PART II

Article 9: The Right Not to Be Separated from His or Her Parents
1. There is no other international human rights treaty that explicitly deals with the matter of separation of children from their parents with an exception for the African Charter on the Rights and Welfare of the Child (hereafter: the African Charter). Article 19 of that Charter is to a significant degree, similar to Article 9 of the CRC. But there are some remarkable differences. To facilitate the comparison the text of Article 19 of the African Charter is as follows:

**Article 19: Parent Care and Protection**

1. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, that such separation is in the best interest of the child.
2. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.
3. Where separation results from the action of a State Party, the State Party shall provide the child, or if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family. States Parties shall also ensure that the submission of such a request shall not entail any adverse consequences for the person or persons in whose respect it is made.
4. Where a child is apprehended by a State Party, his parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.

Without going into details the following should be noted:

a. the Charter does not require that the determination by a competent authority – as meant in paragraph 1 – is subject to judicial review. It

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