

CALL FOR INDIVIDUAL CONSULTANCY SERVICES DEVELOPMENT OF A GENERAL COMMENT ON ARTICLE 25 ON CHILDREN WITHOUT PARENTAL CARE

I. Background

1. In Africa, an estimated 35 million children without parental care (CWPC) confront a multitude of challenges, spanning exposure to violence, limited access to education and healthcare, and mental health concerns. The African Committee of Experts on the Rights and Welfare of the Child (The Committee, ACERWC), in its recently released study on CWPC in Africa (ACERWC Study on CWPC- 2023), has uncovered various factors leading to children's deprivation of family and parental care. The factors include war, conflicts, climate change, pandemics, poverty, child trafficking, and socio-economic conditions. Despite the challenges, the Committee notes that over 70% of African nations lack explicit and comprehensive child protection policies.
2. Governments and partners have launched initiatives to address vulnerabilities encountered by CWPC, encompassing preventive measures against family separation, provision of essential care services, advocacy for child rights, and efforts toward successful reintegration. Alternative care options such as kinship care, foster care, and institutional care exhibit regional variations across the continent.
3. The Continental study underscored a significant discrepancy among countries in addressing the needs of CWPC. While many nations have constitutional and legal frameworks in place, the lack of explicit policies, strategies, and action plans specifically tailored to CWPC is glaring. This gap not only hampers effective response to CWPC issues but also results in a slow implementation of robust programs and initiatives. Moreover, existing policies tend to focus on Orphans and Vulnerable Children (OVC), overlooking the unique challenges faced by CWPC. Furthermore, the absence of budgeted action plans exacerbates the financial gaps in addressing CWPC issues. To address these shortcomings, there is an urgent need for comprehensive legislation and robust policy frameworks dedicated to child care and protection.

4. At the continental level, the legislative protection for CWPC is prescribed under article 25 of the African Children's Charter. Recognizing the protection provided under article 25, the Committee notes that further explication is imperative for better implementation of the article.

5. ARTICLE 25: SEPARATION FROM PARENTS

1. *Any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance;*

2. *States Parties to the present Charter*

a). shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;

b). shall take all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters.

c) When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious or linguistic background.

6. Article 25, focuses on safeguards for children separated from parents, demands clarity, particularly concerning explicit standards and normative frameworks for regulating alternative family care options, and services. The article consists of elements which require further explanation and unpacking considering the various challenges in responses and emerging challenges of CWPC. Against this background, the ACERWC during its 42nd Ordinary Session held on 08-17 November 2023, decided to develop a General Comment on Article 25 of the Charter. In this regard, the ACERWC would like to procure a consultancy service for the development of this General Comment.

II. Objective of the General Comment

7. The General Comment aims at clarifying the elements the protection provided for children without parental care and the protection measures which need to be taken by States, outlining their legislative, institutional, judicial and other

obligations. The General Comment assists Member States of the African Union and stakeholders in implementing Article 25 of the ACRWC.

III. Scope of the General Comment

8. Guided by the four general principles¹, the General Comment elaborates the legislative, institutional, judicial and other measures that should be taken by State Parties of the African Children’s Charter to protect CWPC. Explaining the elements of article 25 of the African Children’s Charter, the General Comment will primarily be informed by the findings of the ACERWC’s study on CWPC; the Aspirations of the Africa’s Agenda for Children (Agenda 2040); and the UN Guidelines for the Alternative Care of Children. Specifically, the General Comment should focus on the following key issues, among others.
 - A. Define and unpack the elements of state obligations in the context of CWPC with a focus on legislative, institutional, and judicial measures that should be taken,
 - B. Define and establish a conceptual clarity on children without parental care,
 - C. Define and establish a conceptual clarity on alternative family care,
 - D. Define and provide guidance on tracing and re-uniting children separated from their parents.

IV. Key Deliverables and schedule

Activity	Anticipated Duration (Estimated # of days)	Deliverable/outcome
1. Prepare a draft outline of the General Comment and present it to the ACERWC;	5 days	Draft outline prepared
2. Develop a first draft of the General Comment, based on the agreed outline;	10 days	Draft General Comment prepared

¹ The four general principles outlined in the African Children’s Charter articles; (Article 3 (Non-discrimination of children), Article 4(1) (The best Interests of the child), Article 4(2) The right to participation and Article 5 (The right to survival, protection and development of each child)

Activity	Anticipated Duration (Estimated # of days)	Deliverable/outcome
3. Present the draft before the ACERWC during ACERWC's Ordinary Sessions and collect inputs as guided by the ACERWC	3 days	Presentation to the ACERWC
4. Present the draft and collect input during a validation workshop	5 days	Validation workshop conducted
5. Develop the final draft of the General Comment based on inputs and present it for adoption by the ACERWC	7 days	Final draft finalized and adopted by the ACERWC

