

Chapter 36

Article 42

Mandate

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The functions of the Committee shall be:

- (a) to promote and protect the rights enshrined in this Charter and in particular to:
 - (i) collect and document information, commission inter-disciplinary assessment of situations on African problems in the fields of the rights and welfare of the child, organise meetings, encourage national and local institutions concerned with the rights and welfare of the child, and where necessary give its views and make recommendations to governments;
 - (ii) formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;
 - (iii) cooperate with other African, international and regional Institutions and organisations concerned with the promotion and protection of the rights and welfare of the child;
- (b) to monitor the implementation and ensure protection of the rights enshrined in this Charter.
- (c) to interpret the provisions of the present Charter at the request of a State Party, an Institution of the Organisation of African Unity or any other person or institutirecognised by the Organisation of African Unity, or any state party;
- (d) perform such other task as may be entrusted to it by the Assembly of Heads of State and Government, Secretary-General of the OAU and any other organs of the OAU or the United Nations.

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1 Introduction

Article 42 of the African Charter on the Rights and Welfare of the Child (African Children's Charter) contains sub-provisions that provide a generic description of the mandate of the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee), very specific mandates, and some illustrations of the activities that may be undertaken by the African Children's Charter. It can be understood to outline the framework for the mandate of the Children's Committee and suggestions on lists of activities that it may undertake to fulfil its mandate. The provision does not fully capture all the mandates of the Committee, as subsequent provisions continue to outline its key mandates such as the mandate to consider state party reports¹ and communications² and to undertake investigations.³ Even though the caption of the provision reads 'Mandate of the Committee', not all the elements of the provision provide for mandates as it also contains activities the Committee may

1 African Charter on the Rights and Welfare of the Child (African Children's Charter) art 43.

2 Art 44 African Children's Charter.

3 Art 45 African Children's Charter.

undertake. Such position is grounded in the fact that a mandate implies a legal authority to carry out the entailed activities, while functions or activities do not necessarily require a legal basis but are means to achieve the mandate. Reading article 42 of the Children's Charter, one can observe that the list includes activities that require authority to undertake them, such as 'interpretation of the Charter' provided under article 42(c) or 'monitoring implementation' provided under article 42(b), while the substantial part of the provision spells out suggested activities the Committee may conduct to achieve its mandate.

The provision is very relevant in understanding the scope and nature of the mandate of the African Children's Committee even though it is not an exhaustive list of 'mandates'. Article 42 provides the main functions of the Committee, from which the succeeding provisions outline some specific mandates that enable the Committee to achieve what is enunciated as a broad mandate therein. Moreover, the provision skeletons key activities the Committee may carry out in executing any of its mandates listed beyond article 42, particularly looking at sub-section (a).

2 Legal interpretation of article 42: Mandate of the African Children's Committee

Looking at similar treaty bodies' mandates, a provision of this nature exists mainly in the African Children's Charter and the African Charter on Human and Peoples' Rights (African Charter) with regard to the mandate of the African Commission on Human and Peoples' Rights (African Commission).⁴ The United Nations (UN) counterpart, the Convention on the Rights of the Child (CRC), does not have such a list of mandates, but rather contains a provision on the mandate of the CRC Committee to receive state party reports.⁵ The other mandates of the CRC Committee are found either in the Rules of Procedure or in its Optional Protocols.⁶ Article 42 of the African Children's Charter has added value as it forms part of the binding provisions of the Charter, thereby ensuring a legal basis for the broader mandate. The promotion and protection of children's rights and monitoring the implementation of the Children's Charter are broad legal mandates through which the Committee can undertake several activities in addition to those listed in the Charter, such as the state reporting, communication or investigation procedures. Indeed, the African Children's Committee has also explained in its Rules of Procedure what additional functions it may assume in line with article 42.⁷ This is in line with the African Children's Charter which instructs the African Children's Committee to establish its Rules of Procedure.⁸

2.1 Promotion and protection (article 42(a))

Article 42(a) sets out the mandate of the African Children's Committee to promote and protect the rights enshrined in the African Children's Charter. The promotion and protection of children's rights may include a wide range of activities that the Committee may undertake, and the sub-article provides an illustration of what 'promotion and protection' may encompass. It enables the Committee to carry out any activity as long as it relates to the rights enshrined in the Charter.

4 African Charter on Human and Peoples' Rights (African Charter) art 45.

5 Convention on the Rights of the Child (CRC) art 44.

6 Committee on the Rights of the Child Rules of Procedure, Rule 79; Optional Protocol to the Convention on the Rights of the Child on Communications Procedure.

7 African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) Rules of Procedure, <https://www.acerwc.africa/sites/default/files/2022-09/Revised-Rules-of-Procedure-ACERWC.pdf> (accessed 8 January 2024).

8 Art 38(1) African Children's Charter.

The African Children's Charter provides no distinction as to which mandates are protection or promotion mandates. There are various approaches to this. For instance, the African Commission has explicit provisions on the Commission's promotional mandate, which encompass documenting information, organising meetings, formulating principles, and cooperation.⁹ Nevertheless, it does not have a list of the African Commission's protectional mandate apart from mentioning that the Commission has the mandate to ensure the protection of human and peoples' rights.¹⁰ The Commission, in its Rules of Procedure of 2010, has provided separate sections for promotional and protectional mandates.¹¹ In the Rules of Procedure, state reporting, advocacy visits, follow-up visits, seminars and collaboration with partners were classified as part of the promotional mandate. However, it seems that the Commission has reconsidered this approach looking at its most recent listing of promotional and protectional mandates where it now highlights state party reporting as protectional mandate.¹² Considering the role that each of the functions of the African Children's Committee contributes towards both the protection and promotion of children's rights, looking at the mandate of the African Children's Committee in two categories strictly may not be desirable and no such indication exists in the Charter. Under the African Children's Charter, article 42(a) provides for the 'protection and promotion mandates' jointly, but only has three sub-articles relating to gathering information, organising meetings, laying down principles, and cooperation with other institutions. This, however, is without prejudice to the fact that certain mandates of the Committee do have a more protectional aspect than others. State reporting, the communications procedure and investigation mandates of the African Children's Committee have more of a protection role for children's rights, while the Committee's mandate to convene meetings has more of a promotional aspect. It is also pertinent to note that the promotional and protectional aspects are complementary. The outcome of the Committee's protectional undertakings have to be popularised and followed up through the promotional mandates to ensure full compliance and implementation.

