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EXECUTIVE COUNCIL

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**REPORT ON THE ACTIVITIES OF THE AFRICAN COMMISSION
ON HUMAN AND PEOPLES' RIGHTS
(ACHPR)**

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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**41ST ACTIVITY REPORT OF THE AFRICAN COMMISSION
ON HUMAN AND PEOPLES' RIGHTS**

**Submitted in Accordance with
Article 54 of the African Charter on Human and Peoples' Rights**

41ST ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

I. INTRODUCTION

1. This 41st Activity Report of the African Commission on Human and Peoples' Rights (the Commission), which is presented in accordance with Article 54 of the African Charter on Human and Peoples' Rights (the African Charter), covers the period sandwiched between the Commission's 58th and 59th Ordinary Sessions, held in **May** and **November 2016**, respectively.

II. STATUTORY MEETINGS HELD DURING REPORTING PERIOD

2. Five (5) statutory meetings were held during the reporting period, namely: (i) the 9th and 10th Meetings of the Joint Bureaux of the Commission and the African Court on Human and Peoples' Rights (the Court) held on 16 July 2016 in Kigali, Rwanda, and 19 September 2016, in Arusha, Tanzania, respectively; (ii) the 20th Extraordinary Session held from 9 to 18 June 2016 in Banjul, Islamic Republic of The Gambia; (iii) the 5th Annual General Meeting of the Commission and the Court held from 20 to 22 September 2016 in Arusha, Tanzania; and (vi) the 59th Ordinary Session of the Commission held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia.

a) 9th and 10th Meeting of the Joint Bureaux of the Commission and the African Court on Human and Peoples' Rights

3. The 9th and 10th Meetings of the Bureaux of the Commission and the Court were held pursuant to the complementarity of the two institutions and their respective mandates and Rules of Procedure. Amongst other things, the Meetings discussed outstanding matters including progress regarding the establishment and operationalization of the Pan African Human Rights Institute (PAHRI) and the Legal Aid Fund; reports from the Joint Committees of the Commission and the Court; as well as activities to commemorate 2016 as the African Year of Human Rights under the theme "2016: African Year of Human Rights with Particular Focus on the Rights of Women (African Year of Human Rights).

b) 5th Joint Annual Meeting of the Commission and the Court (Arusha, Tanzania, 19 to 22 September 2016)

4. The 5th Joint Annual Meeting of the Commission and the Court took place in Arusha, Tanzania, from 20 to 22 September 2016, and discussed different matters pertaining to their complementarity with a view to enabling the two Organs to deliver better and more effectively on their mandates.

c) 20th Extraordinary Session – Banjul, Islamic Republic of The Gambia, 9 to 18 June 2016

5. During the 20th Extraordinary Session, the Commission, *inter alia*, adopted **five (5)** Resolutions; considered twenty-seven (27) Communications; and held a meeting with a delegation from the African Peer Review Mechanism (APRM) focusing on possible areas of cooperation and collaboration.

d) 59th Ordinary Session - Banjul, The Gambia, 21 October to 4 November 2016

6. A total of **five hundred and eighty-one (581)** Delegates participated in the 59th Ordinary Session; with one hundred and twenty-nine (129) representing twenty-six (26) Member States, thirty-one (31) representing the African Union and its Organs, thirty-nine (39) representing National Human Rights Institutions (NHRIs), thirteen (13) representing international and inter-governmental organisations, two hundred and ninety-eight (298) representing non-governmental organisations (NGOs), and forty-five (45) representing other observers and the media.

7. The Opening Session of the 59th Ordinary Session was a truly historic and befitting one in that it was a Joint Opening of two Organs of the African Union (AU), namely the Commission and the African Committee on the Rights and Welfare of the Child (Children's Committee). This was the very first time that two AU Organs have synchronized their activities so as to sit in the same country, same city, on the same dates, held a Joint Opening of their respective Sessions and also held a joint sitting to discuss matters common to their respective mandates. The synchronization was in commemoration of 2016 as African Year of Human Rights.

8. The Joint Opening Ceremony was attended by the following AU entities which have a human rights mandate: the African Court on Human and Peoples' Rights; African Union Commission on International Law, African Union Advisory Board on Corruption, African Peer Review Mechanism (APRM) and Department of Political Affairs of the AUC.

9. While H.E. the Chairperson of the African Union Commission, Dr. Nkosazana Dlamini Zuma, was not able to be personally present at the Joint Opening Ceremony, she was virtually present through the Message of Support which she sent. The 59th Ordinary Session of the Commission and the 25th Ordinary Session of the Children's Committee were jointly officially opened by Honourable Mama Fatima Singhateh, Attorney General and Minister of Justice of the Islamic Republic of The Gambia, on behalf of H.E. Aja Dr Isatou Njie Saidy, the Vice-President of the Islamic Republic of The Gambia, the Commission's host country.

