

AFRICAN UNION

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

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43RD 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**

43RD ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

PART I: SUMMARY

1. This 43rd Activity Report of the African Commission on Human and Peoples' Rights (the Commission), which is presented to the Heads of State and Government of the African Union (AU) in accordance with Article 54 of the African Charter on Human and Peoples' Rights (the African Charter), covers the period from **June to November 15, 2017**. It highlights, among others: the statutory and other institutional meetings of the Commission; the status of State reporting; Resolutions adopted by the Commission; the human rights complaints before the Commission; the various interventions of the Commission on human rights issues including Urgent Appeal letters, Press Releases and Letters of Appreciation; the inter-session activities of Commissioners; the human rights situation on the continent; financial, staffing and operational matters; implementation of the Recommendations of the Commission; and Recommendations to the Assembly of Heads of State and Government.

PART II: BACKGROUND

2. The Commission was established in terms of Article 30 of the African Charter, which was adopted by the Assembly of Heads of State and Government of the Organization of African Unity (OAU) in 1986. The African Charter has been ratified by all Member States of the AU, except the Kingdom of Morocco, which re-joined the Union in January 2017. The Commission became operational in 1987 and has its headquarters in Banjul, The Gambia.

3. The Commission is composed of eleven (11) members elected by AU Heads of State and Government, who serve in their individual capacities on a part-time basis. Its mandate, as set out in *Article 45* of the African Charter, is to:

- i) Promote Human and Peoples' Rights;
- ii) Ensure the protection of human and peoples' rights under conditions laid down by the Charter;
- iii) Interpret the provisions of the Charter at the request of a State party, an institution of the OAU or an African organisation recognised by the OAU; and
- iv) Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

4. Within its protective mandate, the Commission is also specifically charged under the Charter with receiving and examining Communications (complaints) submitted to it,

and receiving and examining periodic reports from State Parties on the legislative or other measures taken to give effect to the rights and freedoms recognized and guaranteed by the Charter.

5. Under Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), the Commission is also mandated to monitor measures taken by State Parties in relation to the status and rights of women in their respective countries.

PART III: BODY

A. AU POLICY ORGANS MEETINGS, STATUTORY AND OTHER INSTITUTIONAL MEETINGS DURING REPORTING PERIOD

6. The Commission participated in the AU Policy Organ Meetings that were held in Addis Ababa, Ethiopia from 27th June to 4th July 2017.

7. In addition, four (4) statutory meetings and two (2) other institutional meetings were held during the reporting period, namely:

- a) The 9th Meeting of the Joint Bureaux of the Commission and the African Court on Human and Peoples' Rights (the Court) held on 2nd July 2017 in Addis Ababa, Ethiopia;
- b) The 22nd Extra-Ordinary Session of the Commission, held in Dakar, The Republic of Senegal from 29th July to 7th August 2017;
- c) The Regional Seminar on the Implementation of Decisions of the Commission, held from 12th to 15th August 2017, in Dakar, Senegal;
- d) The Sixth Joint Annual Meeting between the Commission and the Court held from 8th to 11th August 2017, in Dakar, Senegal;
- e) Meeting of the AU Peace and Security Council held from 3rd to 5th September 2017, in Addis-Ababa, Ethiopia; and
- f) The 61st Ordinary Session of the Commission held from 1st to 15th November 2017 in Banjul, The Gambia.

I. 29TH AFRICAN UNION SUMMIT, ADDIS ABABA-ETHIOPIA ON 27TH JUNE TO 4TH JULY 2017

8. In line with practice, the 42nd Activity Report of the Commission was presented before the 34th Ordinary Session of the Permanent Representatives Committee (PRC). Following discussions at the PRC and Executive Council levels, the Activity Report was

authorized for publication through Decision **EX.CL/Dec.974(XXXI)**. The Report has been published together with the observations of the State Parties and the responses of the Commission.

9. The 31st Ordinary Session of the Executive Council re-elected Commissioner Maya Sahli Fadel (Algeria); and elected the following three (3) new members of the Commission: HATEM Essaïem – Tunisia; MANUELA Maria Teresa – Angola; and LUMBU NGOY Rémy – Democratic Republic of Congo (DRC).

II. STATUTORY AND INSTITUTIONAL MEETINGS

(i) 9th Meeting of the Joint Bureaux of the Commission and the Court Addis-Ababa, Ethiopia, 2nd July 2017

10. As mandated by their Rules of Procedure, the Commission and the Court held the 9th Meeting of the Joint Bureaux on the margins of the July Summit, to discuss the status of implementation of the decisions of the 5th Joint Annual Meeting of the two institutions, and to prepare the 6th Joint Annual Meeting of the Commission and the Court.

(ii) 22nd Extra-Ordinary Session - Dakar, Senegal, 29th July to 7th August 2017

11. Details of the activities undertaken by the Commission during its 22nd Extra-Ordinary Session are recorded in the relevant Final Communiqué, which is attached to this Report as Annex I. The Final Communiqué is also available on the website of the Commission: www.achpr.org.

(iii) 6th Joint Annual Meeting between the Commission and the Court - Dakar, Senegal, 8th to 11th August 2017

12. The 6th Joint Annual Meeting between the Commission and the Court was held from 8th to 11th August 2017 in Dakar, Senegal. The overall objective of the meeting was to strengthen the complementarity of the two institutions.

(iv) Regional Seminar on the Implementation of Decisions of the African Commission on Human and Peoples' Rights – Dakar, Senegal, 12th to 15th August 2017

13. From 12th to 15th August 2017 in Dakar, Senegal, the Commission organised a Regional Seminar on the Implementation of Decisions of the Commission for countries of Central, North and West Africa, with the financial support of the European Union (EU's) Strengthening the African Human Rights System (PANAF Programme). The overall objective of the Seminar was to reinforce the African human rights system through the strengthening of the Commission's human rights promotion and protection

mandates. The Seminar assessed the status of implementation of concluding observations and other decisions of the Commission.

(v) Meeting of the AU Peace and Security Council: 3rd to 5th September 2017, Addis-Ababa (Ethiopia)

14. Pursuant to a request of the Commission, the AU Peace and Security Council (PSC) organized a meeting on 5th September to discuss working relations and partnerships between the different AU Organs.

15. The objective of the meeting was to provide an opportunity for exchange between these various organs in order to improve the effectiveness of their work by ensuring consistency, coordination and dissemination of their actions and reflections.

(vi) 61st Ordinary Session - Banjul, The Gambia, 1st to 15th November 2017

16. Details of the activities undertaken by the Commission during its 61st Ordinary Session, which coincided with the 30th Anniversary of the operationalisation of the Commission, are recorded in the Final Communiqué of the Session, which is attached to this Report as Annex II. The Final Communiqué is also available on the website of the Commission: www.achpr.org.

17. The inter-Session Reports presented by Members of the Commission and Special Rapporteurs during the 61st Ordinary Session are also available on the website of the Commission: www.achpr.org.

III. STATE REPORTING UNDER ARTICLE 62 OF THE CHARTER

18. The Commission considered the Combined Periodic Report of the Republic of Rwanda (11th to 13th), the 14th Periodic Report of the Republic of Niger, and the Combined Periodic Report of the Democratic Republic of Congo (DRC) (11th to 13th).

19. The Commission notes with satisfaction that the Republic of Rwanda and the DRC are the 8th and 9th State Parties, respectively, to fulfil their reporting obligations under Article 26 of the Maputo Protocol.

20. With the Initial Periodic Report of the Republic of South Sudan being due in August 2018, the status of Submission of Periodic Reports to the Commission stands as follows:

Status	State Party
Up to date: 12	Angola, Botswana, Côte d'Ivoire, Democratic Republic of Congo, Eritrea, Mali, Mauritius, Namibia, Niger, Nigeria, Rwanda, Togo;
1 Report overdue: 11	Algeria, Burkina Faso, Djibouti, Ethiopia, Kenya, Liberia, Malawi, Mozambique, Senegal, Sierra Leone, and Uganda;
2 Reports overdue: 3	Gabon, The Sudan, Sahrawi Democratic Arab Republic;
3 Reports overdue: 3	Cameroon, Burundi, Libya;
More than 3 Reports overdue: 19	Benin, Cape Verde, Central African Republic, Chad, Congo, Egypt, Ghana, Guinea Republic, Lesotho, Madagascar, Mauritania, Seychelles, South Africa, Swaziland, Tanzania, The Gambia, Tunisia, Zambia, Zimbabwe;
Never submitted a Report: 5	Comoros, Equatorial Guinea, Guinea Bissau, Sao Tome and Principe, Somalia.

21. The Commission wishes to note that Eritrea has submitted its first Report under Article 62 of the Charter; this State Report, together with the latest Periodic Reports of Angola, Botswana, Nigeria and Togo, will be considered at the 62nd Ordinary Session of the Commission.

22. With specific reference to Article 26 of the Maputo Protocol, only nine (9) countries are up to date with their reporting obligations thus far, namely: Burkina Faso, DRC, Malawi, Nigeria, Namibia, Mauritania, Rwanda, Senegal, and South Africa.

