

The Arab Court for the protection of human rights as a mechanism to protect human's rights in the Arab region



Received: 26/12/2023; Accepted: 12/02/2024

Kawtar KANTAR *¹

¹ University. 20 August 1955 -skikda (Algeria), k.kantar@univ-skikda.dz

Abstract

The organization of the work of the arab court of human rights is considered as an essential step to guarantee a real and effective protection of human rights. If the organizational aspect of the courts is not based on proper foundations, this will lead to unsuccessful and unfair courts. The drafters of the statute of the Arab Court took care of this side, and they tried to lay and put legal texts that enables the Arab Court to fully do its work in the future.

The structure of the Arab Court and jurisdiction have been determined. As for the court's specialties, we find that the statute of the Arab Court stipulated the existence of two specialties, the first is the jurisdiction and it is the original specialty of courts and the second specialty that the Arab Court will have when it will start working is the advisory jurisdiction.

Keywords

Arab Court ;
human rights ;
Arab region ;
protection ;
guarantee.

الكلمات المفتاحية

محكمة عربية ؛
حقوق انسان ؛
منطقة عربية ؛
حماية ؛
ضمان.

المحكمة العربية لحقوق الانسان كآلية لحماية حقوق الانسان في المنطقة العربية

ملخص

إن تنظيم عمل المحكمة العربية لحقوق الانسان يعتبر خطوة أساسية لضمان تحقيق حماية فعلية وفعالة لحقوق الانسان. فإذا كان الجانب التنظيمي للمحاكم غير مبني على أسس سليمة سيؤدي هذا إلى محاكم فاشلة وغير عادلة. وقد اهتم واضعي النظام الأساسي بهذا الجانب وحاولوا ارساء ووضع نصوص قانونية تمكن المحكمة العربية مستقبلا من القيام بمهامها على أكمل وجه. ففي الجانب الهيكلي للمحكمة نجد أن النظام الأساسي للمحكمة العربية يبين عدد القضاة وطريقة انتخابهم ورئاسة المحكمة والضمانات المقررة لهم حتى يتمكنوا من أداء عملهم. أما فيما يخص اختصاصاتها فنجد أن النظام الأساسي للمحكمة العربية ينص على وجود نوعين من الاختصاصات، النوع الأول يتمثل في الاختصاص القضائي وهو الاختصاص الأصلي. ويتحدد هذا الاختصاص بنطاق موضوعي وشخصي وزماني واخيرا نطاق مكاني أما النوع الثاني من الإختصاص الذي ستنتمتع به المحكمة العربية عند بدءها العمل فيتمثل في الاختصاص الاستشاري وقد تم تحديد نطاق وحدود هذا الأخير.

* Corresponding author. E-mail: k.kantar@univ-skikda.dz
Doi:

I- Introduction

After the end of the first world war, a global movement appeared to protect human rights, and it accelerated after the second world war because of the damages of the latter and the realization of the international community that keeping peace in the world would be only by respecting and protecting human rights. As a result, the countries in addition to building international mechanisms to protect human rights, they build also regional mechanisms which would be more effective by building regional courts to protect human rights. Among these regional courts, we mention, for example, the African Court on Human and Peoples' Rights, which was established within the framework of the Organization of African Unity formerly, now the Organization of the African Union. Although the League of the Arab States was the first regional organization, the Arab region did not witness an organization like the other provinces despite the availability of the suitable center for that. And the fact that the Arab league was the first regional organization in the world which preceded even the united nations.

The league of the Arab states tried to put a regional organization after the invitation of the united nations to countries and international organizations to celebrate international milestones for human rights 1968. This preparedness resulted in the establishment of the permanent Arab committee, and with the growing interest of the Arab league with human rights and the development of human rights in the world, The Arab league adopted the Arab Charter on Human Rights in 2004 in its finished formula and the establishment of the Arab Human Rights Committee, But these two mechanisms are not enough in establishing a real system and protecting effectively human rights. With the increase of regional and international emphasis on the importance of human rights, the king of Bahrain initiated an imitative by calling for the creation of Arab Court of human rights (referred to as the Arab Court later on) which statute was approved in 2014 , and it did not start working yet . There are few conditions so it can start working: a full year should pass after seven member countries in the Arab Court ratify its statute and until now only Saudi Arabia and Bahrain has signed, In this research, we will limit our study to the organizational aspect of the Arab Court.

