

Submitting an Amicus Curiae



As per Rules 104 to 107 of the [Rules of Procedure](#), a third party may intervene in a Communication procedure before the African Commission. This is known as an *amicus curiae* (literally 'friend of the court') and may either be directly invited to intervene by the African Commission or request to do so.

Any person or organisation can be an *amicus curiae*; they may come in, on a matter of law, at any point in the proceedings of a case, either orally or in writing. An *amicus curiae* is ordinarily a neutral third party, but in addition, the African Commission may consider interventions by third parties that have a direct interest in the case.

If you want to intervene in a case as an *amicus curiae*, you should **submit a request to that effect to the African Commission**. This request should be communicated in writing to the Secretariat of the African Commission. If you are granted leave (allowed) to intervene as an *amicus curiae*, you will have access to the pleadings of the parties and will be required by the African Commission to submit your written 'amicus brief' within the 30 days of your leave being granted, which will then be shared with the parties as well and may also be published on the ACHPR website.

The African Commission will consider the submissions made by an *amicus curiae* in determining the 'merits' of the case.

Article 59

As a result of the [aforementioned Article 59](#) of the African Charter and its restrictive interpretation, which imposes a rule of [strict confidentiality](#) on the proceedings surrounding the Communications' procedure and prohibits any discussion on them during the entire process, the participation of third parties as *amicus curiae* is severely

hampered. Indeed, a third party NGO or individual cannot request to intervene as an *amicus curiae* in a case they are not allowed to know of, nor can they be invited by the parties to the case even. In practice, this means that an *amicus curiae* may only intervene upon invitation by the African Commission. It is also not possible to access the *amicus* briefs until the very end of a case, when its existence is made public by the African Commission itself.

Some points to consider when assessing amicus curiae

- Is there something additional and useful that should be brought to the Commission's attention?
- Are there individuals, communities or organisations who might have particular knowledge or interest in a matter?
- Would the amicus be neutral, or would the amicus be supportive of a particular party?