IV. HUMAN RIGHTS COMPLAINTS BEFORE THE COMMISSION

a) Communications

23. Of the **232** (Two Hundred and Thirty-Two) Communications currently pending before the Commission, the following were considered during the reporting period:

Session	Communication – Name, Phase
22nd Extra-ordinary Session	<p>I. Seizure</p> <p>a. Seized</p> <p>i. <i>Communication 657/17 - Jean Marie Atangana Mebara v. Republic of Cameroon;</i></p> <p>ii. <i>Communication 660/17- Jenny Naluwa Cherubala v. Democratic Republic of Congo.</i></p> <p>b. Seized and Provisional Measures Issued</p>

- i. *Communication 658/17 - Shereen Said Hamd Bakhet v. Arab Republic of Egypt;*
- ii. *Communication 659/17 - Ahmed Mustafa & 5 Others (Represented by Justice for Human Rights-& AMAN Organisation) v. Arab Republic of Egypt;*

II. Non-Seizures

- i. *Communication 661/17 – Amir Fam & 141 Others v. Arab Republic of Egypt*
- ii. *Communication 663/17- Abdullahi Ali Ismail v. Federal Republic of Somalia*

III. Admissibility

a. Admissible

- i. *Communication 473/14- Family of the late Jackson Ndikuriyo v. Republic of Burundi;*
- ii. *Communication 506/15- Gouamba Ninon Pachel (represented by IHRDA) v. Republic of Congo; and*
- iii. *Communication 573/15 – Blaise Jean Joseph Migolet v. Gabonese Republic*

b. Inadmissible

- i. *Communication 436/12 – L’Union Nationale v. Republic of Gabon*
- ii. *Communication 596/16: Romy Goornah (represented by Dev Hurnam) v. Republic of Mauritius*

IV. Struck-Out for Lack of Diligent Prosecution

- i. *Communication 617/16 – Dr Hazem Mohammed Farouk Abdul Khaliq Mansour v. Arab Republic of Egypt.*
- ii. *Communication 619/16 – Tariq Ibrahim El-Sabie v. Arab Republic of Egypt.*

V. Merits

- i. *Communication 339/2007 – Patrick Okiring and Agupio Samson (represented by Human Rights Network and ISIS-WICCE) v. Republic of Uganda*

VI. Deferred

- i. *Communication 574/15 – Mr. Ammar Muhammad Badee Abdel-Magied Sami and Dr. Muhammad Badee Abdel-Magied Sami (Represented by European Alliance for Human Rights) v. Arab Republic of Egypt;*
- ii. *Communication 561/15 – Ibrahim Ahmed Mahmoud Mohammed Yamani (Represented by European Alliance for Human Rights) v. Arab Republic of Egypt;*
- iii. *Communication 562/15 – Mohammed Aly Abdel Raouf Aly (Represented by European Entente for Human Rights) v. Arab Republic of Egypt.*
- iv. *Communication 454/13 – Nde Ningo v. Republic of Cameroon*

	<p><i>v. Communication 290/2004 – Open Society Justice Initiative (on behalf of Pius Njawe Noumeni) v. Republic of Cameroon</i></p> <p><i>vi. Communication 431/12 – Kwoyelo Thomas v. Republic of Uganda</i></p> <p><i>vii. Communication 348/07- Collectif des familles de disparu (e) s en Algérie v. People’s Democratic Republic of Algeria</i></p>
61 st Ordinary Session	<p>I. Seizure</p> <p>a. Seized</p> <p><i>i. Communication 668/17 - Peter Odiwuor Ngoge, O.P Ngoge & Associates Advocates v The Republic of Kenya</i></p>

24. The above tables show that during the period under review, the Commission was seized of five (5) Communications; decided not to be seized of two (2); issued two (2) Provisional Measures; declared three (3) admissible and two (2) inadmissible; decided one (1) on the Merits; struck out two (2) Communications for lack of diligent prosecution; and deferred seven (7) Communications at various stages. The Commission also provided the Secretariat with guidance on nine (9) Communications.

V. APPLICATIONS FOR OBSERVER AND AFFILIATE STATUS

25. The Commission granted Observer Status to the following four (4) non-governmental organisations (NGOS): (i) African Child Policy Forum; (ii) The Gender, Health & Justice Research Unit; (iii) Reprieve; and (iv) The Centre for Citizen’s Participation on the African Union, thus bringing the number of NGOs with Observer Status as at the 61st Ordinary Session of the Commission to **five hundred and fifteen (515)**.

26. The Commission did not consider any application for Affiliate Status from national human rights institutions (NHRIs) in accordance with the Resolution on the Granting of Affiliate Status to NHRIs in Africa. Thus, the total number of NHRIs with Affiliate Status with the Commission remains at twenty-four (24) as at the end of the reporting period.

VI. STATE COMPLIANCE WITH THE COMMISSION’S DECISIONS, REQUESTS FOR PROVISIONAL MEASURES AND LETTERS OF URGENT APPEAL

27. The level of compliance by State Parties with the Commission’s Decisions, Requests for Provisional Measures and Letters of Urgent Appeal is relatively low, as evidenced by the following information:

a) Implementation of the Commission’s Decisions

28. During the reporting period, the Commission did not receive any information regarding the implementation of its decisions in accordance with Rule 112 of its Rules of Procedure of 2010.

b) Requests for Provisional Measures

29. During the reporting period, the Commission did not receive any responses on the two (2) Requests for Provisional Measures which it issued to State Parties as indicated in the table on Communications in paragraph 23 above. Also, during this period, the Commission received information from the Complainant in *Communication 507/15 - Andargachew Tsege and Others (Represented by Reprive and REDRESS) v. The Federal Democratic Republic of Ethiopia*, on 10 August 2017, indicating that the State has still not complied with the Provisional Measures requested by the Commission in this matter.

c) Letters of Urgent Appeal

30. During the period under review, **8 (eight)** Letters of Urgent Appeal were sent to State Parties, regarding allegations of human rights violations in States, as reflected in the table below:

State	Date of Letter	Issue warranting Urgent Letter of Appeal	Status of Implementation
1. Republic of Kenya	26 May 2017	This letter concerned allegations of widespread patterns of extra-judicial killings implicating the police in Kenya and the lack of investigation and prosecution of such cases of extra-judicial killings.	The State is yet to respond.
2. Arab Republic of Egypt	27 June 2017	This letter concerned allegations relating to the sentencing of Ten (10) individuals to death by the Egyptian Courts.	The State is yet to respond.

3. United Republic of Tanzania	03 August 2017	This letter, which was issued jointly with the Chairperson of the African Committee of Experts on the Rights and Welfare of the Child, concerned the statement made by the Tanzanian authorities on 22 June 2017 to the effect that pregnant girls and teen mothers would no longer be allowed to attend school and continue their education.	The State is yet to respond.
4. Republic of Congo	6 September 2017	This letter concerned the situation of Rwandan refugees in Congo who did not benefit from the exemption for those still in need of international protection following the signing of the cessation of refugee status clause, and who risk losing their refugee status and finding themselves in an irregular situation by the end of December 2017.	The State is yet to respond.
5. United Republic of Tanzania	25 October 2017	This letter concerned allegations of arbitrary arrest and detention of thirteen (13) lawyers and activists on 17 October 2017, while consulting on how to institute a case in Court to challenge the decision by the Tanzanian Government to limit the provision of certain essential health care services for HIV prevention to key populations at risk of HIV.	The State is yet to respond.
6. Federal Republic of Nigeria	17 July 2017	This letter concerned allegations of premeditated attacks on Fulani villages between 17 and 23 June 2017 by militiamen from the Mambilla community in Taraba State of Nigeria, resulting in numerous loss of lives including those of pregnant women, children,	The State is yet to respond.

		elderly people as well as the killing and rustling of thousands of cattle and destruction of property, causing the forced displacement of thousands of members of the Fulani community to neighbouring Cameroon.	
7. United Republic of Tanzania	8 September 2017	This letter concerned allegations of illegal evictions and serious human rights violations which occurred on 13 and 14 August 2017 against Maasai pastoralists in the Loliondo Division of the Ngorongoro District, in the Arusha Region, by rangers from the Serengeti National Park (SENAP) and the Ngorongoro Conservation Area Authority (NCAA), with support from Loliondo police officers, resulting in thousands of residents including women and children being rendered homeless.	The State is yet to respond.
8. Federal Republic of Nigeria	06 October 2017	This letter of appeal related to a Bill in parliament to establish an agency which would monitor, supervise, de-register, and pre-approve all activities by civil society, labour and community-based organizations in the country, which would have the effect of limiting the rights to freedom of association and assembly.	The State is yet to respond in writing (however the matter was addressed in the State's oral intervention during the 61 st Ordinary Session.)