The promotional and protectional mandates of the African Children's Committee are not limited to those listed under article 42(a), as the other mandates of the Committee listed under articles 42 to 45 are mandates for the promotion and protection of children's rights. For the purpose of this *Commentary*, this chapter discusses mandates as they are structured and listed in the provision. The other mandates are discussed in other chapters of this *Commentary*. Accordingly, some of the key promotional and protectional mandates of the African Children's Committee provided under article 42(a) include the following:

Information gathering and interdisciplinary assessment: The Children's Committee undertakes studies and research on children's rights that provide concrete recommendations for member states and other stakeholders on the matter covered in the assessment. To date, the Committee has adopted nine comprehensive studies.¹³ Considering that the Committee is the only continental body focused on children's rights, it assumes the role of documenting and creating knowledge about the status of children's rights in various thematic areas to member states, African Union (AU) organs and other stakeholders.¹⁴ Furthermore, the Committee might request the AU Commission and partners to undertake studies on specific child rights issues.¹⁵

Organising meetings: The Committee may conduct various meetings and workshops with relevant stakeholders for advocacy, capacity-building and popularisation events on child rights. The main

9 Art 45(1) African Charter.

10 Art 45(2) African Charter.

11 African Commission on Human and Peoples' Rights (African Commission) Rules of Procedure; see Part 2 for Promotion Activities and Part 3 for Protection Activities, <https://achpr.au.int/index.php/en/node/875> (accessed 8 January 2024).

12 Mandate of the African Commission, <https://achpr.au.int/index.php/en/about/mandate> (accessed 12 May 2024).

13 <https://www.acerwc.africa/en/resources/studies-research> (accessed 12 May 2024).

14 African Children's Committee Rules of Procedures, Rules 65 & 78,

15 As above.

stakeholders include children, member states, regional economic communities (RECs), civil society organisations (CSOs), national human rights institutions (NHRIs) and other organs of the AU. The Children's Committee has previously organised workshops with RECs, NHRIs and member states.¹⁶ It has also started to organise meetings with CSOs and children at domestic level during its country visits¹⁷ and to ensure the participation of children in its sessions. Organising meetings with CSOs and children is an opportunity to promote and protect children's rights that can be further explored. Considering the number of children on the continent as well as the wide range of CSOs, and given the limited resources available for the Committee's activities, strategies towards engaging through platforms that coordinate children and CSOs may be optimal. For instance, building formal relationships with CSO coalitions and child parliaments is key to achieving coordinated engagement. So far there are two CSO networks that have applied for and attained observer status before the Children's Committee, namely, the Ugandan Child Rights NGO Network and the Zimbabwe National Council for the Welfare of Children.¹⁸

Encouraging national and local institutions: The African Children's Committee can engage with local and national institutions including government institutions, NHRIs, ombudsmen and CSOs working on children's rights issues. Such institutions play a pivotal role in the realisation of children's rights as they are the main implementation agents at domestic level. The Committee's engagement may focus on promoting the rights contained in the African Children's Charter, enhancing capacity, and encouraging roles in monitoring the implementation of its decisions, among others. Encouraging national and local institutions can be undertaken through setting normative standards on child rights that can be utilised by such institutions towards enhanced protection of children's rights. Moreover, the African Children's Committee, through its various mandates, can provide recommendations and decisions that contain specific tasks to be undertaken by such institutions. Integrating the roles these institutions may assume in the implementation of recommendations and decisions of the African Children's Committee and the provisions of the African Children's Charter in the various documents adopted by the African Children's Committee will further enhance their active role on child rights promotion and protection. The Committee may also undertake sensitisation and capacity-building efforts to encourage domestic institutions. Consequently, the African Children's Committee can leverage these national and local institutions to ensure a more effective delivery of its mandate. With a view to strengthening and formalising its engagement, the Committee grants observer status to CSOs and affiliate status to NHRIs, in line with the criteria stipulated through the Guidelines.¹⁹ To date, the African Children's Committee has granted observer status to 41 CSOs and affiliate status to 22 NHRIs.²⁰ The Guidelines for observer status (as well as affiliate status) provide how such CSOs and NHRIs can engage with the

16 African Children's Committee Report of the Workshop with NHRIs and CSOs on Implementation of Decisions held in Kenya on 23-24 February 2023 (March 2023); African Children's Committee Report of the Experience Sharing Forum on the Implementation of the African Charter on the Rights and Welfare of the Child held in Mauritius on 27-28 September 2017 (October 2017); African Children's Committee Report of the Workshop on Popularisation of Agenda 2040 and Cross Border Issues Affecting Children in East African Community held in Tanzania on 23-24 October 2018; African Children's Committee Report of the Workshop on Popularisation of Agenda 2040 and Cross Border Issues Affecting Children in Economic Community of Western Africa held on 30-31 October 2018 (November 2018).

17 African Children's Committee Report of the ACERWC on the Follow-up Mission Conducted to Monitor the Implementation of the Concluding Observations and Recommendation to the Republic of Ghana (June 2022); African Children's Committee Report on the Mission to the Republic of The Gambia on Reporting under the African Children's Committee (September 2023).

18 See website on observer status, https://docs.google.com/document/d/1u7HJjKYUtOeiX6-VXZAp73GZRbc7_E-TD2-e9Ssd3Ps/edit (accessed 7 June 2024).

19 African Children's Committee Guidelines for Granting Affiliate/Associate Status to National Human Rights Institutions before the African Children's Committee; African Children's Committee Guidelines on Observer Status of NGOs and Associations, <https://www.acerwc.africa/sites/default/files/2022-09/Guidelines-on-Observer-Status-of-Non-Governmental-Organisations-NGOS-and-Associations.pdf> (accessed 12 May 2024).

20 See information at <https://www.acerwc.africa/en/networks/nhris> (accessed 12 May 2024).

African Children's Committee and provide guidance on specific activities that can be undertaken to support the various mandates of the Committee.

This specific mandate to deal with local mechanisms gives the African Children's Committee a wider engagement platform to interact with community-level mechanisms if it deems fit. Many opportunities can be explored depending on the type and thematic areas of the Committee's engagement with local institutions.

Providing views and recommendations to governments: The African Children's Committee, being composed of experts on children's rights and welfare, is among the key organs that can provide concrete recommendations on the implementation of the rights of children enshrined in the African Children's Charter. Multiple ways can be explored for the African Children's Committee to give its views and recommendations. Considering that the recommendations of the Committee in the state party reporting, communications and investigation procedures are discussed in separate provisions (as well as in separate chapters in this *Commentary*), this specific provision can be applied on other occasions that might require the Committee's recommendations and views. However, it is a very generic and broad mandate that can be interpreted in several ways.