10. A Human Rights Dialogue was organised within the framework of the Session in line with the commemorative nature of the 59th and 28th Ordinary Sessions of the Commission and the Children's Committee respectively. The Dialogue brought together all stakeholders working in the field of human rights, including AU Organs with a human

rights mandate; UN Agencies; National Human Rights Institutions; States Parties; NGOs as well as individuals working in the field of human rights. The discussions focused on the main hurdles faced by human rights institutions in executing their respective mandates, as well as how these challenges impact the enjoyment of the rights enshrined in the various human rights instruments ratified by the States Parties. The Dialogue further considered the factors inhibiting State Parties in their efforts to comply with their obligations under the various human rights instruments and also explored factors that could enable State Parties to better comply with and implement the decisions of AU Human Rights Organs.

11. The Outcome Document emanating from the Dialogue would be adopted during the next Ordinary Session of the Commission.

12. The Commission also seized the commemorative nature of this Session to organise interactive sessions of its Special Mechanisms to highlight and exchange perspectives on different human rights issues on the continent, especially as they pertain to women. Representatives of twenty four (24) State Parties, eight (8) National Human Rights Institutions, thirty-five (35) NGOs having Observer Status with the Commission made statements during the interactive panel discussions.

13. Also as part of the commemorative activities celebrating the African Year of Human Rights, the Commission in collaboration with the Gambia Youth Council in conjunction with the AU African Youth Division and the African Youth Commission together organized a Youth Panel, to give the youth a voice in human rights issues affecting them and provide them with a platform from which to articulate the challenges they face and make recommendations for going forward. The Youth Panel further sought to create awareness of the Declaration by Heads of State and Government of 2017 as the Year of the Youth in Africa under the theme “Harnessing the Demographic Dividend Through Investments in Youth”, and to garner stakeholder support for related activities.

III. STATE REPORTING

14. During the Session, the Commission considered the following State Reports: the 6th to 8th Combined Periodic Report of the Republic of Mauritius covering the period May 2009 - December 2015, and the Periodic Report of the Republic of Côte d'Ivoire covering the period 2012 - 2015.

15. The status of submission of Periodic Reports to the Commission by Member States as at the 59th Ordinary Session was follows:

Status	State Party
Up to date: 09	Algeria, Burkina Faso, Côte d'Ivoire, Kenya, Mali, Mauritius, Namibia, Niger, South Africa;
1 Report overdue: 11	Cameroon, Djibouti, Ethiopia, Gabon, Malawi, Mozambique, Nigeria, Sahrawi Democratic Arab

	Republic, Senegal, Sierra Leone, Uganda;
2 Reports overdue: 5	Angola, Liberia, Libya, The Sudan, Togo;
3 Reports overdue: 3	Botswana, Burundi, Rwanda;
More than 3 Reports overdue: 19	Benin, Cape Verde, Central African Republic, Chad, Republic of Congo, Democratic Republic of Congo, Egypt, The Gambia, Ghana, Guinea Republic, Kingdom of Lesotho, Madagascar, Mauritania, Seychelles, Swaziland, Tanzania, Tunisia, Zambia and Zimbabwe;
Never submitted a Report: 7	Comoros, Equatorial Guinea, Eritrea, Guinea Bissau, Sao Tome and Principe, Somalia and South Sudan.

16. During the period under review, the Commission adopted Concluding Observations on the Periodic Reports of the People's Democratic Republic of Algeria; the Republic of South Africa; the Republic of Namibia; and the Republic of Mali.

IV. RESOLUTIONS ADOPTED BY THE COMMISSION

17. The Commission adopted the following **sixteen (16)** Resolutions during the reporting period:

Session	Resolutions adopted
20th Extra-Ordinary Session	<p>A. Resolutions on Mechanisms</p> <ul style="list-style-type: none"> ✓ Resolution to Renew the Mandate of the Focal Point between the African Commission on Human and Peoples' Rights and the African Peer Review Mechanism; ✓ Resolution on the Renewal of the Mandate of Expert Members of the Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV; ✓ Resolution on the Renewal of the Mandate of Expert Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa. <p>B. Thematic Resolutions</p> <ul style="list-style-type: none"> ✓ Resolution to Revise the Declaration of Principles on Freedom of Expression in Africa. <p>C. Country Resolution</p> <ul style="list-style-type: none"> ✓ Resolution on Attacks on Persons with Albinism in Malawi.