VII. LETTERS OF APPRECIATION

31. During the reporting period four (4) letters of appreciation were sent to Heads of State and Government as follows:

State	Date of Letter	Positive development warranting Letter of Appreciation
1. Republic of Burkina Faso	4 July 2017	This letter commended the Government of the Republic of Burkina-Faso for the adoption of a law on the protection on human rights defenders.
2. Federal Democratic Republic of Ethiopia	30 August 2017	This letter welcomed the lifting by the Government of the Federal Democratic Republic of Ethiopia of the state of emergency which had been imposed by the Government on 09 October 2016.
3. Republic of The Gambia	16 October 2017	This letter commended the Government of the Republic of The Gambia on signing the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty (Second Optional Protocol) on the 22 September 2017.
4. Republic of Madagascar	18 October 2017	This letter commended the Government of the Republic of Madagascar for ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty (Second Optional Protocol) on the 21 September 2017.

VIII. PRESS STATEMENTS

32. In addition to the various Press Releases issued by the Commission and its Special Mechanisms regarding promotion missions conducted and meetings organized, during the reporting period, the Commission also issued nine (9) Press Releases relating to various human rights issues. The Press Releases are available on the website of the Commission: www.achpr.org.

IX. PROMOTION MISSIONS AND ADVOCACY VISITS

33. The Commission did not undertake any Promotion Missions during the reporting period as it was awaiting the responses of the various State Parties to which requests for authorization to undertake Promotion Missions had been sent. However, during this period, authorization was received from the People's Democratic Republic of Algeria, for a Promotion Mission to be undertaken from 15 to 24 January 2018.

X. 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 collected as part of its monitoring of the human rights situation in the various States Parties during the intersession period.

a) Positive developments

35. The Commission notes with appreciation the following major positive human rights developments observed during the reporting period:

- i) The ratification of the Maputo Protocol by the Republic of Mauritius in June 2017, which increased the number of States Parties to the Protocol to thirty-nine (39);
- ii) The ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) by the Republic of Sao Tome and Principe on 10 January 2017;
- iii) The ratification by the Republic of Madagascar of the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty (Second Optional Protocol) and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 21 September 2017;
- iv) The accession by the Republic of Benin to the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Prevention and Punishment of the Crime of Genocide and the Vienna Convention on the law of treaties;
- v) The ratification by the Central African Republic of the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict;
- vi) The accession by the Republic of Cote d'Ivoire to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;
- vii) The Republic of The Gambia's signing of the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, and the International Convention for the Protection of all Persons from Enforced Disappearance, on 20 September 2017;

- viii) The signing of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons by the Republic of Ghana, the Republic of Sierra-Leone and the Republic of Zambia in July 2017;
- ix) The increase in the number of State Parties reporting periodically under the Maputo Protocol, in compliance with Article 26 of the Maputo Protocol to nine (9), following the State Reports of Rwanda and DRC;
- x) The adoption by the Republic of Burkina Faso of a law on the protection of Human Rights Defenders;
- xi) The adoption by The United Republic of Tanzania of three laws aimed at increasing accountability of companies and increasing national revenues from extractive industries, namely the Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act, 2017; the Natural Wealth and Resources (Permanent Sovereignty) Act, 2017; and the Written Laws (Miscellaneous Amendments) Act, 2017 amending the Mining Act of 2010;
- xii) The decision of the High Court of the Republic of Kenya declaring as unconstitutional Section 194 of the Penal Code of Kenya, which creates the offence of criminal defamation, thus contributing to the protection of the right to freedom of expression;
- xiii) The commutation of death sentences to life imprisonments in Tanzania, Nigeria, Mauritania and Sudan;
- xiv) The publication of the electoral calendar in the DRC which sets 23 December 2018 as the date for the holding of Presidential, legislative and provincial elections; and
- xv) The show of respect for the rule of law in the Republic of Kenya, as demonstrated by the Supreme Court's decisions relating to the presidential elections, and the government's expression of respect for the decision of the Court despite not agreeing with the ruling annulling the 8 August election.

b) Areas of concern

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

- i) Reports on the auctioning of African migrants in Libya as slaves;
- ii) Continued delays in the ratification of the Maputo Protocol by States that have not yet done so;
- iii) Prohibition of the continued education of pregnant girls and teen mothers in Tanzania, which amounts to gender discrimination and a violation of both the African Charter and the Maputo Protocol;

- iv) The socio-political crisis in Togo following demonstrations to call for constitutional reforms, which led to loss of lives and other human rights violations;
- v) The deterioration of the human rights situation in the DRC, particularly in the South Kivu where about 37 Burundian refugees were reportedly found dead on 15 September 2017, and in the Kasai region where human rights violations and abuses against the civilian population have been perpetrated by militia and other armed groups;
- vi) The eviction of indigenous pastoralists in Kilosa, Mvomero and Morogoro Vijijini districts of the Morogoro Region and from Loliondo in Tanzania;
- vii) The deteriorating political situation in South Sudan which is destabilizing the Gambella Regional State and causing inter-ethnic conflict between the Nuer and Anuak communities;
- viii) The conflict between the Batwa and their Bantu neighbours in the Kantaga Region, DRC, which has been ongoing for the last four decades;
- ix) Attacks in Mogadishu, Somalia, including the horrific bomb attack in Mogadishu on 14 October 2017;
- x) Recurrent terrorist attacks against the armed forces and members of peacekeeping operations in the Sahel countries, particularly in Niger, Mali and Burkina Faso;
- xi) The impact of natural disasters and climate change on the population, including loss of lives and destruction of property, in particular landslides in Sierra Leone and floods in Niger;
- xii) The impact of epidemics on the health of populations, including the ravages of cholera in the Democratic Republic of the Congo;
- xiii) Reports of persistence of discrimination and stigma against persons living with HIV and those at risk or affected by HIV in health facilities in some countries, including Tanzania; and
- xiv) The continued existence of laws criminalising abortion in State Parties that have ratified the Maputo Protocol, despite the high rates of maternal mortality resulting from unsafe abortion.

XI. ADMINISTRATIVE AND FINANCIAL SITUATION

a) Construction of the Commission's Headquarters

37. The Host Government established an Inter-Ministerial Task Team to spearhead the construction of the Headquarters of the Commission. The Task Team, which includes a focal person from the Commission, decided that the building design earlier cleared for the Headquarters of the Commission had been overtaken by the passage of time and developments over the years, and that therefore a new structural design would be required. This new design is under preparation by experts designated by the Host Government, who have obtained relevant information from the Secretariat of the Commission regarding the Commission.

38. In addition, H.E. Mr. Adama Barrow, the President of the Republic of The Gambia, who graced the opening of the 61st Ordinary Session of the Commission, affirmed his government's commitment to construct for the Commission a Headquarters befitting of its status as the continent's oldest and premier human rights body.

b) Staffing

39. During the reporting period, the staffing situation at the Secretariat retrogressed. The position of Deputy Secretary is now vacant again, following the redeployment of the Deputy Secretary to serve elsewhere in the AU. The appointment of an Acting Deputy Secretary in the interim is welcomed and appreciated. However, the Commission currently has a staff deficit of twenty-five (25) out of the forty-six (46) approved Regular positions in its structure, the details of which are herewith attached as Annex III.

40. To enable the Commission to deliver effectively on its mandate, it is necessary that Legal Officers be urgently recruited for the Secretariat, as the Legal Unit is extremely understaffed, with only nine (9) out of the approved fourteen (14) Legal Officers recruited. Most pressing in this regard is the need to recruit Legal Officers that have the capacity to work in either Arabic or Portuguese, as the Secretariat currently has none and this area of lack is being felt particularly now because one of the newly sworn in Commissioners works in Portuguese, and also because the Secretariat currently has several Communications (complaints) before it that require proficiency in Arabic.

41. The referenced under-resourcing cuts across the whole Secretariat. The Finance Department has just two staff, a Finance Officer and an Accounts Assistant, and finds it difficult to handle the volume of activities and the attendant expenditures and reporting requirements.

42. Regarding interpretation and translation which is a key component of its work, the Commission relies on just one short-term staff who is designated as Translator/Interpreter, and therefore continues to experience acute challenges in this area, daily.

43. Also, despite the vital role played by the Registry in an organization such as the Commission where management of correspondences is so critical, the Secretariat has only one (1) Registry Clerk, while it does not have an Information Technology (IT) Department or Unit, but relies on one short-term staff for all its IT needs, notwithstanding the centrality of IT to its work, which is often urgent and sensitive.

44. Indeed, many Units either do not have staff at all or are one-person Units – including Protocol, as the Secretariat operates with just one Protocol Assistant to meet all its many protocol needs. These constraints mean that staff work at all sorts of odd hours, and that when one staff falls sick or goes on leave the absence is felt across the entire breadth of the operations of the Commission and its Secretariat. Staff are also thus obliged to continue working even when on leave.

45. There is therefore need, not only to expedite recruitment to all the vacant positions, but also to review the current structure of the Secretariat of the Commission to better align its composition and organogram with the mandate entrusted to it and the expansion in its work over the years, particularly in the last decade.

