

AFRICAN UNION

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**REPORT ON ELECTION OF TWO (2) FEMALE JUDGES OF THE
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
(AfCHPR)**

REPORT ON ELECTION OF TWO (2) JUDGES OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

1. The elections of the Judges of the African Court on Human and Peoples' Rights (African Court) are based on the provisions of the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (the Protocol) adopted in 1998 as well as the Rules of Procedure of the Executive Council.
2. Article 11 of the Protocol provides that the African Court shall be composed of eleven (11) Judges who should be jurists of high moral character and of recognized practical, judicial, or academic competence and experience in the field of human and peoples' rights.
3. In addition, Article 11 of the Protocol provides that no two (2) Judges should be nationals of the same State.
4. The current election relates to the election of two (2) Judges as a result of expiry of the term of office, in July 2016, of the following Judges of the African Court.

NO.	NAME	COUNTRY	TERM OF OFFICE
1.	Mr. Fatsah OUGUERGOUZ	Algeria	Re-elected in July 2010 for a 6-year term
2.	Mr. Duncan TAMBALA*	Malawi	Elected in July 2010 for a 6-year term

***Eligible for re-election, only once**

5. It should be recalled that the current elections are being conducted pursuant to the Assembly Decision Assembly/AU/Dec.611(XXVII) taken in Kigali, Rwanda in July 2016, in order to ensure adequate gender representation on the Court in accordance with Article 14(3) of the Protocol and in line with the Modalities on Implementation of Criteria for Equitable Geographical and Gender Representation in the African Union Organs.
6. The Assembly, through the above mentioned decision, decided that the elections for the remaining two (2) Judges shall be carried out in January 2017 only from among Female Candidates from the Northern and Southern Regions respectively in accordance with the Modalities on Implementation of Criteria for Equitable Geographical and Gender Representation in the African Union Organs adopted by the Executive Council under Decision EX.CL/907 (XXVIII) in Addis Ababa, Ethiopia in January 2016.
7. Article 14 of the Protocol stipulates that "*the judges of the Court shall be elected by secret ballot by the Assembly from the list referred to in Article 13(2) of the present Protocol*". However, the judges of the Court shall be elected by secret ballot by the

Executive Council by virtue of delegation of power by the Assembly in accordance with Article 9(2) of the Constitutive Act of the African Union.

8. The Executive Council should ensure that in the Court as a whole, there is representation of the main regions of Africa and of their principal legal traditions. In addition, Council should ensure that there is adequate gender representation (Article 14 of the Protocol).

9. The Commission would like to draw to the attention of Member States to the fact that currently, following the appointment by the Assembly of two (2) female judges from Eastern and Central regions respectively in July 2016, the regional and gender representation at the African Court is as follows:

a) Regional representation

Central	:	Two (2)
East	:	Three (3)
North	:	One (1)
South	:	One (1)
West	:	Two (2)
<u>Vacancies</u>	:	<u>Two (2)</u>
Total	:	Eleven (11)

b) Gender representation

Female Judges	:	Three (3)
Male Judges	:	Six (6)

10. As can be seen from the figures above, the challenges is to ensure both regional representation and adequate gender representation in the composition of the African Court.

11. Furthermore, the Commission would like to draw the attention of all Member States to decision EX.CL/907 (XXVIII) adopted by the Executive Council during the January 2016 Summit on the Modalities on Implementation of Criteria for Equitable Geographical and Gender Representation in the African Union Organs; paragraph 2 of the said Decision provides as follows:

- i) The regional representation, where applicable, shall be East (2), Central (2), North (2), South (2) and West (2), except in cases in which a region which has been duly informed has not presented candidates;
- ii) Where applicable, one (1) seat shall be a floating seat and will rotate among the five (5) regions;
- iii) At least one (1) member from each region should be a woman;

iv) The modalities shall become effective immediately.

12. In this regard, this election will be conducted in application of the Modalities on Implementation of Criteria for Equitable Geographical and Gender Representation in the African Union Organs.

13. Furthermore, as at the initially set deadline of 14 October 2016 and extended deadline of 18 November 2016, the Commission received from the States Parties to the Protocol the following candidatures, listed in alphabetical order by last name:

NO.	NAMES	GENDER	COUNTRY	REGION
1.	Chafika BENSAOULA	Female	Algeria	Northern
2.	Chizumila Rose TUJILANE	Female	Malawi	Southern
3.	Maluleke Joyce MIKATEKO	Female	South Africa	Southern

Annex: Curriculum Vitae

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