This study aims at looking at the legal texts which will control the Arab court's organization and work and the role which the organizational aspect will play in building an arabic system of human rights which goes along the peculiarities of the Arab region and keep up with the international developments in the humans' rights field .

Achieving actual and effective protection of human rights in general begins from the moment of establishing the statute that governs the Regional Court for Human Rights, organizes it, and regulates its work. Accordingly, the problem that arises here is whether the drafters of the statute of the Arab Court succeeded in putting and building an organizational aspect for the Arab Court that is consistent with the specificities of the Arab region. And qualifies it to issue fair rulings that achieve actual and effective protection of human rights in the Arab region?

To answer this problem posed above, we followed both the descriptive and analytical approaches, through which we collected information and legal texts, analyzed and interpreted them to reach acceptable results

Going back to the statute of the Arab court, we found that we can divide the latter to structural side of the Arab Court and the court's jurisdiction.

I.1. The structural side of the Arab Court

Work assortment is considered to any court the backbone in guaranteeing the effective protection of human rights and the latter should be honest and impartial since the human being is central to the effectiveness of any court and when all the members are qualified , specialized and independent , the court would be more fair . for that , they drafters of the statute of the Arab Court took into consideration the way by which the judges are selected and they put rules to control their exercise and were giving guarantees to facilitate their work.

Caring about the judges is not enough , they have also to care about the registry since they are the helpers of the judges , and they were stipulated in Article 13 of the statute, the registry office shall consist of a sufficient number of nationals of the member states and their working strategy will be determined by list in the future . so , we are going to focus in court assortment on the court's judges and their work's guarantees, the court's language won't be a problem since the arabic language is the first languages in all the Arab countries .

I.1.1. Court assortment

The court will consist of judges from the contracting parties and the court's president will be given the mission to manage it and running its business and the registry will help as we mentioned above.

I.1.1.1. the court's judges

The Arab Court will consist according to article 5 from the statute of the Arab Court of seven judges and they can be lifted to ten judges if the court asked for that and all the member states agreed, and it would be better if they put a number of judges equal to the number of the member states¹. when the number of judges is limited to just seven this leads to a kind of unfairness between the Arab countries in terms of representation and having the number of judges equal to that of member states will enable the court to know all the different legal systems of the member states² which will make her decisions more precise and fair .

I.1.1.1.1. electing the judges

In this point, we will tackle the standards on which choosing the Arab's court judges would be based on and the way of their election.

I.1.1.1.1.1. Choosing judges standards

In the future, each country which is part of the statute will submit two candidates at most from its citizens to be elected as judges to the court and, and it's required that they are among the figures who are honest, committed to morals an addition to being qualified and experienced in the legal and judicial field and they have the qualifications to be appointed to the highest positions, according to what article 07 stated in the statute of the Arab Court .

To guarantee that the candidates appointed by their countries meet the necessary conditions, it's preferable that the member states create a task force, its mission is examine the candidates and study their biography³.

The statute did not specifies a specific age for the candidate to take up the position of the judge or a certain age to end membership, and its preferable to put a certain age to end membership when they put the internal system of the court.

I.1.1.1.1.2. Method of election

The assembly of state parties will specialize in electing the Arab court judges by majority vote from the candidates' list which will contain at most candidates from each country and the selection will be made on the basis of the candidates who get the majority of votes as Principal judges⁴. The statute did not specify the kind of majority they will work with but we see that they will work with relative majority because applying absolute majority is difficult in this case.

In the case of two candidates having the same number of votes, a re-vote will take place and candidates will less votes would be eliminated. after the end of the vote the association will make a list of reserve judges from the candidates who were not elected provided that they take into account the number of votes they got when placing them, according to what article 05 and 06 stated in the statute of the Arab Court.

I.1.1.2. membership duration

The court's judges are elected for four years, and they could be re-elected for a second not renewable term, but we see that the membership renewal will affect the effectiveness of ensuring independence and integrity, so it's preferable that membership would be just once unrenovable. on the other hand , if they didn't specify a certain age for the end of the membership let's say 70 years old , it's better that the candidates age does not exceed 70 years when they finish their membership .