<p>59th Ordinary Session</p>	<p>A. Resolutions on Mechanisms</p> <ul style="list-style-type: none"> ✓ Resolution on the Appointment of an Expert Member of the Working Group on Indigenous Populations/Communities in Africa; ✓ Resolution on the Appointment of an additional Expert Member of the Working Group on Economic, Social and Cultural Rights in Africa. <p>B. Country Resolutions</p> <ul style="list-style-type: none"> ✓ Resolution on the Human Rights Situation in the Federal Democratic Republic of Ethiopia; ✓ Resolution on the Human Rights Situation in the Republic of Burundi; ✓ Resolution on the Human Rights Situation in the Democratic Republic of Congo; ✓ Resolution on the Human Rights situation in the Gabonese Republic; ✓ Resolution on the Human Rights Situation in the Islamic Republic of The Gambia. <p>C. Thematic Resolutions</p> <ul style="list-style-type: none"> ✓ Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organisations working on Human and Peoples' Rights in Africa; ✓ Resolution on the Right to Freedom of Information and Expression on the Internet in Africa; ✓ Resolution on the need to Develop Guidelines on Policing and Assemblies in Africa; ✓ Resolution on Developing Reporting Guidelines with Respect to the Extractive Industries.
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V. HUMAN RIGHTS COMPLAINTS BEFORE THE COMMISSION

a) Communications

18. One hundred and ninety-nine (199) Communications are currently pending before the Commission. Communications were considered as follows during the reporting period:

Session	Communication – Name, Phase
20 th Extra-ordinary Session	<p data-bbox="560 296 701 327">I. Seizure</p> <p data-bbox="560 331 701 363">A. Seized</p> <ul style="list-style-type: none"> <li data-bbox="467 367 1408 472">✓ Communication 468/14 – Remember Miamingi v. The Republic of The South Sudan and Republic of Uganda (Seized with regard to Uganda); <li data-bbox="467 476 1408 541">✓ Communication 613/16 - Femi Falana v. The Republic of Burundi; <li data-bbox="467 546 1408 619">✓ Communication 619/16 – Mr. Tariq El-Sabie v. The Arab Republic of Egypt; <li data-bbox="467 623 1408 655">✓ Communication 622/16 – Aline BAHOGWERHE v. The DRC; <li data-bbox="467 659 1408 732">✓ Communication 623/16 – Miles Investments & 2 Others v. The Republic of Sierra Leone; <li data-bbox="467 737 1408 810">✓ Communication 625/16 - Basem Kamali Mohammed Odeh v. The Arab Republic of Egypt; <li data-bbox="467 814 1408 919">✓ Communication 626/16 – Philip Forsang Ndikum (Represented by Ndikum Law Offices) v The Republic of Cameroon; <li data-bbox="467 924 1408 1029">✓ Communication 628/16 – African Society Petroleum Consultants (Represented by Dr. Ekollo Moundi Alexandre) v. The Republic of Cameroon; <li data-bbox="467 1033 1408 1106">✓ Communication 631/16 – Perem Aoudou v The Republic of Cameroon. <p data-bbox="560 1136 1214 1167">B. Seized and Provisional Measures Issued</p> <ul style="list-style-type: none"> <li data-bbox="467 1207 1408 1281">✓ Communication 617/16 – Dr. Hazem Mohammed Farouk Abdul Khaliq Mansour v. The Arab Republic of Egypt; <li data-bbox="467 1318 1408 1423">✓ Communication 621/16 - Mr. Fadel El-Mawala Hosny Ahemad (Represented by Justice for Human Rights (JHR), and Aman Organization) v. The Arab Republic of Egypt; <li data-bbox="467 1461 1408 1566">✓ Communication 627/16 – Essam Ahmed Mahmoud El-Haddad (Represented by Abdullah Ahmad Mohammad Al-Haddad and the Alliance for Human Rights) v. The Arab Republic of Egypt; <li data-bbox="467 1604 1408 1709">✓ Communication 629/16 – Khalid Mohamed Al Maghawry Mohamed Zakaria & Another (Represented by Dalia Lotfy) v. The Arab Republic of Egypt; <li data-bbox="467 1747 1408 1831">✓ Communication 630/16 – Abdul Basseer Abdul Raouf Abdul Haleem & Another (Represented by Dalia Lotfy) v. Egypt. <p data-bbox="560 1864 766 1896">C. Not Seized</p> <ul style="list-style-type: none"> <li data-bbox="467 1900 1408 1932">✓ Communication 468/14 – Remember Miamingi v. The