This sub-provision allows the African Children's Committee to issue an advisory opinion on any child rights matter. The Children's Committee thus far received one request for advisory opinion which has not yet been finalised. A similar provision was used by the African Commission when it issued its one and only advisory opinion on the United Nations Declaration on Indigenous People.²¹ In its analysis of its jurisdiction, the Commission relied on article 45(1)(a) of the African Charter which states that the Commission has the mandate to 'collect documentation, carry out studies and research on African problems in the field of Human and Peoples' Rights ... and, if need be, submit opinions or make recommendations to the governments'.²² The provision in the African Children's Charter is similar and can be utilised by the African Children's Committee to issue advisory opinions either upon the request of a third party or *suo motu*. However, the main hinderance in the implementation of this mandate is the lack of proper rules and guidelines as to how the procedure unfolds and can be utilised. Neither the African Children's Charter, nor the Rules of Procedure of the African Children's Committee provide guidelines on the procedure of issuing an advisory opinion. Similarly, at the African Commission, there are no clear guidelines on advisory opinions, apart from a mere mention that the Commission needs to be competent to respond to advisory opinions within its Rules of Procedure.²³ Looking at the Rules of Procedure of the Commission, the concept of advisory opinion is provided in the context of interpretation of the African Charter.²⁴ Inspiration can be drawn from the African Court on Human and Peoples' Rights (African Court) whose Protocol clearly provides for the procedure for advisory opinions²⁵ and which has established detailed rules on advisory opinions on its Rules.²⁶ Similarly, the Inter-American Court and the European Court of Human Rights have established enabling guidelines in addition to the provisions in their establishing documents that provide for the advisory opinion procedure.²⁷ Therefore, the adoption of guidelines for advisory procedures of the Committee would

21 African Commission Advisory Opinion on the UN Declaration on Indigenous People, 2007, https://www.iwgia.org/images/publications/Advisory_Opinion_ENG.pdf (accessed 12 May 2024).

22 African Commission Advisory Opinion (n 21) para 7.

23 African Commission Rules of Procedure, Rule 3(3).

24 Rule 127.

25 Protocol to the African Charter on the Establishment of the African Court on Human and Peoples' Rights (African Court Protocol) art 4.

26 Rules of the African Court on Human and Peoples' Rights, Part V.

27 American Convention on Human Rights art 64; Inter-American Court on Human Rights, Rules of Procedure, Title 3; Protocol 16 to the European Convention on the Protection of Human Rights and Fundamental Freedoms on Advisory Procedures; Guidelines on the Implementation of the Advisory Opinion Procedure of Protocol 16 (2018).

better facilitate the effective utilisation of its mandate under article 42. Such guidelines are key to defining who can submit a request, on what issues a request can be brought, and who the Committee can consult and engage with in providing its opinion, among others.

Formulation of principles and rules: This sub-provision envisages principles and rules set by the African Children's Committee that are not the interpretation of the provisions of the African Children's Charter, as there is a separate mention of the mandate to interpret the Charter under article 42(c). These rules and principles can be established through guidelines, policy briefs, resolutions and declarations, among others. The Committee has developed substantive policy documents that lay down rules and principles on specific thematic areas. The Committee thus far developed four substantive guidelines on child participation; safe return to schools of children during COVID-19; children's rights during elections; and ending violence against children,²⁸ which are aimed at providing guiding principles and rules on the measures that should be undertaken by states. The African Children's Committee has adopted four resolutions on substantive matters.²⁹ More recently the Committee adopted a Child Safeguarding Policy of the AU that it developed upon the request of the Executive Council.³⁰ This policy has a different nature and scope than the other rules formulated by the Committee considering that it is not mainly addressed to member states, but rather to the AU itself. The standards and principles outlined are still relevant for member states in as far as they provide exemplary norms for similar policies that may be adopted by states. In addition to rules and principles on specific thematic areas, the Committee has developed Africa's Agenda for Children 2040, otherwise known as Agenda 2040. The Agenda was developed during the celebration of the twenty-fifth anniversary of the African Children's Charter, which aimed at assessing the situation of children's rights in Africa in the 25 years following the adoption of the Charter with a view to 'looking behind to look forward'. Agenda 2040 was further adopted by the Executive Council of the AU as an African Union Agenda through Decision EX.CL/Dec.997(XXXI).

The African Children's Committee has the legal mandate to lay down child protection and promotion principles in any format, and the AU and its organs as well as member states have to abide by the formulated principles. Such rules and principles of the Committee do not have a binding or authoritative stance. However, they are soft law that should be given high consideration in the protection and promotion of children's rights by all actors. Accordingly, enhanced dissemination and popularisation of the principles and rules are key to ensuring the implementation and protection of children's rights at national, sub-regional and regional levels. The Children's Committee must undertake critical assessments before deciding which matters require the formulation of principles and rules and which matters require other formats, such as a General Comment, which has a stronger legal status.

Recently, the Committee adopted Guidelines on Policy Briefs³¹ to provide insight on which types of issues can be dealt with in a policy brief and what their format should look like. While this is commendable, it may not be feasible to adopt such guidelines for all types of documents that can possibly be adopted to lay down rules and principles. Whether done on a case-by-case basis or through guidelines, the African Children's Committee should have a clear yardstick on what issues should be addressed in what nature of documents. Once developed, such document should be widely

28 See the list of Guidelines at <https://www.acerwc.africa/en/key-documents> accessed on 12 March 2024

29 The resolutions are on the integration of a child rights-based approach in the implementation of the African Continental Free Trade Area; on the situation of children with albinism in Africa; to integrate a child rights-based approach into climate change action; and on the protection and promotion of children's rights in the digital sphere in Africa. See the list of Resolutions at <https://www.acerwc.africa/en/resolutions> accessed at 12 March 2024

30 African Children's Committee Communiqué of 43rd session (April 2024), https://www.acerwc.africa/sites/default/files/2024-05/Communique%20Final%2043rd%20Session_Eng.pdf accessed at 17 March 2024; Executive Council of the African Union, Decision EX.CL/Dec.1201(XLII), https://au.int/sites/default/files/decisions/42843-EXECUTIVE_COUNCIL_DECISIONS_E.pdf (accessed 12 May 2024).

31 African Children's Committee (n 30).

disseminated and made publicly available. Indeed, the documents are available on the website of the African Children's Committee, albeit lacking proper referencing and visibility. The rules and principles first and foremost must be utilised by the Committee itself to increase their visibility by integrating them in Concluding Observations and recommendations, decisions, studies and other documents. Moreover, the African Children's Committee should broaden its virtual visibility by popularising the adoption of such rules and principles on social media platforms as well as portals of other academic and data-providing institutions.