Exception : the duration of membership of three principal judges from the judges who were elected in the first election is just two years; and it's the assembly of states parties ' president or his deputy work the selection of judges who end their membership by holding a lottery once the elections are over, according to what article 08/01 stated in the statute of the Arab Court .

The judges will stay at the their positions until the end of their membership or until an obstacle prevents them from continuing to work like death or a disability which prevents them from working permanently or resignation or demission and in the latter case they will study the cases previously assigned to them until definitely accepting the demission request. Any judge can submit his demission whenever he wants to the court's judge who will notify the assembly of state parties, the demission has no effect until it's accepted by the court's president, when the judge's position became vacant for any reason of the ones listed above, an election should take place as soon as possible , but if the judge's position is vacant before six months or less of the end of his membership, elections won't take place but the court's president will appoint one of the alternate judges⁵ we mentioned before.

The secretary general shall send a memorandum to the states parties six months prior to the expiry of the judge's term of office asking each country to send two candidates in the upcoming ninety days and he notify the countries the list of candidates sixty days prior to the start of the term of new judges and he invites the association to hold a meeting to elect them in thirty days, according to what article 08/02 stated in the statute of the Arab Court .

I.1.1.2. Court's presidency

The court's presidency is made up of its president and his deputy who are elected who are assigned a number of jobs.

I.1.1.2.1. Electing the court's president

The Arab Court elect a president and his deputy from its members for two renewable years, and they continue working until the election of a successor to them. the statute of the Arab Court didn't specify the way of election or who do it , but we can see that the Arab Court will follow the same approach as the regional courts, that's to say the elections will be by secret ballot and the elected judges will participate, and in the case of none of the candidates obtains an absolute majority, another election round will take place until one gets absolute majority and each round, the candidate with less votes will be eliminated, and if two candidates have the same number of votes, the candidate whose rank is at the bottom of the rank of judges will be disqualified according to the seniority stipulated in article 12 from the statute of the Arab Court and the court should respect the principle of gender equality in election.

I.1.1.2.2. Arab court presidency jobs

The court's president will have several jobs among them managing its business, representing it in front of law and in its relationship with various organizations , and he will preside over its sessions and to guarantee that the court's president do his work properly , he will practice it on a full time basis and he will reside in the country in which the Arab court is located which in Bahrain , and he will be helped by his deputy who replace him in case of accidental and temporary absence , but if there is something that prevents the deputy from carrying out the duties of the president, a judge who is appointed according to the rules of seniority shall assume the presidency, according to what article 11 stated in the statute of the Arab Court .

I.1.2. Work guarantees for Arab court judges

Like court judges in general and regional courts in particular, some immunities and privileges would be given to the Arab Court's judges, so that they would work with impartiality and integrity; they are also given the necessary independence to do their job to the fullest.

I.1.2.1. Judges' immunities and privileges

According to article 14 from the statute of the Arab Court, and to help judges do their work, court judges will have some immunities and privileges which are the same as the ones given to states representative's in the Arab League under the agreement of privileges and immunities of the league of Arab states⁶. One of these immunities is legal immunity, and they will be released from all taxes on their compensation and all their dues .The headquarters of the Arab court, its affiliated buildings, documents , and archives will enjoy the same immunities and privileges granted to the league of Arab states .These immunities and privileges will end with the member's end of jobs and they cannot be taken from the judge only after the approval of the whole court.

I.1.2.2. Judges' independence

"The independence of tribunals is an inherent element of the rule of law, and indispensable to the functioning of the judicial system. It is a guarantee of respect for human rights and fundamental freedoms, allowing every person to have confidence in the justice system⁷".

The independence of judges is known for providing complete independence to judges, keeping them away from any fear or ruling authority, and subjecting them only to the authority of the law⁸.

The court's judges start their duties impartially and independently, they are also at the service of the court at any time. They work in their personal capacity and do not represent their countries or governments, but are completely independent of them. Judges may not undertake any act or activity that interferes or affects their impartiality or the requirements of their job⁹. Any political, administrative or professional activities that affect the independence and impartiality of the judge are prohibited, and the Arab Court will have the authority to decide whether this activity affects and interferes with his work or not.