	<p>Republic of South Sudan and the Republic of Uganda (Not Seized with regard to South Sudan);</p> <p>D. Deferred</p> <p>✓ Communication 465/14 (R) – Benedict F. Sannoh (Represented by Innocent Project Africa) v. The Republic of South Sudan;</p> <p>✓ Communication 618/16 - Ahmed Bassiouny Hanfy Masour (Represented by Dalia Lotfy) v. The Arab Republic of Egypt.</p> <p>II. Admissibility</p> <p>A. Admissible</p> <p>✓ Communication 376/09 - Acleó Kalinga v. The Republic of Uganda;</p> <p>✓ Communication 450/13-451/13 – Godwin Pius and Others (Represented by LEDAP and SERAP) v. The Federal Republic of Nigeria;</p> <p>✓ Communication 460/13 – Francisco Filipe Machado Vasco Mboia Campira (Represented by Dr. Gilles Cistac) v. The Republic of Mozambique;</p> <p>✓ Communication 463/14 - Eugène Atigan-Ameti (Represented by Collectif des Associations contre l'Impunité au Togo) v. The Republic of Togo;</p> <p>✓ Communication 502/14 - The Republic of South Africa v. The DRC.</p> <p>B. Inadmissible</p> <p>✓ Communication 461/13 – Eskinder Nega Fenta and Reyoot Alemu (represented by Media Legal Defence Initiative & Freedom Now) v. The Federal Democratic Republic of Ethiopia;</p> <p>✓ Communication 505/14- Tamine Abdellah v. The People's Democratic Republic of Algeria.</p> <p>III. Merits</p> <p>✓ Communication 393/10 - IHRDA v DRC.</p>
59th Ordinary Session	I. Seizure

A. Seized

- ✓ **Communication 618/16**—Ahmed Bassiouny Hanfy Masour (Represented by Dalia Lotfy) v. The Arab Republic of Egypt;
- ✓ **Communication 622/16**- Aline BAHOGWERHE v. The Republic of DRC;
- ✓ **Communication 624/16**-American and British Christ International School v. Federal Republic of Nigeria;
- ✓ **Communication 632/16**—Lawyers for Justice in Libya & The Redress Trust v. Libya;
- ✓ **Communication 635/16** – Omar Mohamed Aly Ibrahim v. The Arab Republic of Egypt;
- ✓ **Communication 638/16** – TRIAL v. The Republic of Burundi;
- ✓ **Communication 641/16**– Dr Abdel Azim Ibrahim Mohammed v. The Arab Republic of Egypt.

B. Seized and Provisional Measures Issued

- ✓ **Communication 637/16**- Mr. Mohammed Abdel Hay Faramawy and Mr. Mostafa Abdel Hay Faramawy (Represented by Dr. Abdel Hay Faramawy and 3 Ors) v The Arab Republic of Egypt;
- ✓ **Communication 639/16**- Mr Amed Farooq Kamel Mohammed (Represented by Mr. Farooq Kamel Mohammed and 3 Ors) v. The Arab Republic of Egypt;
- ✓ **Communication 640/16**- Sharif Hassan Jalal Samak (Represented by the Organisation of European Alliance for Human Rights and AMAN Organisation) v. The Arab Republic of Egypt.

C. Not Seized

- ✓ **Communication 633/16** – Jean-Claude Mbango & 2 Others (Represented by Mr Herve Ambroise Malonga and 3 Other Lawyers) v. The Republic of Congo;
- ✓ **Communication 634/16**– Bendridi v. Peoples’ Democratic Republic of Algeria;

	<p style="text-align: center;">D. Deferred</p> <p>✓ Communication 636/16 – IHRDA and Others v. The Republic of Burundi.</p> <p style="text-align: center;">II. Admissibility</p> <p style="text-align: center;">A. Admissible</p> <p>✓ Communication 475/14 - Family of the late Médard Ndayishimiye v. The Republic of Burundi.</p> <p style="text-align: center;">B. Inadmissible</p> <p>✓ Communication 434/12 - Filimao Pedro Tivane (Represented by Dr. Simeao Cuamba) v. The Republic of Mozambique.</p>
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19. The tables above show that during the period between May 2016 and November 2016:

- The Commission was seized of twenty-four (24) Communications, and decided not to be seized of three (3);
- The Commission issued eight (8) requests for Provisional Measures;
- Nine (9) Communications were considered and decided at admissibility level, six (6) of which were declared admissible, and three (3) inadmissible;
- One (1) Communication was considered and decided on the Merits.

VI. APPLICATIONS FOR OBSERVER AND AFFILIATE STATUS

a) NGOs granted Observer status at the 59th Ordinary Session

20. The Commission granted Observer Status to the following six (6) NGOs in accordance with the Resolution on the Criteria for Granting and Enjoying Observer Status to NGOs Working in the Field of Human and Peoples' Rights: Kenya Legal and Ethical Issues Network on HIV/AIDS; National Coalition of Human Rights Defenders (Kenya); Tshwaranang Legal Advocacy Centre(South Africa); The Great Lakes Initiative for Human Rights and Development; The International Center for Not-for-Profit Law(USA); and La Clinique Juridique d l'Université de Goma.