Cooperation: Within the framework of the promotion and protection of children's rights, the African Children's Committee is mandated to cooperate with African, international and regional organisations that work with children's rights. The inclusion of cooperation within the mandate of the African Children's Committee signals its importance for its effective operation and the realisation of children's rights. The Rules of Procedure of the Committee shed light on some of the key areas of the collaboration the Committee may establish pursuant to article 42(2) of the African Children's Charter.³² Accordingly, the African Children's Committee can collaborate with African, international and regional institutions in undertaking the promotion and protection of children's rights. The Committee has embarked on collaborations with other organs of the AU in various aspects. The Committee works closely with the African Commission and on various programmes. The Committee and the Commission have issued two joint General Comments (on child marriage and female genital mutilation (FGM)) as the issues are cross-cutting in the mandates of both organs.³³ The two organs have also recently engaged the government of The Gambia on the issue of the proposal of some members of parliament to decriminalise FGM.³⁴

Moreover, the African Children's Committee, the African Commission and the African Court have closer collaboration as the continental human rights mechanisms. The African Children's Committee makes reference to the jurisprudence of the African Commission and the African Court in its various decisions and working documents in line with article 46 of the African Children's Charter. It is worth mentioning that the Committee's engagement with the African Court is not similar to that of the African Commission, as the Committee does not have direct access to refer cases to the Court.³⁵ To rectify this, the Committee requested the African Court to propose the amendment of the African Court Protocol to include the Committee in the list of organs that can refer cases to it. The process is still ongoing with not much promising progress. However, it is pertinent to ensure that children's rights are given the necessary attention at continental level by ensuring the African Children's Committee's access to the African Court. Despite this, there remain to be various avenues for collaboration between the Committee and the Court whereby the two can navigate the aspect of *amicus curiae* briefs on child rights issues on matters pending before either of the organs and embark on joint activities in terms of engagement with member states, other organs of the AU, CSOs, NHRIs and litigants' groups. With a view to aligning their working methods and enhancing collaboration, the three organs have established staff exchange programmes, and the African Children's Committee has been keen on implementing the programme since 2023. The mandate of the human rights organs is complementary, and strategic collaboration and joint undertakings should be further explored and implemented to ensure coherence on child rights norms and standards and to galvanise enhanced political will for better protection of children rights.

32 African Children's Committee Rules of Procedures ch XVI.

33 African Children's Committee and African Commission Joint General Comment on Ending Child Marriage (2017); African Children's Committee and African Commission Joint General Comment on Female Genital Mutilation (FGM) (2023).

34 African Children's Committee and African Commission Joint Letter of Urgent Appeal and Statement on the Ongoing Debate on FGM in the Republic of The Gambia (September 2023 and March 2024).

35 African Court Protocol art 5; African Court Advisory Opinion 2/2013 on the Standing of the African Children's Committee before the African Court Requested by the African Children's Committee (2014).

The African Children's Committee's engagement is not limited to the two human rights organs. There is growing collaboration with the African Peer Review Mechanism (APRM), the Pan-African Parliament, and the Economic, Social and Cultural Council of the African Union (ECOSOCC), among others. The African Children's Committee invites organs of the AU with human rights and governance mandates to its sessions, and participates in the sessions of the organs when possible. The Committee also engages with RECs, and since 2018 has taken deliberate actions to engage RECs on its activities and towards child rights structures and functions within RECs.³⁶ Recently, the African Children's Committee has taken the decision to strengthen its engagement with RECs and has assigned three of its members to lead on the collaboration with RECs.³⁷ Looking at the African Children's Committee's strategic plan, one can easily note the emphasis afforded to cooperation. The Committee planned to develop collaboration plans with various organs, including RECs, the Pan-African Parliament, the African Continental Free Trade Area (AfCFTA) and UN mechanisms.³⁸

The African Governance Architecture (AGA) is a platform that brings together organs of the AU that have a mandate on human rights, democracy and governance. The African Children's Committee, being a member of the platform, engages in the dialogue on human rights among the platform members. In the years 2024 and 2025 the African Children's Committee is chairing the platform,³⁹ enabling it to further strengthen its mandate of cooperation with African organs.

The Committee's mandate also requires interaction and cooperation with the Peace and Security Council (PSC), which started through the call made by the Executive Council requesting the PSC to take children's rights into account in its work.⁴⁰ Following this, the PSC held its first open session on children affected by armed conflict on 8 May 2014 during its 434th meeting, where it also agreed to regularise the open session on children and armed conflict issues.⁴¹ Since then, the PSC has held various open sessions on issues affecting children in situations of conflict. The African Children's Committee actively participates in these open sessions and delivers a presentation through its Special Rapporteur on Children in Conflict Situations. This cooperation is key towards enhanced enforcement of the protection of children in conflict situations. The African Children's Committee's findings from its engagement with member states is a key resource towards the formulation of intervention areas by the PSC.

Moreover, the Committee has widened its collaboration scope and started engaging with international mechanisms. Recently the Committee visited the CRC Committee, which further led to the inception of a memorandum of understanding between the two treaty bodies, which was further adopted by the Committee during its forty-third ordinary session⁴² and is awaiting adoption by the CRC Committee. The Committee's collaboration with the CRC Committee has already commenced with the issuance of a joint statement on the Day of the African Child 2024.⁴³ The Committee's engagement with other UN mechanisms is increasing, including with the engagements of the special mechanisms.

36 African Children's Committee Report of the Workshop on Popularisation of Agenda 2040 and Cross-Border Issues Affecting Children in East African Community held in Tanzania on 23-24 October 2018; African Children's Committee Report of the Workshop on Popularisation of Agenda 2040 and Cross-Border Issues Affecting Children in Economic Community of Western Africa held on 30-31 October 2018 (November 2018).

37 African Children's Committee (n 30).

38 African Children's Committee Strategic Plan 2021-2025 (2020) 23-24.

39 Outcome of the 1st Statutory Meeting of 2023 of the AGA-APSA Platform held in February 2024 in Addis Ababa, Ethiopia (2023).

40 Executive Council of the African Union, Decision EX.CL/ Dec.712(XXI) Doc EX.CL/744(XXI), July 2012, https://au.int/sites/default/files/decisions/9652-ex_cl_dec_696-725_xxi_e_final.pdf (accessed 18 February 2024).

41 Peace and Security Council (PSC) Press Statement, 434th meeting, 8 May 2014, <https://www.peaceau.org/uploads/434-press-statement-8-may-2014-en.pdf> (accessed 18 February 2024).