In order for the Arab Court to strengthen the protection of human rights in the Arab region and to distance the judge from the suspicion of impartiality and independence and to avoid affecting the integrity and impartiality of judges , and to avoid the influence of personal motives on their work and judgments and according to article 04/15, it is not permissible for the judge to examine a case that he had previously dealt with , whether as an agent, attorney or advisor to one of the parties to the case or he was a member of an internal or international court or an investigation or arbitration committee, in the case of doubting about the interference and impact of this activity, the Arab Court will have the authority to take a decision regarding his exclusion from the case.

And to guarantee the judge's integrity and justice, it was best for the drafters of the statute to stipulate that a judge whose term of office has expired be prohibited from representing one of the parties of those involved in a case that will be submitted to the Arab court before the expiry of his term and duties , and that they also set a period of time like a year and a half or two years after the end of his job when he'll be forbidden to be a representative of one of the parties to the cases or involved in the case during this period of the arab court and it has not yet been announced, the purpose is that the judge have moved away from the atmosphere and the judges of the Arab court, so he will not influence them or be influenced himself.

In order for the Arab Court to dismiss a judge and end his term, a consent from all the non-concerned judges that this judge no longer meets the exigencies and requirements of his position and does not meet the criteria for selecting judges

I. 2. Jurisdictions of the Arab court

Like other regional courts, the jurisdiction of the Arab Court will extend to all the matters by applying interpreting the Arab charter or any other convention in the field of human rights. The Arab court has two types of specialties; jurisdiction it includes all disputes to which the conflicting countries are a party, and consultant specialty it consists in expressing an opinion on issues related to the interpretation of the charter of any Arab agreement in the field of human rights.

I.2.1. Jurisdiction of the Arab court

The jurisdiction of the Arab Court is its original specialty which was behind the desire to create it, this jurisdiction will extend to ensure the enjoyment of the rights set forth in specific covenants certain groups can resort to the Arab court as a result of a violation and bring lawsuits against her provided that the violation of these rights falls within a specific time range. Over a specific region

I.2.1.1.The subject matter jurisdiction of the Arab Court

It is meant by subject-matter jurisdiction , the selection of rights which the Arab Court look at the violations committed against those rights , and based on this definition the Arab Court will specialize in looking at all the violations committed against one of the recognized rights by the Arab Charter of Human Rights or any Arab agreement in the human rights field which the conflicted states are part of according to article 16 of the statute of the Arab Court, the drafters of the statute expanded the subject-matter jurisdiction, so they look to other rights recognized in agreements where the conflicted sides are part of but not stipulated in the Arab charter which allow the Arab court to expand the law's sources this is one of the advances brought by the statute which is the same as the one of the protocol related to the establishment of the African Court on human and peoples' rights.

And it was given by the statute, according to article 16 also the speciality of looking to all conflicts revolving around its specialty in lawsuits it looks at , and that's because it has like any other judicial body the authority to decide when one of the parties submits a plea that it lacks jurisdiction in the case before it¹⁰.

However this jurisdiction has certain limits, which is that if the recognized right by the Arab charter or any other arab agreement is reserved by the both plaintiff state and the respondent state , in the case that a reticence is made about one of the stipulated rights and a lawsuit is filed regarding the violation of this right , the Arab Court here will not accept the lawsuit.

I.2.1.2. The personal jurisdiction of the arab court

Personal jurisdiction means identifying the parties that have the right to resort to the Arab Court and the party against which the case it brought¹¹ meaning the respondent country.

I.2.1.2.1. Personal jurisdiction in view of the claimant party

Through article 19 of the statute of the Arab Court, it becomes clear to us that the right to resort to the Arab Court when it begins its work will be granted to each of the state parties and the international organizations.

I.2.1.2.1.1. International lawsuits

The drafters of the statute of the Arab Court derived the right to file cases of international complaints, and they followed the same approach that was followed by various regional human rights courts which gave the state parties to the international instrument establishing the regional court this right

Since this right is derived from the international complaints system, it is not necessarily different from it, and this latter finds its principle from the provisions of international responsibility and diplomatic protection which give the countries the eligibility to sue for its subjects¹² and this lawsuit filed is based on the claim that the damage was caused by a breach of the Arab charter or any Arab agreement on human rights may directly or indirectly harm the claimant state by violating the rights of one of its nationals. So and according to article 19/01 of the statute, any state whose nationals claim that their rights have been violated has the right to resort to the Arab Court, provided that the claimant state is a part of the statute or have declared acceptance of the jurisdiction of the Arab Court whether the announcement is one specific case or the jurisdiction as a whole and here it does not matter that the acceptance of jurisdiction is conditioned by reciprocity or unconditioned or for a specific period according to article 20 of the court's statute.