21. This brings the current number of NGOs with Observer Status with the Commission to five hundred and four (504).

22. Further to Executive Council Decision EX.CL/887(XXVII), the Commission reviewed the criteria for granting of Observer Status to NGOs. The revised criteria is herewith attached as **Annex 1**.

b) Applications by NHRIs for Affiliate Status

23. No applications were received from NHRIs for Affiliate Status during this reporting period.

VII. STATE COMPLIANCE WITH THE COMMISSION'S DECISIONS, REQUEST FOR PROVISIONAL MEASURES AN LETTERS OF URGENT APPEAL

24. The Commission noted that State compliance with its Decisions, Requests for Provisional Measures and Letters of Urgent Appeal is relatively low, as reflected by the information reaching the Commission regarding State compliance which was as follows:

a) Decisions

25. In Communication 288/04 - Gabriel Shumba v. The Republic of Zimbabwe: The Complainants sent a correspondence to the Commission indicating that the State had not yet implemented the recommendations contained in the decision of the Commission.

b) Requests Provisional Measures

26. During the reporting period, none of the eight (8) Requests for Provisional Measures issued by the Commission was responded to by the respective Respondent State Parties.

c) Letters of Urgent Appeal

27. The status of responses to Letters of Urgent Appeal sent to State Parties during the reporting period, regarding human rights issues alleged to have occurred in their respective countries, was as reflected in the table hereunder:

State	Issue warranting Urgent Letter of Appeal	Status of Implementation
1. Federal Democratic Republic of Ethiopia	Regarding the alleged unlawful state appropriation of land belonging to the Mursi community of Lower Omo Valley.	The State is yet to respond.
2. United Republic of Tanzania	Regarding the alleged unlawful detention and intimidation of defenders of the rights of indigenous people in the Loliondo region.	The State is yet to respond.

3. Federal Republic of Ethiopia	Regarding a report of fire outbreak in Qilinto Prison in Addis Ababa.	The State is yet to respond.
4. Islamic Republic of the Gambia	Regarding the alleged unlawful arrest and detention of political activists and journalists.	State is yet to respond.
5. Republic of Liberia	Regarding the alleged breach of the right to education through the State outsourcing provision of basic education to private providers under the programme "Partnership Schools for Liberia".	The State is yet to respond.
6. Islamic Republic of Gambia	Calling upon the State to observe due process and respect human rights with regards to proceedings against all accused persons, including opposition members and journalists; and to create a political and social environment conducive to fair, free, open and peaceful elections.	The State is yet to respond.
7. Republic of Zambia	Regarding the alleged unlawful closure of the Post Newspaper and alleged arrests of the newspaper's owner, his wife and the Newspaper's Deputy Managing Editor.	The State responded on 19 October 2016, explaining the circumstances and giving its view point on the matter.
8. Kingdom of Lesotho	Regarding alleged reports of suppression of freedom of expression and attacks on the media.	The State responded on 28 October 2016, providing an explanation of what took place and why.
9. Republic of South Sudan	Regarding alleged attacks by the State on journalists in South Sudan.	The State is yet to respond.

10. Republic of Zimbabwe	Regarding alleged threats to freedom of expression during the general mass protests in the country.	The State is yet to respond.
11. Republic of Burundi	Regarding the alleged disappearance of Mr. Jean Bigirimana, a Burundian journalist working for the Newspaper <i>Iwacu</i> .	The State is yet to respond.
12. Federal Democratic Republic of Ethiopia	Regarding the alleged deaths of more than fifty-five (55) people in a stampede in Bishoftu, Oromia Region, on 2 October 2016.	The State is yet to respond.

28. The above table shows that of the twelve (12) State Parties to which Letters of Urgent Appeal were sent by the Commission during the reporting period, only two (2) were acknowledged and/or responded to.

VIII. LETTERS OF APPRECIATION

29. The Commission sent Letters of Appreciation to the Republic of Kenya for:

- i) issuing a directive that all eligible Makonde people be issued with National Identification Cards by December 2016 and all responsible Government departments ensure that members of the community were issued with title deeds for land belonging to them.
- ii) invoking the Power of Mercy provided for in Article 133 of the Constitution of the Republic of Kenya and (a) commuting the sentences of all two thousand seven hundred and forty seven (2,747) death row prisoners to life imprisonment, and (b) releasing one hundred and two (102) prisoners serving long sentences.
- iii) for adopting of the Access to Information Act and signing it into law.

IX. PRESS STATEMENTS

30. The Commission issued 12 (twelve) Press Statements during the reporting period, which are available, *inter alia*, on the website of the Commission.