46. While awaiting the review of the structure, in the immediate term, expedited recruitment is requested for the positions of Deputy Secretary, five (5) Legal Officers (especially Portuguese and Arabic-speaking Legal Officers, and Legal Officers for Protection), three (3) Translators/Interpreters, one (1) Senior Human Resource Officer, one (1) Public Relations and Information Officer, one (1) Information Communication and Technology Officer, one (1) Administrative Assistant, one (1) Communication and Database Expert and one (1) Assistant Documentation Officer.

c) Sessions of the Commission

47. The volume of matters coming to the attention of the Commission has increased greatly in recent times, making it difficult for the Commission to process that work within scheduled sessions. This situation has led to an accumulated work back-clog including in relation to the handling of complaints of human rights violations (Communications).

48. It has therefore become imperative for the Commission to dedicate additional time to its work. In this regard, pursuant to Article 42(2) of the African Charter, as well as Rules 26 and 27 of its Rules of Procedure, the Commission has decided to increase the number of days for its Ordinary Sessions from **fifteen (15) to twenty-one (21)** days, and for its Extra-Ordinary Sessions from **ten (10) to fifteen (15)** days. The Commission will therefore be seeking the requisite extra budgetary support.

XII. IMPLEMENTATION OF DECISIONS

a) Grant of observer status to the NGO called Coalition of African Lesbians (CAL)

49. Further to Executive Council Decision EX.CL/887(XXVII) which requested the Commission to withdraw the observer status granted to CAL and to review its criteria for granting observer status, it will be recalled that during the discussions of the Commission's Activity Report in January 2017, the Commission indicated that the criteria for granting observer status to NGOs had indeed been reviewed.

50. Regarding the request that the Commission should withdraw the observer status of CAL, the request for an Advisory Opinion that was before the African Court on Human and Peoples' Rights has now been dispensed with, through the decision of the Court in which it was held that the entities that had sought an Advisory Opinion from the Court had no capacity to do so.

51. Consequently, the matter is no longer *sub judice*, and the Commission would now like to indicate and clarify the following:

- a) The decision on the grant of the Observer Status was properly taken in terms of the Commission's established processes and criteria.
- b) The Commission is mandated to give effect to the African Charter under which everyone is entitled to the rights and subject to the duties spelt out in the Charter, and it is the duty of the Commission to protect those rights in line with the mandate entrusted to it under Article 45 of the Charter, without any discrimination because of status or other circumstances.
- c) While fulfilling this mandate, the Commission remains alive to and mindful of the imperative not to encroach on domestic policy matters that fall outside its purview.
- d) The Commission will continue to scrutinize the notion of 'African Values' within the framework of its mandate to interpret the African Charter.

b) Harmonization of emoluments of elected officials

52. A number of Executive Council Decisions call upon the African Union Commission (AUC) to harmonize the emoluments of elected officials of the Union. In particular, decisions EX.CL/Dec.974(XXXI) and Ext/EX.CL/Dec.1(XIII) request the AUC to come up with a proposal to harmonize the remuneration of elected Officials of AU Organs for consideration and adoption. Further to these Decisions, a meeting was convened by the AUC together with the AU Organs, and various recommendations made. The Commission participated in those discussions, and feedback is still awaited.

53. Members of the Commission undertake a lot of work, both during the Sessions of the Commission, and during the intersession period, as this is when most of the work to promote human rights with various stakeholders in the different State Parties takes place. This work goes largely unrecognized and unrecompensed. The Commission therefore trusts that the matter of Commissioners' emoluments will be considered and a decision expeditiously adopted.

c) AU Commission Mission to Banjul

54. Executive Council Ex. CL/Decision EX.CL/Dec.974(XXXI) on the Forty-Second Activity Report of the African Commission on Human and Peoples' Rights "requests the AU Commission to conduct a mission to assess governance and accountability issues in the ACHPR to facilitate a subsequent meeting between the leaderships of the Commission and the ACHPR to address the findings". The said mission is yet to take place.

d) Mission to the territory of the Sahrawi Arab Democratic Republic or Western Sahara under the control of the Kingdom of Morocco

55. It will be recalled that Executive Council Decision EX.CL/Dec.689(XX) requested the Commission to carry out a mission to the territory referred to by the AU as the Sahrawi Arab Democratic Republic (SADR) and the United Nations as Western Sahara, under the control of the Kingdom of Morocco (Morocco), with a view to investigating human rights violations and to report to the Executive Council in January 2013. The Commission was not authorized to visit the territory under the control of Morocco, and therefore undertook a mission to the territories under the government of SADR only. Following consideration of its report, the Commission was requested through EX/CL/Dec.775(XXIII) to carry out the fact-finding mission as specified, further to which the Commission repeated its request for authorization from Morocco to undertake the mission to the occupied territories, which was denied. The subsequent Decision EX.CL/Dec.887(XXVII) repeated the request for the mission to be undertaken, and the Commission again sought authorization from Morocco to undertake the mission but no response was received.

56. Most recently, during the 34th Ordinary Session of the PRC and the 31st Ordinary Session of the Executive Council, the Commission was requested to engage in a dialogue with Morocco, to facilitate the implementation of Executive Council Decision EX.CL/Dec. 689(XX). Following this, a request for authorization to undertake the mission was sent in October 2017, and a response is still being awaited.

XIII. DATES AND VENUE OF THE 62ND ORDINARY SESSION OF THE COMMISSION

57. The 23rd Extra-Ordinary Session of the Commission will take place from 13 to 22 February 2018, in Banjul, Republic of The Gambia; and the 62nd Ordinary Session will take place from 25 April to 09 May 2018, in Nouakchott, Islamic Republic of Mauritania.

58. The Commission expresses its appreciation to the Republic of The Gambia for hosting the 61st Ordinary Session and the 30th anniversary celebrations of the operationalization of the Commission. It also appreciates State Parties that have already hosted Sessions of the Commission, and to the Islamic Republic of Mauritania for offering to host the 62nd Ordinary Session of the Commission. The Commission also takes this opportunity to urge other States Parties to consider hosting Ordinary Sessions of the Commission.

XIV. RECOMMENDATIONS

59. Having regard to the foregoing, the Commission recommends as follows:

To State Parties:

- i) Acknowledge receipt of the Commission's correspondences, implement its decisions on Communications and provide it with all relevant information on the measures taken to implement its decisions in accordance with Rule 112 of its Rules of Procedure;
- ii) Respect and implement the Provisional Measures issued by the Commission, and provide the Commission with information on the steps taken to implement them;
- iii) Respond to Urgent Letters of Appeal send by the Commission;
- iv) Accede to the Commission's requests to undertake missions in their countries;
- v) Take all necessary measures to address the various areas of concern highlighted by the Commission; and
- vi) Consider hosting one of the Sessions of the Commission, in compliance with Executive Council Decision EX.CL/856(XXV).

To the Permanent Representatives Committee (PRC):

- i) Hold Retreats with the Commission to better understand its work and foster mutual understanding;
- ii) Attend Ordinary Sessions of the Commission;
- iii) Expedite consideration of the harmonization of the emoluments of elected officials;

- iv) Approve the requisite budgetary increment following the decision of the Commission to increase the number of days for its Ordinary Sessions from **fifteen (15)** to **twenty-one (21)** days, and for its Extra-Ordinary Sessions, from **ten (10)** to **fifteen (15)**; and
- v) Review and augment the structure of the Commission's Secretariat.

To the Kingdom of Morocco:

- i) Ratify the African Charter; and
- ii) Grant the Commission authorization to undertake the mission mandated by Executive Council Decision **EX.CL/Dec. 689(XX)**.

To the AUC:

- i) Give due consideration to the operational and governance challenges confronting the Commission and its Secretariat; and
- ii) Implement various Executive Council Decisions calling for expedited recruitment to the vacant positions in the Secretariat, and more particularly recruitment of Arabic and Portuguese Legal Officers and Translators as per Executive Council Decision EX.CL/Dec.974(XXXI).

To the Host Government/Government of The Gambia:

- i) Resolve the operational challenges confronting the Commission and its Secretariat, especially by addressing the incessant power outages experienced by the Secretariat through provision of an appropriate generator and standby generator; and
- ii) Expedite the construction of an appropriate permanent Headquarters of the Commission, including through the adoption of timelines for its completion.

To the Assembly of Heads of State and Government:

- i) Assist the Commission get authorization from the Kingdom of Morocco to undertake the requested mission.