V. **References and methodology**

9. The General Comment is primarily expected to draw inspiration from various sources such as relevant international and domestic jurisprudence, academic commentaries, the *travaux préparatoires* of different instruments, and soft law instruments to aid its interpretation of Article 25 of the African Children's Charter, when relevant and appropriate. Additionally, the General comment should reference relevant resources such as the Continental study on Children Without Parental Care in Africa, the UN Convention on the Rights of the Child, the UN Guidelines for the Alternative Care of Children, International Labour Organization (ILO) Convention No. 182, and other similar relevant instruments.
10. The process for the drafting of the General Comment will be led by the Special Rapporteur of ACERWC on Children without Parental Care. The role and level of involvement of stakeholders will be outlined by the Committee in due course.

VI. **Required qualifications and experience of lead consultant**

Education

- Minimum master's degree in university degree in international law, Child Rights Law, or Human Rights Law.

Experience

- At least 10 years of demonstrated experience in human rights or child rights in Africa
- Profound understanding of policy and legal frameworks related to alternative care for children, along with comprehensive knowledge of available care options for children without parental support in Africa
- Demonstrated professional experience in child protection, especially concerning Children Without Parental Care
- Demonstrated engagement with children without parental care at a significant level in national, continental/regional, or international contexts is preferred.

Required Skills

- Requirement of excellent conceptual, analytical, and writing skills.
- Fluency in spoken and written English is mandatory; proficiency in other African Union languages is advantageous.
- Strong communication and facilitation skills.
- Comprehensive knowledge of international, continental, regional, and national policy instruments and frameworks on child rights, including the African Charter on the Rights and Welfare of the Child, the United Nations Convention on the Rights of the Child (UNCRC), and the works of the African Committee of Experts on the Rights and Welfare of the Child.
- Capacity to work independently and deliver high-quality results with minimal supervision.

VII. Word count

- 10,000 words excluding references.

VIII. Location

- The selected consultant can be based at their own convenient location.

IX. Duration

11. The task is expected to be completed within a maximum of 30 working days which will be spread through one year. The final timeline will be discussed and agreed with the selected consultant.

X. Applications

12. The ACERWC invites eligible **Individual Consultants** to indicate their interest in providing the Services. Interested candidate must provide information demonstrating that he/she has the required qualifications and relevant experience to perform the Services. Consulting firms may propose an individual consultant, but only the experience and qualifications of the individual shall be used in the selection process, and the contract would be signed with the proposed individual.
13. The application document should consist of the following:
- i. A cover letter summarizing the background of the applicant;
 - ii. A Customized Curriculum Vitae not exceeding 3 pages;
 - iii. Technical Proposal on:
 - understanding and interpretation of the TOR
 - methodology to be used in undertaking the assignment
 - time and activity schedule
 - iv. Financial proposal
 - Consultant's daily rate in US\$
 - Other costs e.g. travel and Daily Subsistence Allowance
 - Total cost
 - v. Financial proposal should be sent separately in a PDF format and it shall be password protected. However, the password shall be submitted by the Consultant to the ACERWC upon request and after concluding the evaluation of CVs.
 - vi. Evidence of educational background and professional experience;
 - vii. Samples of publications, professional undertakings or related activities which demonstrate the applicants' expertise on the areas stated above; and
 - viii. Names and contacts of three references.

XI. Evaluation Criteria

14. For evaluation of the expressions of interest the following criteria will be applied:
- a) General Education Qualification and Relevant Training (20 points);
 - b) Experience Related to the Assignment (25 points);
 - c) Technical approach and methodology (45 points)
 - d) Work plan (10 points)
 - e) The pass mark for Technical proposals shall be 70%.

XII. Reporting line and deliverable

15. Under the ACERWC designated supervisors, the consultant will be responsible for drafting the General Comment on CWPC as it is prescribed under Article 25 of the African Children's Charter.

XIII. Duration

16. Estimated duration of the consultancy is 30 working days.

XIV. Remuneration

17. Consultancy fees will be paid at the daily rate to be negotiated with the selected consultant for the 30 days. Payment will be made in two installments. The 1st installment which is 30% of the contract amount will be paid after submission of the first draft of the General Comment; and the 2nd and final payment which is 70% will be paid at the end of the agreed period upon submission of the expected deliverables

XV. Application address and deadline

18. Application should be submitted to the Secretariat of the ACERWC no later than 28 June 2024 11:00 PM SAST. Applications should be sent to acerwc-secretariat@africa-union.org copying SenaitY@africa-union.org