X. PROMOTION MISSIONS AND ADVOCACY VISITS

31. Within the framework of its protection and promotion mandate under Articles 45 and 58 of the African Charter, the Commission undertook the following missions during the reporting period:

- a) Country Visit to Côte d'Ivoire on HIV/Human Rights, from 23 to 28 May 2016;
- b) Promotion Mission to the DRC, from 6 to 12 August 2016;
- c) Promotion Mission to Côte d'Ivoire, from 26 September to 5 October 2016; and
- d) Promotion Mission to the Republic of Angola, from 3 to 7 October 2016.

32. The Commission expresses its gratitude to these States for acquiescing to and facilitating the conduct of these missions. The Commission also seizes this opportunity to express its appreciation to the Republics of Namibia, Mauritania, Tunisia and South Africa for responding favourably to the Commission's requests to undertake promotion missions in their respective countries. These missions would be undertaken soon, on dates mutually agreed to between the Commission and the respective State Parties.

XI. ACTIVITIES OF COMMISSIONERS

33. Activities undertaken by Commissioners in their capacities as Members of the Commission and as Members of Special Mechanisms are available on the website of the Commission on www.achpr.org. These activities consist of participation in statutory meetings of the Commission, promotion missions, seminars, conferences, workshops and meetings organised by the Commission and its Special Mechanisms, and also those organised by human rights stakeholders such as State Parties, the United Nations system and civil society.

XII. THE HUMAN RIGHTS SITUATION ON THE CONTINENT

34. This section was introduced pursuant to Executive Council Decision EX.CL/Dec.639 (XVIII) calling upon the Commission to brief the Policy Organs on the human rights situation on the continent. The practice of the Commission is to draw the content of this section from the interactions of the Commission with State Parties and NGOs with observer status with the Commission during Ordinary Sessions of the Commission, supplemented by information gathered as the Commission monitors the human rights situation in the various States Parties during the intersession period.

35. This time round, the content and format of the 59th Ordinary Session were framed in such a way as to reflect the commemorative nature of the occasion. Therefore, the exchanges that normally take place between the Commission and stakeholders were not as extensive as usual. Consequently, the information availed for this section was also not as extensive. It is against this background that the Commission highlights with appreciation the following developments:

a) Positive developments

- i) adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons by the Assembly of Heads of States and Governments of the African Union;
- ii) ratification of the Maputo Protocol by the Peoples' Democratic Republic of Algeria, making it the 38th State Party to ratify the instrument;
- iii) abolition of child marriages in the Islamic Republic of The Gambia and the Republic of Zimbabwe;
- iv) creation of a women's unit in prisons and provision of adequate facilities for female inmates with children in the Republic of Kenya, to improve prison conditions and protect prisoners' rights;
- v) building of new prisons to curb overcrowding and ensure prisoners safety in the People's Democratic Republic of Algeria;
- vi) reduction in female prisoners in the Islamic Republic of Mauritania to two (2);
- vii) implementation of the Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (Luanda Guidelines) by the Republic of Malawi;
- viii) updating of its Sentencing Guidelines in the Republic of Uganda; and
- ix) the collective efforts deployed by different stakeholders including the International Committee of the Red Cross, the Swiss Government and the Federal Republic of Nigeria to secure the release of 21 of the Chibok girls who were captured more than two years back.

b) Areas of concern

36. The Commission notes with concern some of the following human rights challenges observed during the reporting period:

- i) continuing political crises of different intensities across the continent, with the attendant negative side effects on human rights generally and particularly on economic, social and cultural rights;

- ii) increasing numbers of refugees and internally displaced persons, including old people, unaccompanied children, victims of sexual violence and disabled people;
- iii) continued violence, discrimination, stigma and social exclusion directed at persons with albinism; and
- iv) arrests and harassment of journalists and human rights defenders in various parts of the continent.

XIII. ADMINISTRATIVE AND FINANCIAL SITUATION

a) Funding

37. The funding situation of the Commission has not improved. The Commission continues to rely on partners to fund some of its key activities such as Extraordinary Sessions, which are devoted mainly to the consideration of Communications. Such a situation is not desirable for an AU Organ dealing with such important and sensitive matters. Therefore the situation needs to be reviewed so that State Parties shoulder their responsibilities in this regard.

b) Staffing

38. The recruitment process is on-going and efforts are underway to fill a number of vacant posts, both at the professional and general services levels. The Commission expresses its appreciation to the AUC for the appointment of the Deputy Secretary who assumed duties on 1 October 2016, and hopes that the new round of recruitments will prioritise the appointment of Arabic and Portuguese Revisers and Interpreters, to enable the Commission to work, produce and communicate its work in all the official languages of the AU.

c) Construction of the Headquarters of the Commission

39. The Commission has nothing to add to its report in the 40th Activity Report, that the Commission had received on 31st March 2016, a copy of a correspondence from the Ministry of the Host Government addressed to the Ministry of Finance and Economic Affairs and to the Ministry of Justice, requesting these Ministries to provide an update on the construction of a Permanent Headquarters for the Commission.