AFRICAN UNION

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**African Commission on Human
& Peoples' Rights**



UNION AFRICAINE

UNIÃO AFRICANA

**Commission Africaine des
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Annex 1

**Final Communiqué of the 22nd Extraordinary Session of the African
Commission on Human and Peoples' Rights**

Dakar, Republic of Senegal 29 July – 7 August 2017

**Final Communiqué of the 22nd Extraordinary Session of the
African Commission on Human and Peoples' Rights**

1. The African Commission on Human and Peoples' Rights (Commission) held its 22nd Extraordinary Session from 29 July to 7 August 2017 in Dakar, Republic of Senegal.
2. The Session was convened to consider Communications and other urgent outstanding matters from the previous Sessions
3. The Session was chaired by **Honourable Commissioner Pansy Tlakula, Chairperson** of the Commission, assisted by **Honourable Commissioner Soyata Maïga, Vice- Chairperson**.
4. The 22nd Extraordinary Session was attended by the following members of the Commission:
 - i) Honourable Commissioner **Pansy Tlakula**, Chairperson;
 - ii) Honourable Commissioner **Soyata Maïga**, Vice-Chairperson;
 - iii) Honourable Commissioner **Reine Alapini-Gansou**;
 - iv) Honourable Commissioner **Kayitesi Zainabo Sylvie**;
 - v) Honourable Commissioner **Lucy Asuagbor**;
 - vi) Honourable Commissioner **Maya Sahli-Fadel**;
 - vii) Honourable Commissioner **Med S.K. Kaggwa**;
 - viii) Honourable Commissioner **Lawrence Murugu Mute**;
 - ix) Honourable Commissioner **Jamesina Essie L. King**;
 - x) Honourable Commissioner **Solomon Ayele Dersso**.
5. Honourable Commissioner **Yeung Kam John Yeung Sik Yuen** was absent with apologies.
6. At the beginning of its deliberations, the Commission observed a minute of silence in memory of H.E. Kamel Rezag-Bara, former Chairperson of the Commission, who passed away on 25 July 2017 in Algiers.
7. Following the adoption of the agenda, Honourable Commissioner Pansy Tlakula presented a report on the meetings of AU policy organs held during the African Union Summit of 27 June to 4 July 2017 in Addis Ababa, Ethiopia.
8. The Members of the Commission discussed the report of the Secretariat on the implementation of follow-up actions from the 60th Ordinary Session of the Commission.
9. The Commission discussed the preparations for the 30th Anniversary celebration of the Commission to be held during the 61st Ordinary Session scheduled for 1 to 15 November 2017 in Banjul, The Gambia.

10. The Commission considered the report on progress made in the implementation of the project on strengthening the African human rights system (PANAF project).

11. The Commission followed and made observations on a presentation regarding the development of a Communication Strategy under the PANAF project.

12. The Commission also discussed the preparations for the regional seminar on the implementation of concluding observations and other decisions of the Commission scheduled for 12 to 15 August 2017 in Dakar, Senegal.

13. The Commission considered and adopted the following documents:

- i) Report of the Working Group on Communications;
- ii) Communications Audit;
- iii) Paper on Article 58 of the African Charter.

14. The Commission considered the Draft Amendments to the Rules of Procedure, mainly the provisions relating to Communications.

15. The Commission also considered and made observations on the Draft Format of Reports on Promotion Missions of the Commission.

16. During the Session, the Commission considered twenty-seven (27) Communications, including:

- i) Six (6) Communications on Seizure: the Commission was seized of three (3), including granting two (2) requests for Provisional Measures, and dismissed three (3);
- ii) Five (5) Communications for Strike-out: the Commission struck-out two (2) and deferred three (3);
- iii) Five (5) Communications on Admissibility: the Commission declared three (3) admissible and two (2) inadmissible;
- iv) Five (5) Communications on Merits: the Commission adopted one (1) and deferred four (4);
- v) The Commission also gave guidance on five (05) Communications and deferred one (01) for additional information.

17. The Commission expresses its sincere gratitude to the Government and people of the Republic of Senegal for the warm welcome and hospitality extended to the members of the African Commission on Human and Peoples' Rights during the 22nd Extraordinary Session.

Done in Dakar, Republic of Senegal, on 7 August 2017

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*African Commission on Human &
Peoples' Rights*



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**Final Communiqué of the 61st Ordinary Session of the
African Commission on Human and Peoples' Rights**

**Banjul, The Gambia
1 – 15 November 2017**

Final Communiqué of the 61st Ordinary Session of the African Commission on Human and Peoples' Rights

1. The African Commission on Human and Peoples' Rights (the Commission) held its 61st Ordinary Session in Banjul, The Gambia, from 1 to 15 November 2017.
2. The Commission celebrated on this occasion the 30th Anniversary of its operationalisation which coincided with the Session.
3. The opening ceremony was graced by the presence of a Delegation of the host country of the Commission led by His Excellency Mr Adama Barrow, President of the Republic of The Gambia, who declared the Session open. The Delegation included Her Excellency Mrs Fatoumata Tambajang, Vice-President and Minister of Women's Affairs; Her Honourable Mrs. Mariam Denton, Speaker of the National Assembly; His Lordship Mr Hassan Bubacar Jallow, Chief Justice; Honourable Abubacarr Marie Tamba Dou, Attorney-General and Minister of Justice and other Ministers and senior officials.
4. The ceremony was also attended by the representative of the Chairperson of the AUC, representatives of AU Organs, representatives of the EU and other members of the diplomatic corps; etc
5. The outgoing Commissioners Honourable Commissioner Pansy Tlakula, Honourable Commissioner Alapini Gansou, and Honourable Commissioner Med Kagwa attended the opening ceremony.
6. In accordance with Article 38 of the African Charter on Human and Peoples' Rights (the Charter), the newly elected Commissioners were sworn in at the opening ceremony of the Session. They are Honourable Commissioner Hatem Essaiem, Honourable Commissioner Remy Ngoy Lumbu and Honourable Commissioner Maria Teresa Manuela. Honourable Commissioner Maya Sahli-Fadel who was re-elected was also sworn in.
7. The Commission elected its new Bureau which shall serve for two years. The Bureau is composed of Honourable Commissioner Soyata Maiga as Chairperson and Honourable Commissioner Lawrence Murugu Mute as Vice Chairperson.
8. The following Members of the Commission participated in the Ordinary Session:
 - i) Honourable Commissioner **Soyata Maiga**, Chairperson;
 - ii) Honourable Commissioner **Lawrence Murugu Mute**, Vice Chairperson;
 - iii) Honourable Commissioner **Kayitesi Zainabo Sylvie**;
 - iv) Honourable Commissioner **Lucy Asuagbor**;
 - v) Honourable Commissioner **Maya Sahli-Fadel**;
 - vi) Honourable Commissioner **Jamesina Essie L. King**;
 - vii) Honourable Commissioner **Solomon Ayele Dersso**;

- viii) Honourable Commissioner **Hatem Essaïem**;
- ix) Honourable Commissioner **Maria Teresa Manuela**; and
- x) Honourable Commissioner **Remy Ngoy Lumbu**.

9. Honourable Commissioner **Yeung Kam John Yeung Sik Yuen** was absent with apologies.

10. Speaking on behalf of the NGO Forum Steering Committee, Mrs. Hannah Foster, Executive Director of the African Centre for Democracy and Human Rights Studies, reported that in keeping with the celebration of the thirtieth anniversary of the establishment of the Commission this year, the Forum also adopted the theme '*celebrating 30 years of the African Commission*'. She enumerated key achievements of the Commission over its thirty years of operation. She noted that the participation and consultation of civil society organizations in all activities of the Commission enhanced partnerships and ownership. She acknowledged positive developments regarding the human rights situation on the continent, and made proposals or recommendations to address the human rights violations identified by the Forum.

11. Mrs Susan Chivusia Chatika, delivering a speech on behalf of the Network of African National Human Rights Institutions (NANHRI), acknowledged the continuing support of the Commission to NANHRI in its efforts to ensure that all African States have a National Human Rights Institution compliant with the Paris Principles in order to enable such bodies to play their full role in the promotion and protection of human rights.

12. Speaking on behalf of AU Member States, His Excellency Cheikh Tourad Ould Abdel Malik, Commissioner for Human Rights and Humanitarian Action of the Islamic Republic of Mauritania, paid tribute to His Excellency Sir Dawda Jawara for being instrumental in both the adoption of the Charter and the effective operationalisation of the Commission. He therefore commended the Commission for its initiative to present an award of recognition to him on the occasion of the 30th Anniversary of the Commission. His Excellency Cheikh Tourad Ould Abdel Malik also underscored the outstanding work done by the Commission and indicated his optimism for the future of human rights on the continent despite the existing challenges.

13. In his address, Mr. Stavros Lambrinidis, European Union Special Representative for Human Rights, applauded the ongoing collaboration on human rights issues between the African Union's Human Rights System and the European Union; of which the most recent development is the latest round of the AU-EU dialogue conducted on the margins of this 61st Ordinary Session and celebrations of the 30th Anniversary of the establishment of the Commission.

14. Mr. Mahamane Cissé Gouro, Head of Africa Division at the Office of the United Nations (UN) High Commissioner for Human Rights (OHCHR), speaking on behalf of Mr. Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights,

paid tribute to past and present Commissioners of the Commission as well as to staff of the Secretariat for the work done over the years despite challenges related to limited resources. He indicated that the AU ten years Action Plan and the Addis Ababa Roadmap which set up a platform for cooperation between the Special Mechanisms of the UN and those of the Commission are the main frameworks of collaboration between the OHCHR and the Commission.