42 African Children's Committee (n 30).

43 African Children's Committee and CRC Committee Joint Statement on the Day of the African Child 16 June 2024,

In terms of collaboration with organisations in the context of article 24(a)(iii), the Committee has established a system in which CSOs in Africa can submit applications for observer status.⁴⁴ This allows any NGO registered in any African state to apply for such status. At regional level, the African Children's Committee has established a strong working collaboration with the CSO Forum, which is a continental forum that brings together all child rights NGOs networks from the five regions of Africa. The role of CSOs in complementing the mandate of the Committee is tremendous, thus showcasing the importance of increasing collaboration with CSOs. The African Children's Committee needs to increase collaboration with national child rights NGO networks to ensure the effective complementary role of CSOs in the various mandates of the Committee, including by the submission of complementary reports,⁴⁵ and by the submission of briefings or interventions. To increase engagement, the Committee may embark on developing a repository of all national CSO networks focal persons as entry point for various collaborative work. Moreover, through the CSO Forum, the CSO networks should be encouraged to apply for observer status.⁴⁶

More collaboration and exchange can be strengthened through thematic and country-based engagement of the UN mechanisms. In this regard, the special mechanisms of the Committee should assume a proactive role in identifying areas of collaboration with the mechanisms of the AU and UN organs. Moreover, incorporating joint activities and cooperation issues in the planning of annual programmes is key to ensuring implementation.

The Rules of Procedure of the African Children's Committee also provide for collaboration with funding partners whereby the Children's Committee negotiates with funding partners on the programmes to be supported through the allocated funds as well as the modality of implementation.⁴⁷ Such collaborations may also be reported to the AU Commission. While the strategic direction of the African Union is to fully fund its human rights organs, currently the Committee faces financial constraints. It, therefore, becomes crucial for the Committee to broaden its collaboration with development partners for the effective delivery of its mandate.⁴⁸

2.2 Monitoring implementation (article 42(b))

A key component of the promotion and protection of children's rights is the mandate of the African Children's Committee to monitor the implementation and ensure the protection of the children's rights provided in the African Children's Charter as set forth under article 42(b). This sub-provision does not list or illustrate all undertakings the Committee may conduct to monitor implementation and ensure protection. From the subsequent provisions of the Children's Charter, one can see some of the mandates of the Committee that relate to monitoring implementation and ensuring protection of children's rights, namely, consideration of state party reports;⁴⁹ consideration of communications;⁵⁰

<https://www.acerwc.africa/en/article/statements/joint-statement-un-committee-rights-child-and-acerwc-day-african-child> (accessed 18 February 2024).

44 African Children's Committee Rules of Procedures, Rule 84; African Children's Committee Guidelines on Observer Status of NGOs and Associations.

45 The Committee has encountered instances where CSO reports are delayed while state reports have been submitted, which delays the process. In some instances the Committee would have to proceed with considering the state party report without CSO reports to ensure timely consideration of reports without the information becoming outdated.

46 Currently there are only two national child rights CSO networks from Uganda and Zimbabwe, which have been granted observer status, <https://www.acerwc.africa/en/networks/csos> (accessed 15 June 2024).

47 African Children's Committee Rules of Procedure Rule 85.

48 As above.

49 Art 32 African Children's Charter.

50 Art 44 African Children's Charter.

and conducting investigations.⁵¹ These mandates are discussed in depth in the subsequent chapters of this *Commentary*, hence, this chapter will focus on other mandates of the African Children's Committee which are beyond the three mentioned above.

The Rules of Procedure of the African Children's Committee provide for various mechanisms in which the Committee can undertake its monitoring tasks. The Committee may establish special mechanisms focusing on a specific thematic area or a country within or outside of the Committee.⁵² Moreover, special mechanisms can be established by assigning an individual member or group of members of the Committee, and the Committee may also assign external members to undertake tasks.⁵³ Any special mechanism is established through a resolution adopted by the Committee that outlines its composition and mandate.⁵⁴ So far, the Committee has established special mechanisms in the form of thematic rapporteurs, otherwise known as Special Rapporteurs, country rapporteurs and working groups.⁵⁵ In addition to the Rules established under chapter XI of the Rules of Procedure, the Committee adopted terms of reference for thematic and country rapporteurs,⁵⁶ and standard of procedures (SOPs) for working groups to provide detailed guidance on their operations.⁵⁷

The thematic and country rapporteurs have the mandate, among others, to examine any information in relation to their mandate, engage with stakeholders, set standards and strategies on their respective area, lead on the activities of the African Children's Committee in relation to their mandates, and report to the Committee at every session.⁵⁸ So far the Children's Committee has established 11 thematic areas and rapporteurs whereby each member is assigned an average of five countries and one thematic area to cover during its thirtieth ordinary session.⁵⁹ Recently, during its forty-second ordinary session, the Committee revised the names and mandates of some of its thematic rapporteurs and reassigned country rapporteurs taking into account the election of new members.⁶⁰ The Committee has not yet assigned an external individual to undertake any thematic or country specific work. The thematic and country rapporteur mechanisms are critical avenues for monitoring implementation. These mechanisms allow the mandate holders to undertake a proactive role to closely monitor issues in their respective countries and thematic issues with more detail and specificity which the African Children's Committee may not be able to reach. Rapporteurs can undertake detailed research and seek additional information to enable the Committee to identify tangible recommendations. Beyond this, the rapporteurs can formally and informally gather credible information about the status of children's rights in relation to their respective

51 Art 45 African Children's Charter.

52 African Children's Committee Rules of Procedure Rule 57.

53 As above.

54 Rule 58.

55 See information at <https://www.acerwc.africa/en/page/about-special-mechanisms> accessed on 30 May 2024

56 African Children's Committee Terms of Reference for Thematic and Country Rapporteurs of the African Children's Committee adopted in 2018, <https://www.acerwc.africa/sites/default/files/2024-05/Terms%20of%20Reference%20for%20Country%20and%20Thematic%20rapporteurs%20of%20%20ACERWC.pdf> (accessed 15 June 2024).

57 African Children's Committee Standard Operating Procedures for Working Groups as Special Mechanism of the African Children's Committee adopted on 8 September 2020, <https://www.acerwc.africa/sites/default/files/2022-06/Standard-of-Operating-Procedures-for-the-Working-Groups.pdf> (accessed 15 June 2024).

58 African Children's Committee (n 56).

59 African Children's Committee Report of the 30th ordinary session (December 2017), <https://www.acerwc.africa/sites/default/files/2022-07/30th-Session-Report-Eng.pdf> <https://www.acerwc.africa/en/page/about-thematic-rapporteurs> accessed on 03 June 2024; Information available at <https://www.acerwc.africa/en/page/country-rapporteurs> (accessed 15 June 2024).

