Pan African Lawyers Union
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African Court on Human and Peoples' Rights

The space to organise is closing

Why PALU is asking the African Court for an Advisory Opinion on NGO laws

In country after country across Africa, the law that is supposed to let civil society exist is quietly written to make existing difficult: a registration form that asks for a document only the government can issue, a renewal deadline that resets before the last one is confirmed, a regulator free to call almost anything "against the national interest". Individually, some of these restrictions already violate human rights. Taken together, they reveal a broader, systemic assault on fundamental freedoms. Civic space narrows one clause, one permit, one renewal fee at a time, until all that is left is a sliver too narrow to work in.

The Pan African Lawyers Union (PALU) is putting this question to the African Court on Human and Peoples' Rights, not as a case against any single State but as a Request for an Advisory Opinion under Article 4 of the Protocol: where does legitimate regulation end and unlawful restriction begin?

A shared toolkit of restrictions

1 **Registration.** Compulsory registration, with documents only the State can issue: criminal records, "good conduct" certificates, minutes, detailed work plans.

2 **Fees and renewal.** High fees to register, to renew and to operate each year, and a registration that must be renewed on a cycle.

3 **Approval.** Refusal or dissolution on open-ended grounds such as morality, public order, national interest or health security; ministerial permission to register or operate.

4 **Foreign NGOs.** Foreign NGOs and local NGOs with foreign funding face extra approvals, funding limits, agreements with ministries, higher fees or years of prior existence.

5 **Funding.** Approval for donations and fundraising, and limits on foreign funds, although NGOs in Africa depend heavily on external support.

6 **Scope of activity.** Limits on sectors, bans on activities the government has not authorised, and mandatory purposes such as alignment with national development goals.

7 **Reporting.** Frequent, repetitive reporting on activities, partners and funders that drains small organisations.

8 **Regulators.** Government-composed bodies with broad powers to refuse, suspend, dissolve, investigate and monitor NGOs, and in some countries to remove their boards.

9 **Politics.** Bans on political activity, from lobbying and voter education to election observation and supporting candidates.

10 **Penalties.** Steep fines, criminal penalties and prison, including for operating unregistered or for administrative non-compliance.

What PALU is asking the Court to decide

a) Whether rules on registration, operation, funding and reporting (documentation demands, renewal, fees, minimum numbers of founders, limits on activities and criminal penalties) violate freedom of association and assembly under Articles 10(1) and 11.

b) Whether regulators' powers to register, monitor, investigate, suspend, dissolve and penalise NGOs, without prior judicial authorisation or due-process safeguards, violate Article 10(1), read with Article 7.

c) Whether harsher treatment of foreign NGOs, foreign-run NGOs and local NGOs receiving foreign funding is discrimination under Articles 2 and 10(1).

d) Whether bans on advocacy, lobbying, voter education, election observation and other political activity breach freedom of expression (Article 9) and the right to take part in public affairs (Article 13).

e) Whether restrictions defended on grounds of national security, public order, morality, sovereignty or national development must pass the three-part test under Article 27(2): legality, a legitimate aim, and strict necessity and proportionality.

f) Whether these laws breach the State's positive duty under Article 1 and stop individuals and groups from fulfilling their duties under Articles 27(1) and 29.

What is at stake

The Court's answer can set the standard for the whole continent: a clear statement of where regulation ends and unlawful restriction begins.

Backed by civil society

Developed in consultation with civil society across the continent and publicly supported by:

- ARTICLE 19 (West Africa)
- CIPESA
- Centre for Human Rights, University of Pretoria
- MENA Rights Group
- International Service for Human Rights (ISHR)

Take action

Follow the Request as it moves before the African Court, and share it with partners working to keep civic space open in your country.

#CivicSpaceAfrica #PALUatAfCHPR