What is noted on the Arab Court is that it stipulated that the violated person be a national of the claimant state and according to its definition, they are the ones who hold its nationality, that is, it applied the traditional concept of harm, and the framers of the agreement here followed the same approach as the African Court of Human and Peoples' Rights¹³ whereas to achieve development in the human rights system and the protection system and for the collective guarantee of human rights, especially since the Arab region has a common heritage and history, they had to abolish the condition that the person be sponsored by the state and stipulate that the person be subject to the legal system of the claimant state.

Therefore, the Arab countries' freedom who will ratify the statute will remain restricted by the nationality condition, in order for a country to file a case, the victim of the violation must have her nationality, and it must abandon this condition as an embodiment of the ideals required by the public order in free democratic countries and the protection of the common Arab heritage. In the future, a country that files a lawsuit before the Arab court does not aim to protect their private rights, but rather raises before the court an issue related to Arab public order. The Arab agreements concerned with human rights establish a collective system to protect the rights contained therein, so the freedom of every individual is the responsibility of all¹⁴.

I.2.1.2.1.2. Individual lawsuits

The statute of the Arab Court has limited the scope of individual cases, the article 19/02 gave the right to resort only to national non-governmental organizations working in the field of human rights in the country in which one of its members claims to be a human rights victim after the approval and authorization of the state parties when ratifying the statute.

At a time when we see that other regional systems have given to all normal people and all types of non-governmental associations and groups of persons the right to file a lawsuit before the regional court without requiring a nationality bond. For example, the African Court on Human and Peoples' Rights has expanded the granting of individuals the right to file a lawsuit in front of it, as it has allowed natural persons, non-governmental organizations and groups of persons the right to resort to it, either through the African Commission on Human and Peoples' Rights or directly before the court, provided that the state party issues a declaration of the state's acceptance. The defendant to hear individual lawsuits. The Arab Court continues to limit this right to a very specific group.

I.2.1.2.2. Jurisdiction with respect to the respondent country

The Arab Court shall have jurisdiction when it starts working on the case, the cases that will be submitted against a state party to the statute to the court or that it has jurisdiction of the court, whether the announcement is focused on a specific case or a general acceptance of the jurisdiction according to article 19, 20 of the statute, therefore the facts on which the case is based must be attributed to this country, a lawsuit will be submitted to the state party, but part of that falls on the territory of another state, that state will be held accountable to the extent of the facts that did not occur in its territory, but it will not be responsible of the events which will not happen in her territory. In addition, the state parties will be responsible outside their territorial borders whenever persons and property outside those borders are subject to its effective control and authority¹⁵.

And according to the rules of international law, and until the jurisdiction is accepted, the state on which the lawsuit is submitted must not preserve one of the rights stipulated in the charter of the Arab convention which is said have been violated. The reservation obscures the jurisdiction of the Arab Court and its authority is to consider the case¹⁶.

1.2.1.3. Spatial jurisdiction

We mean by the spatial jurisdiction, the countries in which the court is competent to hear cases and lawsuits related to them, whether the country is plaintiff or defendant¹⁷. The statute did not explicitly provide for regional jurisdiction, but the general rules applicable in the jurisdiction, this jurisdiction will cover all the territories of the parties of statute of the Arab Court and this jurisdiction expand to include the buildings of the diplomatic missions of the state party, considering that the embassy is an extension of the state's territory abroad. In addition to planes and ships which raise the state's country flag, the jurisdiction of the Arab court extend outside its territory in case it practices a real authority outside its territory, but this extension is subject to certain conditions¹⁸.