60 The 11 Special Rapporteurs are on children in vulnerable situations; child justice; children in conflict situations; birth registration and nationality; child marriage and other harmful practices; health; violence against children; children without parental care; children on the move; child participation; and education. See also African Children's Committee Communiqué of the 42nd ordinary session (November 2023), https://www.acerwc.africa/sites/default/files/2023-12/Communique_42nd%20Ordinary%20Session_ACERWC_English.pdf (accessed 15 June 2024).

mandates and identify priority areas of interventions to be undertaken by the African Children's Committee. They can also follow up on the implementation of the decisions and recommendations of the Committee on their countries or thematic areas. To enhance the effectiveness of their undertakings, it is important that the Committee evaluates the undertakings of Special Rapporteurs in order to revise or change the thematic areas accordingly. The resolutions of each mandate should be revised whenever the mandate is revised or renewed, providing the justification for doing so. This will enable the Committee to monitor and evaluate its special mechanisms. Moreover, the Committee should enhance reporting by Special Rapporteurs at least annually during open sessions, as such practice can popularise the mandates and facilitate their effective utilisation.

The African Children's Committee has also established special mechanisms in the form of working groups since 2020. During its thirty-fifth and thirty-sixth ordinary sessions the Committee adopted resolutions establishing four working groups, namely, the Working Group on Implementation of Decisions; the Working Group on Children's Rights and Climate Change; the Working Group on Children's Rights and Business; and the Working Group on Children with Disabilities.⁶¹ The working groups have a similar mandate to the thematic rapporteurs, however, with broader scope and equipping them to manage bigger programmes and projects in their respective thematic groups. The composition of working groups is inclusive and allows the Committee to benefit from experts on the continent in the respective areas, as external experts are included as members of the working groups. Each working group encompasses four members of the Committee and four external experts.⁶² While the working group on implementation of decisions did not have external experts from the onset, the African Children's Committee decided to include external experts in the working group during its forty-third ordinary session.⁶³ The members of the working groups, similar to the Special Rapporteurs, are appointed for a two-year term, renewable once.⁶⁴ The working groups have a specific operating modality as they convene at least twice a year before the ordinary sessions of the Committee in accordance with their SOPs.⁶⁵ The working groups have so far developed studies in their respective thematic areas, issued resolutions, statements, and are assisting the African Children's Committee in setting norms and standards.⁶⁶ The working groups have more visibility and there have been instances where they have reported to the Children's Committee in open sessions, highlighting their activities and intended work plans.⁶⁷ This invites strategic cooperation among the working groups and various actors, which will enable the working groups to enhance their efforts towards monitoring children's rights in their respective themes.

Special mechanisms are not limited to working groups or Special Rapporteurs. Rather, they are to be understood as any form of subsidiary mechanism established by the African Children's Committee to assist a specific mandate and may include study groups, sub-committees and similar platforms.⁶⁸ The Committee may extend its special mechanism in various forms in addition to the above – it can

61 African Children's Committee Communiqué of the 35th ordinary session (September 2020), https://www.acerwc.africa/sites/default/files/2022-10/Final_Communique_35th_Ordinary_Session_ACERWC_English.pdf accessed 09 August 2024; African Children's Committee Communiqué of the 36th ordinary session (December 2020), <https://www.acerwc.africa/sites/default/files/2022-10/Communique-on-the-36th-Ordinary-Session-of-the-ACERWC-English.pdf> (accessed 9 August 2024).

62 African Children's Committee (n 57).

63 African Children's Committee (n 30).

64 African Children's Committee Rules of Procedure Rule 61.

65 African Children's Committee (n 57).

66 The resolutions developed by the working groups can be accessed at <https://www.acerwc.africa/en/resolutions> (accessed 9 August 2024).

67 African Children's Committee (n 30).

68 African Children's Committee Rules of Procedure, Definition of 'Special Mechanisms' under the Definitions section.

expand the existing mechanisms and explore the opportunity of assigning external individuals in various capacities to assist its mandate of monitoring and ensuring the protection of children's rights.

The African Children's Committee may also undertake monitoring work through its mandate to issue letters of urgent appeals (also discussed in chapter 36 of this volume dealing with Communications). Pursuant to Rule 67 of the Rules of Procedure, the Committee can issue such letters to member states to respond to cases where a situation requires urgent intervention due to an imminent danger or irreparable harm it poses to children's rights. In addition to issuing a letter of urgent appeal, the African Children's Committee, if it deems it necessary, may report such issues to the Chairperson of the AU, the Executive Council, the Peace and Security Council, or relevant organs of the AU.⁶⁹ The Committee has utilised this mandate on several occasions and issued letters of urgent appeal regarding issues that came to its attention. Some of the instances relate to the death penalty against children in South Sudan;⁷⁰ extra-judicial killings of children in Nigeria; the proposed amendment of Bills towards regressive measures of reducing the age of marriage in Mauritius and Somalia; and proposed decriminalisation of female genital mutilation in The Gambia. These urgent letters can escalate urgent and imminent issues to a higher level as they are mostly addressed to the heads of state of the concerned states. Moreover, the Committee can undertake follow-up activities to assess the situation and the implementation of its letters and this will be reported to the Executive Council in the activity reports of the African Children's Committee.

In addition to letters of urgent appeal, the African Children's Committee also issues statements on specific thematic areas highlighting some of the challenges faced by children and outlining recommendations to all stakeholders on measures to be undertaken to overcome these challenges. This mechanism also enriches the Committee's mandate to monitor implementation of the African Children's Charter.

The African Children's Committee also organises Days of General Discussion, during which the Committee will allocate one day from its sessions to deliberate on a specific provision of the African Children's Charter or a specific thematic area.⁷¹ While deliberating on such issues, the Committee assesses the progress made and challenges faced on the implementation of the specific issue discussed. Following the deliberations, an outcome statement is adopted that contains findings and recommendations to all stakeholders, and which is widely disseminated. The most recent Day of General Discussion was held during the forty-third ordinary session on Solutions to Challenges of Children with Albinism, after which an outcome statement was adopted.⁷² Such discussions assist the African Children's Committee to assess and respond to emerging challenges and situations that have become prevalent. However, there is no specific guidance on the process of selection of the theme and specific criteria attached to it. Moreover, beyond the adoption of the outcome statement, more strategies towards the dissemination and monitoring of the recommendations need to be established. For instance, the outcome statements and the reports of the Day of General Discussion can be sources for investigative and advocacy missions, or can be incorporated in the Committee's Concluding Observations and recommendations. The role of other stakeholders in utilising the outcome statements for advocacy and accountability is also another opportunity to enhance this mandate.