15. Honourable Justice Maria Mapani, Vice President of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), talking about the achievements of the Commission over its thirty years of existence, noted the rich jurisprudence of the Commission. She equally spoke about the collaboration between the ACERWC and the Commission.

16. Honourable Justice Bensaoula Chafika, representing Honourable Justice Sylvain Oré, the President of the African Court on Human and Peoples' Rights (the Court), recalled the statutory complementarity between the Court and the Commission and opined that the 30th Anniversary of the Commission is an opportunity to evaluate the work done up to now and devise strategies and plans for improvement where necessary.

17. In her opening statement, the outgoing Chairperson of the Commission, Honourable Commissioner Pansy Tlakula, noted the historic attendance to a Session of the Commission by the President of the Republic of The Gambia; and indicated that by gracing the event, His Excellency Adama Barrow demonstrated his commitment to human rights. She then warmly welcomed all participants to the 61st Ordinary Session. She gave a brief narration of the steps towards the establishment of the Commission from the entry into force of the Charter on 21st October 1986, to the inaugural Session held in Ethiopia in June 1989.

18. In taking stock of the work of the Commission since her appointment as Commissioner in 2005, she highlighted key elements, including the creation of six additional Special Mechanisms raising the special procedures of the Commission to 14 as of today; and the adoption of soft law instruments (Principles, Guidelines, General Comments, Declarations, Model Laws, etc.) adopted by the Commission pursuant to article 45(1)(b) of the Charter.

19. Speaking about the gains regarding general human rights situation in Africa over her term at the Commission, she noted the ratification of important regional and international human rights instruments by an increased numbers of States Parties, the collaboration between States Parties and the Commission, the establishment of human rights institutions by States Parties as well as their adoption of legal frameworks favourable to human rights; the birth in 2011 of a newest nation, South Sudan, which recently also became a State Party to the African Charter and the readmission of the Kingdom of Morocco into the African Union.

20. Regarding challenges, she cited the human rights violations stemming from the ongoing conflict in Africa's newest nation, South Sudan; contemporary challenges such as the rise in violent extremism and terrorism as well as the proliferation of terrorist attacks in Africa, increasing youth unemployment, climate change and related unpredictable weather patterns, increased strains on natural resources such as arable land and potable water, destabilizing election periods, disruption of internet and telecommunication services, the HIV pandemic. She also referred to the continued harassment, arrest, arbitrary detention of human rights defenders, journalists, trade union and opposition members, and LGBTI persons in the States Parties, which are of extreme concern to the Commission. In addition to these, she mentioned new emerging human rights challenges which she urged the Commission to consider; namely the independence of the judiciary, data protection and cyber security. She also urged the government of the Kingdom of Morocco to ratify the African Charter. The outgoing Chairperson finally paid tribute to all her colleagues and expressed appreciation to the Secretariat for its support during her mandate as Commissioner.

21. Delivering the statement of His Excellency Mr Moussa Faki Mahamat, Chairperson of the AUC, Her Excellency Mrs Minata Samate Cessouma, Commissioner for Political Affairs of the AUC, commended the commitment of the Government and the people of the Republic of The Gambia to the African Union Human Rights Agenda as clearly demonstrated by hosting the Commission. She equally commended the Commission for its work and for the meticulous way in which this 61st Ordinary Session has been organized.

22. She stated that the participation of the African Union Commission's leadership in this Session and the celebrations of the 30th Anniversary of the Commission is an indication of its full support to all human rights organs and bodies of the Union as well as to all other stakeholders striving for the protection of human rights in Africa.

23. She recalled the commitment of African leaders to human rights who have dedicated the last three years and 2018 to human rights themes which correspond to the seven Aspirations in Agenda 2063 and its ten years Action Plan. Following the declaration, in June 2016, of the Human and Peoples' Rights Decade in Africa, she stated that the AUC, in cooperation with all African human Rights Organs and Bodies, is actively coordinating the development of an action plan to be soon presented to the AU Policy Organs for consideration and adoption. She also referred to the ongoing processes within the AU of creating critical mechanisms like the Transitional Justice Policy and the establishing of the Pan African Institute for Human Rights as per the adopted African Human Rights Strategy.

24. She noted with regret failures to address or prevent gross human rights violations which are ongoing or have occurred in the past such as the Rwanda genocide. She urged all stakeholders to be vigilant in order to ensure that similar violations do not ever happen again in Africa. She equally called upon States Parties to domesticate the various human rights instruments which they have ratified and put a

stop to impunity by making the Declaration enabling direct access to the Court by individuals. She also insisted on the utmost need to invest in the youth as to ensure that they are assets to achieving Agenda 2063. She finally pledged the support of the African Union to His Excellency Mr. Adama Barrow and the People of The Gambia in their efforts to build a truly democratic society.

25. His Excellency Mr. Adama Barrow, President of the Republic of The Gambia, welcomed participants to the 61st Ordinary Session of the Commission and the celebrations of the 30th Anniversary of the Commission's establishment. He expressed the pride of his country to host the Commission and that his Government is committed to construct a permanent structure to house the headquarters as per the Host Agreement. He acknowledged with appreciation the fact that the Commission has remained committed to the protection of human rights in The Gambia despite the then existing challenges. He equally extended appreciation to international organisations and NGOs who supported Gambians' struggle towards democracy. He also made an overview of some achievements of the Commission since its establishment and spoke about human rights developments in Africa with specific reference to recent efforts made by the Government of The Gambia in implementing its human rights obligations. He called on Member States to join his country in supporting the work of the Commission. He wished delegates fruitful deliberations and declared open the 61st Ordinary Session of the Commission.

26. Honourable Commissioner Soyata Maiga gave a vote of thanks to outgoing Commissioners. She highlighted their key accomplishments, and she wished them well in their future endeavours.

27. Honourable Commissioner Soyata Maiga and Honourable Commissioner Lawrence M. Mute presided over the deliberations during the Ordinary Session, in their capacity as Chairperson and Vice Chairperson of the Commission.

28. A total of six hundred and nineteen (619) delegates participated in the Session: one hundred and twenty-five (125) representing twenty four(24) Member States, twelve (12) representing AU Organs, twenty (20) representing National Human Rights Institutions (NHRIs), five (5) representing International and Inter-Governmental Organizations, two hundred and seventy-one (271) representing African and International Non-Governmental Organisations (NGOs), forty-two (42) representing other observers and twenty-two (22) representatives from the media.

29. As key activities of the celebrations of the 30th Anniversary, four panels were held, that dealt with the past, present and future of the work of the Commission, as well as the work of the Commission in relation to the youths. The themes of each of these panels were respectively as follows:

- i) Panel on the Past "Reflections on the Commission's Beginnings and Work";
- ii) Panel on the Present "Taking Stock of the Present";
- iii) Panel on the Future "The Way Forward"; and

iv) Panel on the Youth “What are the views of the Youth on the work of the Commission”.

30. These panels featured speakers and panellists including current Commissioners, former Commissioners, delegates from State Parties, as well as resource persons from the academia, NHRIs, the NGO sector and other partners of the Commission. These panel discussions also involved extensive interactive discussions with the plenary during the first three days of the public session of the Commission.

31. The outcome document capturing resolutions and recommendations deriving from the deliberations of these activities would be made public by the Commission in due course and the necessary follow up mechanisms set up accordingly.

32. Participants to the 61st Ordinary Session and the celebrations of the 30th Anniversary of the Commission observed a solemn minute of silence in memory of all former Commissioners who had passed away.

33. The celebrations of the 30th Anniversary of the Commission included a gala dinner at which an award was presented to His Excellency Sir Dawda Kairaba Jawara, for his instrumental role in the adoption of the Charter and the establishment of the Commission. The award was received by his representative.

34. The celebrations also included an exhibition of its work and specific publications from the Commission and its partners were released.

35. Representatives of the following seventeen (17) State Parties made statements on the human rights situation in their respective countries: Mauritania, Lesotho, Cameroon, Tunisia, Mali, South Africa, Niger, Burkina Faso, Egypt, Kenya, Angola, Ethiopia, Algeria, Malawi, Togo, Nigeria and Eritrea.

36. Representatives of the African Peer Review Mechanism, the AU Office in Geneva and the International Committee of the Red Cross made statements highlighting the collaboration between the Commission and their respective Offices in promoting and protecting human rights.

37. Two (2) representatives of NHRIs also made statements on the human rights situation in their respective countries, namely:

- i) The National Human Rights Commission of Nigeria; and
- ii) The National Human Rights Institution of Niger.

38. A total of sixty-five (65) NGOs with Observer Status with the Commission made statements on the human rights situation in Africa.

39. The Commission did not examine any application for Affiliate Status from NHRIs

in accordance with the Resolution on the Granting of Affiliate Status to NHRIs in Africa. Thus, the total number of NHRIs with Affiliate Status with the Commission remains twenty-seven (27).