1.2.1.4. Regional jurisdiction of the Arab Court

It is meant by temporal jurisdiction, the time when the Arab court look in the lawsuit which will be raised to it¹⁹. The Arab court, upon starting its work, will have jurisdiction over the cases brought to it in time, if the alleged violation occurred on one of the rights covered by protection from the date of entry into the statute where implementation is concerned, which will start working after one year from the ratification of seven countries and this according to article 17 and 33 of statute. This is based on the principle that the agreements do not apply retroactively according to the generally recognized principles of international law²⁰. It will also specialize in looking into cases in which the alleged violation occurred before the entry of the statute into effect. If the violation is continual or it resulted in effects and consequences after its entry by the court, and this is in accordance with the rules of international law, continuous violations are those that extend throughout the period of the continuation of the act and its non-conformity with international obligation²¹, that is, it extends over a period of time and had permanent nature.

As for the expiry of the court's temporal jurisdiction, it ends as stipulated in the article 35 of the statute, after one year from the state's delivery of the notification of withdrawal to the secretary general.

1.2.2. The advisory jurisdiction of the Arab Court

The advisory jurisdictions is given to the international courts in general and to regional human rights courts in particular, however, within the framework of the international and regional courts exercising their jurisdiction, they don't have a binding authority against any country, since this advisory opinion does not create an international obligation²² and has only moral value. The main objective of giving this jurisdiction is closely related to the agreements whose texts are to be interpreted, meaning that, it is to assist states parties in advancing and fulfilling their international obligations in the human rights field, enlightening the bodies within which the international agreements were established to carry out their tasks and duties in the best manner, but without weakening the protection system²³.

Referring to the statute of the Arab Court, we find that it has stipulated the parties that have the right to request a consultant and the jurisdiction of the court in the opinion matter.

1.2.2.1. The parties which have the right to ask for an advisory opinion

The statute of the Arab Court specified the parties entitled to submit a request for an advisory opinion and it has restricted it to the council of the league of Arab states, its organizations and bodies, such as the permanent Arab committee for human rights²⁴.

The reason of giving the council of the league of Arab states, its organizations and bodies, the right to request for an advisory opinion is that the league of Arab states includes representatives of all countries that will be a part of statute in addition to its inclusion of all Arab countries which will enable it to assess issues that will need advisory opinion from the Arab Court. In addition, it will be easy for any country, through its representative in the council of the league of the Arab states to ask for the opinion of the court on any issue that comes under its national judiciary when implementing the provisions of the Arab charter or any Arab agreement dealing with human rights.

As for the drafters of the protocol established for the creation of the African Court on human and peoples' rights, and according to its article 04, they have expanded further in granting this authority by making it not only confined to a specific body or a specific party, but rather granted it to all member states of the African Union and not

only to the state parties in the African charter on human and people's rights or the protocol establishing the court. in addition to all the organization's devices and all the organizations recognized by the African Union²⁵.

I.2.2.2. subject matter advisory competence

According to article 12 of the statute of the Arab Court, the Arab Court will practice its advisory jurisdiction in all the legal matters related to the Arab charter or any other arabic agreement related to human rights . the competent authority submits a request to obtain an advisory opinion from the Arab Court to express an opinion on the subject of the complaint, the permanent Arab Committee for human rights asks the court to express its opinion by providing information and explanations regarding the legal issues presented to it related to the interpretation of the charter or any agreement related to human rights. these opinions will be reasoned and judges who have a dissenting opinion may submit that opinion independently

II– Conclusion

The drafters of statute of the Arab Court tried that this court, when it begins working keep pace with the other regional courts, but there are a lot of deficiencies from the organizational side, which in turn will affect its work and provisions, thus on the effectiveness of its protection of human rights in the countries of the parties, and through our research , we reached a number of results, the most important of which are:

1-limiting the number of judges to only seven will cause crisis in the future when studying the cases, and it will take a long time which will lead to reducing the quality of the judgments issued .

2-Expanding the court's jurisdiction to consider all the arab agreements in the human rights field would expand the scope of rights protection, as the Arab charter may neglect some rights and not mention them .

3-not granting the court the jurisdiction to consider cases brought by natural persons against non-governmental organizations operating in the country which violated the provisions of the charter or any other arab agreements , and limiting the jurisdiction to the right of state parties to protect their nationals makes the court an empty mechanism and prompts us to question the feasibility of establishing this court .