69 Rules of Procedure (n 68) Rule 67(4).

70 African Children's Committee Letter of Urgent Appeal to the Government of the Republic of South Sudan on the use of death penalty against children, https://www.acerwc.africa/sites/default/files/2022-10/Letter-of-Appeal-South-Sudan_PDF.pdf (accessed 9 August 2024).

71 African Children's Committee Rules of Procedure Rule 77.

72 African Children's Committee (n 30); African Children's Committee Outcome Statement of the Day of General Discussion 2024, <https://www.acerwc.africa/en/article/activity/day-general-discussion-solutions-challenges-faced-children-albinism> (accessed 9 August 2024).

Another role of the African Children's Committee that contributes towards monitoring is its role in the commemoration of the Day of the African Child (DAC). The DAC was instituted by the then Organisation of African Unity (OAU) in 1991 to be commemorated by all member states to enhance the protection of children.⁷³ While the Rules of Procedure contain no specific provisions on how it leads the continental commemoration of the DAC, there is an established practice. Each year the African Children's Committee, in consultation with children and other stakeholders, identifies a theme for the DAC, which is further adopted by the Executive Council of the AU as a theme for the continent. Subsequently, the Committee crafts a concept note that provides a detailed overview about the theme, the measures that should be undertaken in line with the theme, and the activities for the commemoration.⁷⁴ During the celebration of the DAC, children participate and develop an outcome statement containing calls for action. The concept note also provides for a reporting template for member states to submit a report on their experience on the celebration of the day, as well as the measures undertaken as part of the commemoration.⁷⁵ The celebration of the DAC and the activities enable the Committee to monitor progress in the implementation of children's rights in the thematic areas selected. The role of the DAC can be enhanced if the reports submitted by states are made public and used to document best practices and persistent challenges for further action.

Among the activities the African Children's Committee undertakes to ensure implementation and protection of children's rights in the African Children's Charter are country visits. Looking at the definition of 'missions' under the Rules of the Procedure of the Committee, it has a broader meaning that includes investigation missions, follow-up visits and advocacy visits. The mandate of the Committee to undertake investigation missions is covered by the dedicated chapter of this *Commentary* which deals with article 45; hence, in this chapter the focus mainly is on follow-up and advocacy missions. The African Children's Committee may undertake follow-up missions and activities to monitor the implementation of its Concluding Observations and recommendations and decisions.⁷⁶ These activities and missions are aimed at assessing the level of implementation of the African Children's Charter and the Committee's recommendations and decisions, identifying actions to foster implementation, and reporting on these to the policy organs of the AU for decisions. The Committee has so far undertaken over 15 follow-up missions, the outcomes of which are compiled in a report as well as incorporated in its annual activity report to the Executive Council.⁷⁷ The Committee also undertakes advocacy missions to member states of the AU to sensitise states and other stakeholders about the African Children's Charter and its implementation. The African Children's Committee has undertaken missions for advocacy on the ratification of the Children's Charter (during which it deliberates with state officials, CSOs and other actors who can push for ratification) in South Sudan, Somalia and Saharawi Arab Democratic Republic.⁷⁸ These advocacy missions have galvanised political will and pledges for the ratification of the Children's Charter as Saharawi Arab Democratic Republic recently ratified the Charter, and the other countries have started a process for ratification at domestic level. According to latest information provided by Somalia, the ratification instrument is being discussed

73 Council of Ministers Resolution on the Implementation of the African Decade for Child Survival, Protection and Development, CM/Res.1360 (LIV) 1991, https://au.int/sites/default/files/decisions/9621-council_en_27_may_28_june_1991_council_ministers_fifty_fourth_ordinary_session.pdf (accessed 9 August 2024).

74 Eg, see the Concept Note for the Day of the African Child 2024: 'Education for all children in Africa: The time is now', https://www.acerwc.africa/sites/default/files/2024-03/Concept-Note_Day-of-the-African-Child_2024_ENG.pdf (accessed 9 August 2024).

75 Concept Note (n 74) 16-17.

76 African Children's Committee Rules of Procedure Rule 74; African Children's Committee Guidelines for Consideration of Communications and Monitoring Implementation of Decisions, sec XXII(5).

77 See the website for the mission reports, <https://www.acerwc.africa/en/missions/follow-up-missions> accessed 15 July 2024 and the reports to the Executive Council, <https://www.acerwc.africa/en/key-documents/activity-reports> (accessed 9 August 2024).

78 The reports are available at <https://www.acerwc.africa/en/missions/advocacy-missions> (accessed 9 August 2024).

in the cabinet for submission to Parliament.⁷⁹ South Sudan also undertook to ratify the Charter by 2024.⁸⁰ The African Children's Committee also holds advocacy missions to advocate the withdrawal of reservations and timely reporting on the implementation of the Charter. Such missions have been conducted in Botswana, The Gambia and Cape Verde, among others.⁸¹ The robust engagements in such missions have yielded some fruits. For instance, Botswana withdrew its reservation on article 2 of the Children's Charter and submitted its initial report on the implementation of the Charter in 2022.⁸²

While such visits are important and effective, some challenges affect their utilisation to the fullest. First, it is resource intensive and considering the limited budget of the Committee, not so many advocacy missions can be conducted. Second, such missions can only be carried out if authorised by the concerned state. Despite the increased trend to welcome the Committee, there often is lack of response by states to requests for advocacy and follow-up visits, which hinders monitoring of the African Children's Charter. The political push by the policy organs of the AU is key to ensuring that states welcome the African Children's Committee to effectively undertake the mandate that they have entrusted upon it. Moreover, the Committee should re-strategise its modality of engagement with states for follow-up and advocacy. Recently the Committee invited states that have not ratified the African Children's Charter during its 43rd Ordinary Session for advocacy. The Committee also held consultations at its headquarters with Kenya and Mauritania in September 2024 to follow up the implementation of its Concluding Observations and recommendations and decisions. It is important to continue to advocate for country visits to ensure bilateral engagement between the Committee and all stakeholders including children. While doing so, navigating other forms of engagement with states to achieve the same result where visits are not authorised should be strengthened.

2.3 Interpretation of the African Children's Charter (article 42(c))

The African Children's Committee, as the main custodian of the African Children's Charter, is mandated to interpret the provisions of the Charter. A General Comment can be developed by the Committee with a view to interpreting a provision of the Charter, or a concept provided for in the Charter, with a view to assisting states to better understand and implement their obligations.⁸³ A General Comment may be developed when it is requested by a state party, an institution of the AU, or any person or organisation recognised by the AU or a state party. The Children's Committee might also decide to develop a General Comment on its own motion after a careful assessment of the need for it, from its engagement with states and other stakeholders. So far, the African Children's Committee has developed eight General Comments⁸⁴ and is in the process of developing two more. It is worth noting that the Committee has focused on the peculiar aspects of the Children's Charter in developing the General Comments. For instance, the General Comment on article 30 on the responsibilities of the child, and article 22 on children in situations of conflict are based on provisions that have peculiar aspects. Two of the Committee's General Comments are developed jointly with the African Commission on Ending Child Marriage and Female Genital Mutilation, which are also based on provisions and aspects that are contextual to the prevalent challenges faced by girls on the continent. The Committee should continue to amplify the added value of the African Children's Charter and shed light on its interpretation and implementation through General Comments and other standards.