40. The Commission granted Observer Status to four (4) NGOs, in accordance with the Resolution on the Criteria for Granting and Enjoying Observer Status to Non- Governmental Organisations Working in the Field of Human and Peoples' Rights, namely:

- i) The African Child Policy Forum;
- ii) The Gender, Health & Justice Research Unit;
- iii) Reprieve; and
- iv) The Centre for Citizen's Participation on the African Union.

41. This brings the total number of NGOs with Observer Status with the Commission to five hundred and fifteen (515).

42. In accordance with Article 62 of the African Charter, the Commission considered the periodic reports of the following three (3) State Parties:

- i) The Republic of Rwanda;
- ii) The Republic of Niger; and
- iii) The Democratic Republic of Congo.

43. Members of the Commission presented the following reports of activities undertaken during the inter-session period as Commissioners and within the framework of their various Special Mechanisms:

- i) Outgoing Chairperson of the Commission;
- ii) Chairperson of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa;
- iii) Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
- iv) Outgoing Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- v) Special Rapporteur on the Rights of Women in Africa;
- vi) Outgoing Special Rapporteur on Human Rights Defenders in Africa;
- vii) Outgoing Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;

- viii) Chairperson of the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV;
- ix) Chairperson of the Working Group on Communications;
- x) Chairperson of the Working Group on Indigenous Populations/Communities in Africa;
- xi) Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
- xii) Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
- xiii) Chairperson of the Committee for the Prevention of Torture in Africa; and
- xiv) Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa.

44. In accordance with paragraph 25 of the APRM Base Document NEPAD/HSGIC/03-2003/APRM/MOU/Annex II; the Commission considered the APRM Reports of the Republic of Chad and the Republic of Djibouti.

45. The Commission effected a reallocation of its Special Mechanisms and countries amongst its members. This reallocation would be made available on the website of the Commission.

46. The Commission launched the following three (3) documents and studies during the 61st Ordinary Session:

- i) Study on Extractive Industries, Land Rights and Indigenous Populations/Communities Rights;
- ii) Guidelines on Freedoms of Association and Assembly;
- iii) Guidelines on Combatting Sexual Violence and Its Consequences in Africa;

47. The following panels were also held during the Session:

- i) Stakeholders' Consultation on Draft Guidelines for State Reporting on Extractive Industries, Human Rights and the Environment;
- ii) Panel on the protection of sacred natural sites and ancestral lands across Africa.

- iii) Panel on the Abolition of the Death Penalty in Africa; and
- iv) Panel Discussions on African Conflicts, Transitional Justice and the African Charter: Role for the Commission.

48. The Commission held meetings with representatives of the Directorate of Strategic Planning of the AUC with which it had consultations on the AUC Medium Term Plan 2018-2023; and with the Permanent Representative Council of the African Union who attended the Session.

49. The Commission considered and adopted the following documents with amendments:

- i) The Draft Study on “HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses to HIV”;
- ii) The Draft Guidelines on Access to Information and Elections for Africa; and
- iii) Principles on the Decriminalisation of Petty Offences;

50. The Commission considered and made recommendations on The General Comment on Article 7 of the Maputo Protocol.

51. The Commission considered and adopted the following:

- i) The Report of the Secretary;
- ii) The Report on Finance and Budgetary Matters; and
- iii) The 2018 Annual Work Plan.

52. The Commission also considered and made recommendations on urgent issues which could not be made public as per the confidentiality of certain matters provided under the Charter.

53. The Commission deferred consideration of the following:

- i) Report of the Promotion Mission to the Republic of Nigeria;
- ii) Concluding Observations on the Periodic Report of the Islamic Republic of Mauritania and of the Republic of Côte d’Ivoire;
- iii) Draft of its Revised Rules of Procedures;
- iv) The Report of the First Regional Seminar on Implementation of the Commission’s Decisions as well as the Minutes of its Evaluation Meeting;

- v) The Revised Guidelines on the Format of Reports on Promotion Missions of the Commission; and
- vi) The update on PANAF.

54. The Commission adopted the following Resolutions:

- i) Resolution on the Renewal of the Mandate of the Special Rapporteur on Asylum Seekers, Refugees, Migrants and IDPs in Africa;
- ii) Resolution on the Renewal of the Mandate of the Special Rapporteur on the Rights of Women in Africa;
- iii) Resolution on the Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa;
- iv) Resolution on the Appointment of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa;
- v) Resolution on the Appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- vi) Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Working Group on Specific Issues relevant to the Work of the Commission;
- vii) Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Working Group on Communications;
- viii) Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Committee on Resolutions;
- ix) Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Committee for the Prevention of Torture in Africa;
- x) Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Advisory Committee on Budgetary and Staff Matters;
- xi) Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
- xii) Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Indigenous Populations/Communities in Africa;

- xiii) Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa;
- xiv) Resolution on the Renewal of the Mandate of the Committee on the Protection of the Rights of People Living with HIV(PLHIV) and those at Risk, Vulnerable to and Affected by HIV;
- xv) Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Economic, Social and Cultural Rights in Africa and Renewal of the Appointment of its Chairperson and Members; and;
- xvi) Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa.

55. Eighteen (18) Communications were tabled as follows:

- i) Fourteen (14) Communications on Seizure, of which one was seized and decisions regarding thirteen (13) were deferred;
- ii) Two Communications at Admissibility stage, for which the Commission deferred their consideration;
- iii) One (1) Communication on the Merits, for which the Commission deferred its consideration; and
- iv) One (1) Communication for referral to the Court for which the Commission deferred its consideration.

56. The Commission further considered and provided guidance on three (3) Communications.

57. The Commission considered and adopted its 43rd Activity Report, which will be submitted to the 32nd Ordinary Session of the Executive Council of the AU during the 30th Summit of the Assembly of Heads of State and Government.

58. The Commission proposed to hold the joint meeting of the Bureaux of the Court and of the Commission in January 2018 on the margins of the upcoming Summit of the African Union in Addis Ababa, Ethiopia.

59. The Commission decided to hold its 23rd Extraordinary Session from 13 to 22 February 2018 in Banjul, The Gambia.

60. The Commission decided to hold its 62nd Ordinary Session from 25 April to 9 May 2018 in Nouakchott, Mauritania.

61. The Commission expresses its sincere gratitude to the Government and people of the Republic of The Gambia for the warm welcome and hospitality extended to participants. The Commission also expresses its sincere appreciation to the Republic of The Gambia for all the resources and facilities made available to the Commission, which contributed to the smooth conduct and success of the Session and the celebrations of the 30th Anniversary.

62. The closing ceremony of the Session was held on 15 November 2017 in Banjul, The Gambia.

Done in Banjul, Republic of The Gambia, on 15th November 2017

Approved ACHPR Secretariat Structure & Status of Recruitment as at 15 December 2017

THIS STRUCTURE WAS APPROVED: 2008

Following Decision EX.CL/Dec.476(XIV), the structure of the ACHPR Secretariat is now as follows:

1 Secretary to the Commission	P6
1 Deputy Secretary	P5
3 Senior Legal Officers (Promotion)	P3
2 Senior Legal Officers (Protection)	P3
1 Senior Legal Officer (Special Mechanisms)	P3
3 Legal Officers (Promotion)	P2
3 Legal Officers (Protection)	P2
2 Legal Officers (Special Mechanisms)	P2
3 Translators/Interpreters	P4
1 Administration & Human Resource Officer	P3
1 Public Relations & Information Officer	P3
1 Finance and Administration Officer	P2
1 ICT Officer	P2
1 Communications & Database Expert	P1
1 Documentalist	P1
1 Accounts Assistant	GSA5
1 Administrative Assistant	GSA5
1 Human Resource Assistant	GSA5
1 Documentation Assistant	GSA5
1 Protocol Assistant	GSA5
2 Bilingual Secretaries	GSA5
2 Secretaries	GSA4
1 Clerk	GSA3
2 Security Guards	GSB8
1 Cleaner	GSB6
1 Receptionist	GSA2
2 Drivers	GSB7
3 Drivers/Mail Runners	GSB7*
2 Messengers	GSB6

Total posts in the new establishment 46

* *Wrongly graded in Decision as GSB6*

REGULAR POSTS FILLED (AS AT 15 DECEMBER 2017)

1. Secretary to the Commission (Executive Secretary)
2. 2 Senior Legal Officers (Protection)
3. 2 Senior Legal Officers (Promotion)
4. 2 Legal Officers (Promotion)
5. 3 Legal Officers (Protection)
6. Finance and Administration Officer
7. Documentalist
8. Accounts Assistant
9. Protocol Assistant
10. 1 Secretary
11. 1 Clerk
12. 1 Receptionist
13. 4 Drivers

Total Number of Regular Posts filled: 21 posts

REGULAR POSTS NOT FILLED (AS AT 15 DECEMBER 2017)