XIV. DATES AND VENUE OF THE 21ST EXTRAORDINARY SESSION AND THE 60TH ORDINARY SESSION OF THE COMMISSION

40. The 21st Extraordinary Session of the Commission will take place from 23 February to 4 March 2017 in Banjul, Islamic Republic of the Gambia. The 60th Ordinary

Session of the Commission will take place from 8 to 22 May 2017 in Niamey, Republic of Niger.

41. The Commission expresses its appreciation to the Islamic Republic of The Gambia for hosting the 59th Ordinary Session, to State Parties that have already hosted Sessions of the Commission and to the Republic of Niger and Sudan for offering to host the 60th and the 61st Ordinary Sessions of the Commission respectively. The Commission also seizes this opportunity to urge States Parties that have never hosted Ordinary Sessions of the Commission to consider doing so.

XV. RECOMMENDATIONS

42. In light of the foregoing, the Commission recommends as follows:

a) State Parties to:

- i) provide the Commission with adequate funding to avoid its dependence on partner funding;
- ii) address the human rights issues identified in their respective countries;
- iii) comply with Requests for Provisional Measures, decisions and recommendations of the Commission, as set out in the Communications to which they are parties and inform the Commission of the measures taken in line with Rule 112 of the Commission's Rules of Procedure;
- iv) respond to Letters of Urgent Appeals sent by the Commission;
- v) strengthen protection for women and other vulnerable groups to ensure their security especially during conflict, and ensure prompt, credible, transparent, independent, impartial and comprehensive investigations into allegations of sexual violence and other forms of violations perpetuated against women where they occur;
- vi) popularise and implement the African Youth Charter within their various States and scale-up mentorship of the youth to prepare them for leadership;
- vii) develop and/or strengthen national follow up mechanisms for the implementation of the Decisions of AU Organs with a human rights mandate; and
- viii) authorize the Commission to undertake promotion missions in their respective countries.

b) AUC to expedite:

- i) the preparation of the Ten Year Human Rights Plan of Action in collaboration with AU Organs with a human rights mandate, with clearly identified entry points and vectors for synergy and coordination;
- ii) recruitment of staff of the Secretariat of the Commission, especially Arabic and Portuguese Translators and Interpreters, to enhance the capacity of the Commission to deliver on its mandate; and
- iii) review of the structure and organogram of the Commission with a view to providing the Commission's Secretariat with the requisite capacity to adequately support the Commission and its work.

Annex

Resolution ACHPR/Res.361 (LIX) 2016 on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Bearing in mind the provisions of Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), which establishes the competence and determines the mandate of the Commission;

Recalling the Grand Bay (Mauritius) Declaration and Plan of Action, adopted at the 1st Organisation of African Unity (OAU) Ministerial Conference on Human Rights, meeting from 12 to 16 April, 1999 in Grand Bay, Mauritius which recognises “the contribution made by African NGOs to the promotion and protection of human rights in Africa ...”;

Further recalling the Kigali Declaration, adopted at the 1st African Union (AU) Ministerial Conference on Human Rights in Africa, on 8 May 2003 in Kigali, Rwanda, which “recognizes the important role of civil society organizations (CSOs)... in the promotion and protection of human rights in Africa” and “calls upon Member States and regional institutions to protect them and encourage the participation of CSOs in decision-making processes with the aim of consolidating participatory democracy and sustainable development”;

Reaffirming Rule 68 of the Rules of Procedure of the Commission adopted at its 47th Ordinary Session, held from 12 to 26 May 2010, in Banjul, The Gambia, which provides that Non-governmental organisations (NGOs) may be granted observer status with the Commission and notes their rights and obligations;

Considering that since its establishment in October 1987, 504 NGOs have been granted observer status with the Commission;

Recognising the important role of NGOs in supporting the Commission to fulfill its mandate of promoting and protecting human and peoples' rights in Africa;

Noting Executive Council Decisions **Ex.CL/887(XXVII)** and **EX.CL/Dec.902(XXVIII)Rev.1**, which requested the Commission “to take into account

the fundamental African values, identity and good traditions, and to [...] review its criteria for granting Observer Status to NGOs.”;

Further noting Executive Council Decision **EX.CL/Dec.902(XXVIII)Rev.1** for the Commission “*to review the criteria for... representation before the ACHPR by non-African individuals and groups...*”;

The Commission:

1. **Welcomes** the opportunity to improve its criteria for the grant of observer status, and enhance its co-operation and partnership with NGOs working on human rights in Africa;
2. **Adopts** the new criteria for granting and maintaining observer status, the text of which is annexed to the present Resolution;
3. **Decides** that the new criteria shall immediately enter into force; and
4. **Requests** the Secretary to the Commission to report on the implementation of the present Resolution at each Ordinary Session.

