



African Policing Civilian Oversight Forum

NGO observer status number 372

**Statement in response to the report of the Special Rapporteur on
Prisons, Conditions of Detention and Policing in Africa**

**79th Ordinary Session of the African Commission on Human and
Peoples' Rights
14 May – 3 June 2024**

The African Policing Civilian Oversight Forum (APCOF) welcomes this opportunity to make a statement to the African Commission on Human and Peoples' Rights (ACHPR) in response to the report of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa.

As the Special Rapporteur may be aware, on 28 February 2024 the Community Court of Justice of the Economic Community of West African States (ECOWAS Court) handed down its judgment in *Mohamed Morlu v Republic of Sierra Leone* (App No. ECW/CCJ/APP/37/22; Judgement No. ECW/CCJ/JUD/04/24). The matter related to the use of force by the Sierra Leone Police Force during a peaceful student protest in Bo in March 2017, which resulted in the applicant being shot in the abdomen. The applicant also alleged that Sierra Leone had failed to effectively investigate and prosecute the officers responsible.

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In its progressive judgment, the ECOWAS Court held that Sierra Leone had violated three of the applicant's human rights, guaranteed by the African Charter on Human and Peoples' Rights and other relevant international law:

1. First, the right to security of the person: recalling Article 6 of the African Charter, and relevant jurisprudence by the ACHPR and other international mechanisms, the court held that 'firing live ammunition into the crowd without any prior warning for the students to disperse was heavy-handed and unjustified in the circumstances' (at 44).
2. Second, the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment: recalling Article 5 of the African Charter, and other relevant international law, the court held that the conduct of the police amounted to ill-treatment for the purposes of torture on the grounds that the discharge of firearms by the police was deliberate, caused severe pain and suffering, and met the purposive element as the action was intended to 'intimidate' the applicant and other students engaged in the protest (at 50-54).
3. Third, the right to a remedy and access to justice: the court unequivocally held that Sierra Leone had failed to 'fulfil its obligation to provide effective redress to the Applicant by conducting prompt, impartial and verifiable investigations that would lead to holding the perpetrators accountable' in violation of Article 1 of the African Charter, and Articles 2(2) and (3) of the International Covenant on Civil and Political Rights.

APCOF commends the ECOWAS Court for its decisive judgment, in particular its reiteration of the binding obligation to ensure effective oversight, accountability and remedies for extrajudicial use of force. However, we remain concerned that while Mr. Morlu's rights may have been upheld by a regional court, this is an exceptional situation in a forum not accessible to most victims of police violence. Across the continent, the excessive use of force by police in the management of public assemblies continues to pose a significant human rights challenge. Force, including lethal force, is used with impunity, resulting

in preventable deaths and injuries to individuals who have limited options for domestic accountability and redress. APCOF has made previous statements to the Special Rapporteur citing specific examples of concern. Even where some measure of redress is achieved at a national level, guarantees of non-repetition are undermined by States' failures to address the systemic causes of excessive use of force. This includes inadequate legal frameworks, discrimination, lack of proper training in the use of firearms and less-lethal equipment, and weak systems of police governance, oversight and accountability.

Accordingly, we urge the Special Rapporteur and the ACHPR to:

- Follow up with Sierra Leone on the implementation of the ECOWAS Court's decision, and in particular, to ensure that measures are put in place to prevent the excessive use of force, particularly during the management of public assemblies; and
- To remind states of the ACHPR's 2017 Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa, and the urgent need to take measures to their ensure full and effective implementation. The Guidelines provided a rights-based framework to states for the management of gatherings, including proper contingency planning and risk assessments for assembly operations, limitations on the use of force, and the obligation to ensure prompt and impartial investigations into excessive and lethal use of force.

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