As we saw through this research, to achieve the effectiveness of the court from the organizational side, it should start working with the following recommendations through modifying the statute:

1-raise the number of judges from seven to a number equal the number of state parties, so they can process the lawsuits raised to them and not accumulate them in the future.

2-make the judges' membership one unrenuable term which guarantee more independence and impartiality.

3-expand the personal jurisdiction of the court to consider lawsuits raised by individuals and lawsuits brought by international non-governmental organization established legally.

Referrals and References

¹ Article 05 from the statute of the Arab Court, 07/09/2014.

² Velu Jacques et Ergec Rusen, La convention européenne des droits de l'homme, Bruylant Bruxelles, 1990, p 928.

³ Sauron Jean-Luc, le système de la convention européenne des droits de l'homme, Gualino Paris, 2008, p 21.

⁴ Article 06 from the statute of the Arab Court .

⁵ Article 09 from the statute of the Arab Court.

⁶ Look at the convention on the privileges and immunities of the league of Arab Sates, 10/05/1953.

⁷ Independence and impartiality of the judicial system (2020), Thematic factsheet, council of Europe, p 03, Visited 22/10/2023, <https://rm.coe.int/thematic-factsheet-independence-impartiality-eng/1680a09c19>.

⁸ Koussa Ammar (2015), “ The principle of the independence of the judiciary in the constitutional Arabic Systems analytical and evaluation study- algeria as an example» in: journal of Studies and Research, N° 18 (07), p 147.

⁹ Article 15/1-2-3 from the statute of the Arab Court .

¹⁰ Pasqualucci Jom (2003), the pratice and procedure of the inter-american court of human rights, Cambridge University Press, New York, p 33.

¹¹ Yassin Mohamed Hassan (2019), Prospects and future of the Arab Court for Human Rights, manchourat zein elhokhokia, Lebanon, p 73.

¹² For more details about the international responsibility and diplomatic protection see:

- Al-Jundi Ghassan (1990), International responsibility, Al-Tawfiq Press, Amman..

- Hanafi Omar Hussein (2005), A claim for diplomatic protection for nationals of the country abroad, Dar Alnahda Alarabia, Cairo.

¹³ Article 05 of the protocol on the establishment of an Africain Court on human and peoples' rights.

¹⁴ Abdel Ghaffar Mustafa (2003), Human rights guarantees at the regional level, Cairo institute for human rights studies, Cairo, p 290.

¹⁵ Sauron Jean-Luc, Op.Cit, p 26.

¹⁶ For more details see:

- Mustafa Ibrahim Khalil Nabil (2005), Mechanism of international protection of human rights, Dar al-nahdat alarabia, Cairo, p p 912-948.

¹⁷ Abdul Latif Muhammad Khairuddin (1991), The European Commission on Human Rights and its role in interpreting and protecting the fundamental rights and freedoms of individuals and groups, General Egyptian Book Organization, Cairo, p 150

¹⁸ Yassin Mohamed Hassan, Op.Cit, p p 80-85.

¹⁹ Boulgamh youcef (2007-2008), Development of mechanisms for protecting human rights in Africa, Faculty of Law and Political Science, Mentouri University, Constantine, p 291.

²⁰ Saad Al-Sayed Al-Borai Ezzat (1985), Protecting human rights under international regional regulation, Alassima Press, p 227.

²¹ Article 14, Responsibility of States for Internationally Wrongful Acts, adopted by the Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission's report covering the work of that session, 2001.

²² Pasqualucci Jom, Op.Cit,

²³ Boulgamh youcef, Op.Cit, p 282.

²⁴ The Arab Permanent Committee is considered the primary political body. It was established by a decision issued by the League Council on September 3, 1968 based on the recommendation of the Political Affairs Committee, which stipulated "the approval of the establishment of a permanent Arab regional committee for human rights within the League, as included in the General Secretariat's report on the subject. See: Al-Midani, Mohamd amin (2012)," human rights bodies in the ligue of arabe state", in: Al-Jinan for human rights journal, N° 03, p 114.

²⁵ For more details about the African Court on human and peoples' rights advisory opinion see: Alain Ondoua (2011), « Avis consultatifs », Maurice Kamto, la charte africaine des droits de l'homme et des peuples et le protocole y relatif portant création de la cour africaine des droits de l'homme, Commentaire article par article, éditions Bruylant, p p 1255-1268.