement, including standard operating procedures and relevant template documents.
- viii. Practice Guide on Amicable Settlement for Parties, Counsel and Other External Stakeholders
- ix. Final Consultancy report

5. Profile of the non key expert

The consulting firm/individuals should possess the following:

- i. At least five (5) years' experience in research on amicable settlement procedures, preferably in human rights disputes
- ii. Individuals or team members should have at least a Master's Degree in Law/International Relations/Sociology
- iii. Demonstrable knowledge of the functions, dynamics and complexities of international organisations or international judicial institutions.
- iv. Proven experience working with African continental or regional organisations.
- v. Individual or Team competencies in all African Union working languages –Arabic, English, French, Portuguese and Spanish
- vi. At least two technical references for similar work.

6. Dates and location of the technical assistance mission

The mission will be for a period of 30 days spread across the period from January to March 2022. The specific activity dates will be agreed in due course