ANNEX - CRITERIA FOR THE GRANTING OF AND FOR MAINTAINING OBSERVER STATUS WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

CHAPTER I

1. All Non-Governmental Organisations (NGOs) applying for observer status with the African Commission on Human and Peoples’ Rights (the Commission) shall be expected to submit a documented application to the Secretariat of the Commission, with a view to showing their willingness and capability to work for the realisation of the objectives of the African Charter on Human and Peoples’ Rights (the African Charter).
2. All NGOs applying for observer status with the Commission shall consequently:
 - a) Have objectives and activities in consonance with the fundamental principles and objectives enunciated in the African Union (AU) Constitutive Act, the preamble to the African Charter on Human and Peoples’ Rights, and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol);

- b) Be NGOs working in the field of human rights in Africa; and
 - c) Declare their financial resources.
3. NGOs applying for Observer Status with the Commission are required to provide, at least three months prior to the Ordinary Session, the following documents:
- a) A letter of application addressed to the Secretariat requesting Observer Status with the Commission;
 - b) A list of the Board of Members, and other members of the NGO;
 - c) The signed and authenticated Constitutive Statute of the NGO;
 - d) The Certificate of Legal Status of the NGO issued by the relevant Government authority, in the country in which the NGO is based;
 - e) The sources of funding of the NGO;
 - f) The latest independently audited financial statement of the NGO;
 - g) The latest Annual Activity Report of the NGO; and
 - h) A current comprehensive Plan of Action or Strategic Plan for the NGO, signed or approved by the relevant members of the NGO, which covers a minimum of two years, and which contains the objectives of the NGO during the specified period, the list of activities to be carried out, the timeline for their realisation, the places of implementation, the strategies to implement them and the target groups.”
4. No application for Observer Status shall be put forward for examination by the Commission without having been previously processed by the Secretariat.
5. The Commission’s Bureau shall designate a rapporteur to examine the dossiers. The Commission’s decision shall be notified without delay to the applicant NGO.

CHAPTER II: PARTICIPATION OF NGOS WITH OBSERVER STATUS IN PROCEEDINGS OF THE COMMISSION

1. a) All NGOs with Observer Status (observers) shall be invited to be present at the opening and closing sessions of the Commission.

b) An observer shall not participate in the Commission's proceedings in any manner other than as provided for in the Rules of Procedure governing the conduct of its sessions.
2. All observers shall have access to the documents of the Commission subject to the condition that such documents:
 - a) shall not be of a confidential nature;
 - b) deal with issues that are of relevance to their interests. The distribution of general information documents shall be free of charge; the distribution of specialised documents shall be on a paid-for basis, except where reciprocal arrangements are in place.
3. Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them.
4. Observers may be authorised by the Chairperson of the Commission to make a statement on an issue that concerns them, subject to the text of the statement having been provided, with sufficient lead-time, to the Chairperson of the Commission through the Secretary to the Commission.
5. The Chairperson of the Commission may give the floor to observers to respond to questions directed at them by participants.
6. Observers may request to have issues of a particular interest to them included in the provisional agenda of the Commission, in accordance with the provisions of the Rules of Procedure of the Commission.

CHAPTER III: RELATIONS BETWEEN THE COMMISSION AND OBSERVERS

1. Observers shall undertake to establish close relations of co-operation with the Commission and to engage in regular consultations with it on matters of common interest.
2. Observers shall present their activity reports to the Commission every two years.

3. Administrative arrangements shall be made, whenever necessary, to determine the modalities of this co-operation.

CHAPTER IV: FINAL PROVISIONS

1. The provisions of the General Convention on the Privileges and Immunities of the OAU and those of the Headquarters Agreement of the Commission shall not apply to observers except as regards the granting of visas.
2. The Commission reserves the right to take the following measures against Observers that are in default of their obligations:
 - non-participation in sessions;
 - denial of documents and information;
 - denial of the opportunity to propose items to be included in the Commission's provisional agenda and of participating in its proceedings.
3. Observer status may be suspended or withdrawn from any NGO that does not fulfil the present criteria, after deliberation by the Commission.

Done in Banjul, Islamic Republic of The Gambia, 4 November 2016

2017

REPORT ON THE ACTIVITIES OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (ACHPR)

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