79 African Children's Committee Report of the 43rd ordinary session of the African Children's Committee April 2024.

80 African Children's Committee Report of the Advocacy Mission of the African Children's Committee to the Republic of South Sudan, on Reporting on the African Children's Charter, April 2023.

81 See <https://www.acerwc.africa/en/missions/advocacy-missions> (accessed 9 August 2024).

82 See <https://www.acerwc.africa/en/article/news/republic-botswana-has-withdrawn-its-reservation-article-2> (accessed 9 August 2024); Initial Report of the Republic of Botswana on the Status of Implementation of the African Children's Charter 2022.

83 African Children's Committee Rules of Procedure Rule 76(2).

84 See <https://www.acerwc.africa/en/key-documents/general-comments> (accessed 9 August 2024).

Furthermore, enhanced efforts should be put in place to ensure the dissemination and utilisation of the General Comments of the Children's Committee by all stakeholders ranging from policy makers and advocacy workers to the academia to ensure their greater impact and reach. In addition to this, the Committee may also consider reviewing and updating its General Comments based on more progressive standards that have been developed, the challenges faced by stakeholders in understanding the concept as well as implementing it, or emerging challenges. This is not a new practice as the CRC Committee, for instance, has taken a similar step where it reviewed its General Comment 18 jointly developed with the Committee on Elimination of Discrimination against Women in 2019 which was five years after its initial adoption in 2014.⁸⁵ Therefore, the African Children's Committee, beyond developing General Comments, should also ensure that its interpretations in those General Comments are up to date and in line with emerging human rights treaties and obligations.

While the main mandate to interpret the African Children's Charter belongs to the Children's Committee, other considerations should be taken into account to ensure that the views of all stakeholders are incorporated. The Committee has the practice of holding validation workshops before finalising the development of General Comments to gather inputs from experts on the matter. However, other treaty bodies, such as the African Commission and the CRC Committee, have experience where draft General Comments are publicly opened for comment or shared widely with states for inputs. Such open and consultative process would enable a General Comment to be adopted with extensive perspectives, more visibility, and increased acceptance, especially by states.

2.4 Other assigned tasks (article 42(d))

Article 42(d) is a broad provision that enables the African Children's Committee to assume an active role on children's rights as it opens the room for the policy organs of the AU or other organs to engage the Committee on child rights issues. This provision indicates that the Children's Committee is the main actor on child rights and that any task relating to the promotion and protection of children's rights may be entrusted to it by others. There have previously been occasions where the Committee was requested by the Executive Council to undertake certain activities or develop specific documents. For instance, the Executive Council has requested the Committee to assume an active role in convening meetings related to child rights, such as the mid-term review meeting to assess the implementation of the African Common Position on Children⁸⁶ and the second Pan-African Forum on Children.⁸⁷ In addition, the African Children's Committee was requested to develop the Child Safeguarding Policy for the AU,⁸⁸ upon which the Committee has acted and developed the same.⁸⁹ Moreover, on the issue of the Committee's access to the African Court, the Executive Council, while recommending the amendment of the African Court Protocol to include the Committee among the entities entitled to submit cases to the Court, requested the Committee, in consultation with the African Commission, to

85 Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/General Comment 18 of the Committee on the Rights of the Child (2019) on harmful practices, May 2019, <https://documents.un.org/doc/undoc/gen/g19/134/42/pdf/g1913442.pdf?token=Sz3xyhEHhVJKM0f69d&fe=true> (accessed 9 August 2024).

86 Executive Council of the African Union, Decision EX.CL/Dec.303 (IX), Decision on the African Committee of Experts on the Rights and Welfare of the Child DOC. EX.CL/275 (IX), https://au.int/sites/default/files/decisions/9638-ex_cl_dec_278_-_314_ix_e.pdf (accessed 9 August 2024).

87 Executive Council of the African Union, Decision, EX.CL/Dec.366 (XI), DOC. EX.CL/338 (XI), https://au.int/sites/default/files/decisions/9636-ex_cl_dec_348_-_377_xi_e.pdf (accessed 9 August 2024).

88 Executive Council of the African Union, Decision EX.CL/Dec.1201(XLII), https://au.int/sites/default/files/decisions/42843-EXECUTIVE_COUNCIL_DECISIONS_E.pdf (accessed 9 August 2024).

89 The Committee internally adopted the Child Safeguarding Policy during its 43rd ordinary session, and will submit the same to the specialised technical committee for adoption and reporting to the Executive Council. See 43rd ordinary session Report Communiqué.

prepare the amendment and submit to the specialised technical committee (STC) on Justice and Legal Affairs.⁹⁰

The Executive Council through its Decision EX.CL/Dec.889(XXVII) also requested the African Children's Committee 'to focus on the education of young girls as a way of further enhancing protection of children as well to establishing minimum norms and standards relating to health, safety, hygiene, education content and quality as well as accommodation'.

Such decisions by the Executive Council and other organs are enabling tools to enhance the mandate of the Committee and leverage the institutional expertise it offers on child rights. This in turn will increase the visibility of the Committee among member states and other stakeholders and serve as an invitation to other stakeholders and partners to collaborate with the Committee.

3 Conclusion

As a treaty body, the African Children's Committee has a broad mandate that can foster robust action towards the promotion and protection of children's rights at national, sub-regional, continental and international levels. Because the mandate of the Committee is broad, it is an indication that it requires a well-resourced capacity which currently the Committee lacks. It is pertinent that the Committee be provided with the required human and financial resources for it to effectively undertake its mandate to the fullest. The African Children's Committee's potential to undertake activities in line with article 42 of the African Children's Charter should be unleashed through partnerships and stakeholder engagements. Furthermore, the Committee should continuously assess its undertakings in relation to its mandate under the African Children's Charter with a view to exploring untouched avenues.

90 Executive Council of the African Union, Decision EX.CL/Dec.923(XXIX), Doc. EX.CL/977(XXIX), https://au.int/sites/default/files/decisions/31275-ex_cl_dec_919_-_925_and_928_-_938_xxix_e.pdf (accessed 9 August 2024).