Legal Department

- 1 Senior Legal Officer (Promotion)
- 1 Senior Legal Officer (Special Mechanisms)
- 1 Legal Officer (Promotion)
- 2 Legal Officers (Special Mechanisms)

Total Legal Officers needed to be recruited: 5

Other departments

- 1 Deputy Secretary
- 3 Translators/Interpreters
- 1 Administration & Human Resources Officer
- 1 Public Relations & Information Officer
- 1 ICT Officer
- 1 Communication & Data Base Expert
- 1 Administrative Assistant
- 1 Human Resources Assistant
- 1 Documentation Assistant
- 2 Bilingual Secretaries
- 1 Secretary
- 2 Security Guards
- 1 Driver
- 1 Cleaner
- 2 Messengers

Total Number of other staff needed to be recruited: 20

Grand total number of all staff needed to be recruited: 25

APPROVED RECRUITMENT PLAN

Posts to have been filled in 2010

1 Legal Officer (Promotion)	P2	-Filled <i>in 2011</i>
1 Legal Officer (Protection)	P2	-Filled <i>in 2011</i>
1 Arabic Translator/Interpreter	P4	Not filled
1 ICT Officer	P2	Not filled
1 Accounts Assistant	GSA5	-Filled <i>in 2011</i>
1 Administrative Assistant	GSA5	Not filled
1 Bilingual Secretary	GSA5	Not filled
1 Receptionist	GSA2	-Filled <i>in 2012</i>
1 Driver	GSB7	-Filled <i>in 2012</i>
Total 9		(Only 5 filled)

Posts to have been filled in 2011

1 French/English Interpreter/Translator	P4	Not filled
1 Senior Legal Officer (Protection)	P3	-Filled <i>in 2012</i>
1 Senior Legal Officer (Special Mechanism)	P3	Not filled
1 Legal Officer (Protection)	P2	-Filled <i>in 2011</i>
1 Legal Officer (Promotion)	P2	- Filled <i>in</i>
2014 1 Driver	GSB7	-Filled <i>in 2012</i>
Total 6		(Only 4 filled)

Posts to have been filled in 2012

2014 1 Senior Legal Officer (Protection- Replacement)	P3	- Filled <i>in</i>
2014 1 Senior Legal Officer (Promotion)	P3	- Filled <i>in</i>
1 Legal Officer (Promotion)	P2	Not filled
1 Human Resources Assistant	GSA5	Not filled
1 Documentation Assistant	GSA5	Not filled
1 Protocol Assistant	GSA5	-Filled <i>in 2011</i>
1 Driver (Replacement)	GSB7	-Filled <i>in 2012</i>
Total 7		(Only 4 filled)

Posts to be filled in 2013

1 Deputy Secretary	P5	Not filled
1 Portuguese Translator/Interpreter	P4	Not filled
2014 1 Senior Legal officer (Promotion)	P3	- Filled <i>in</i>
1 Senior Legal Officer (Promotion – replacement)	P3	Not filled
1 Administration & Human Resources Officer	P3	Not filled
2014 1 Legal Officer (Protection)	P2	- Filled <i>in</i>
1 Legal Officer (Special Mechanisms)	P2	Not filled
1 Communications & Database Expert	P1	Not filled
Total 8		(None filled)

Posts to be filled in 2014

1 Public relations/Information officer	P3	Not filled
1 Legal Officer (Special Mechanisms)	P2	Not filled
1 Bilingual Secretary	GSA5	Not filled

1 Secretary	GSA4	Not filled
1 Driver	GSB7	Not filled
2 Messengers	GSB6	Not filled
2 Security Guards	GSB8	Not filled

Total 9

Position to be filled in 2016 (staff retired)

1 Cleaner	GSB6	Not filled
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No. of posts overdue since 2012: 12

No. of posts due for 2013: 8

No. of posts not yet due: 9

Total No. of posts to be filled: 25

Total no. of Legal Officers needed to be in place: = 14

Total no. of Legal Officers on the ground = 9

SUMMARY OF CURRENT LIST OF POSTS TO BE FILLED

Administration

1 Deputy Secretary	P5
1 Administration & Human Resources Officer	P3

Legal Officers

1 Senior Legal Officer (Special Mechanisms)	P3
1 Senior Legal Officer (Protection)	P3
1 Legal Officer (Promotion)	P2
2 Legal Officers (Special Mechanisms)	P2

Interpreters/Translators

1 Arabic Translator/Interpreter	P4
1 French/English Interpreter/Translator	P4
1 Portuguese Translator/Interpreter	P4

Information & IT

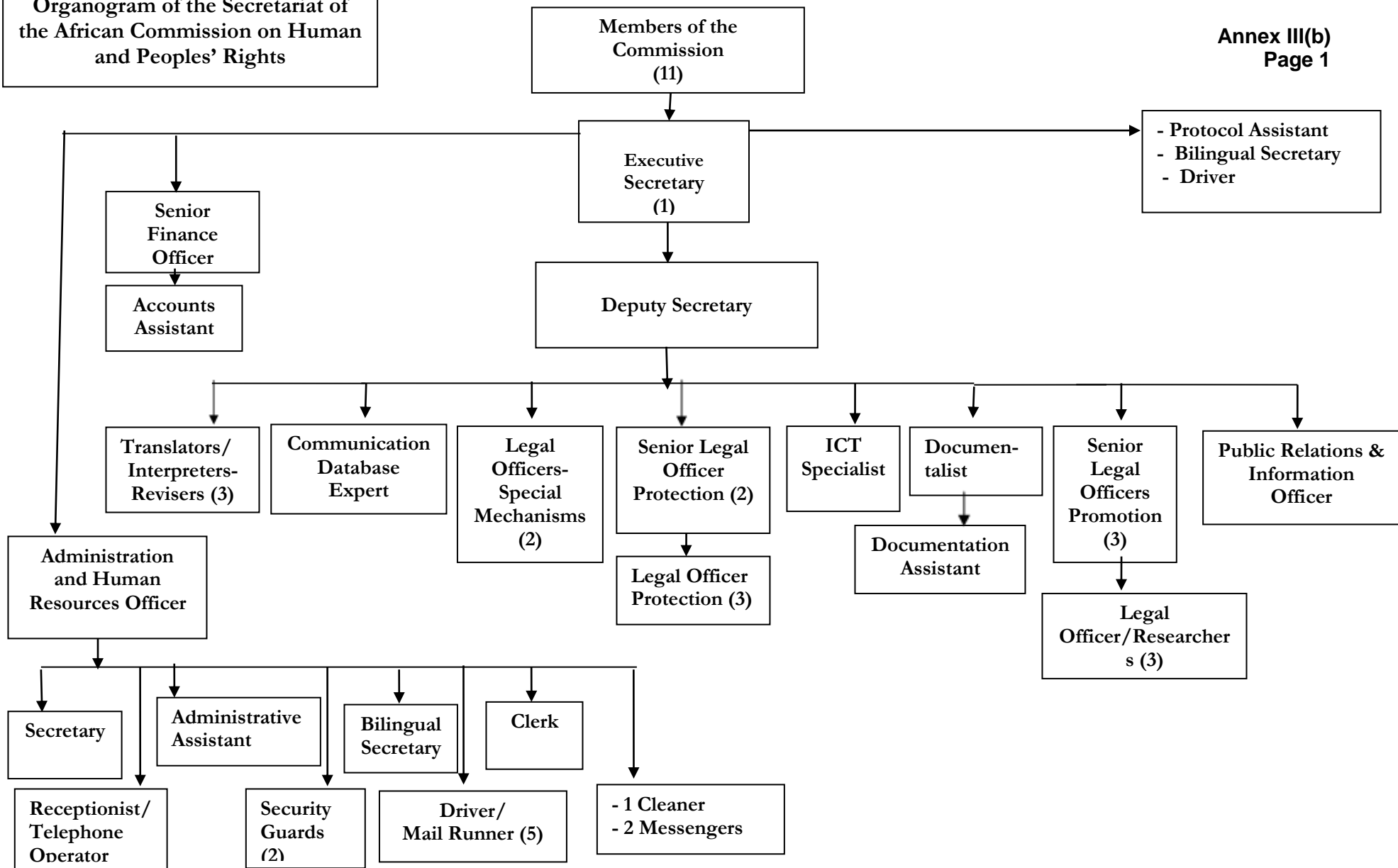
1 Public relations/Information Officer	P3
1 ICT Officer	P2
1 Communications & Database Expert	P1

General Services

1 Administrative Assistant	GSA5
1 Human Resources Assistant	GSA5
1 Documentation Assistant	GSA5
2 Bilingual Secretaries	GSA5
1 Secretary	GSA4
1 Driver	GSB7
2 Messengers	GSB6
1 Cleaner	GSB6
2 Security Guards	GSB8

TOTAL OF POSTS TO BE FILLED URGENTLY: 25

**Organogram of the Secretariat of
the African Commission on Human
and Peoples' Rights**



DRAFT
**DECISION ON THE FORTY-THIRD ACTIVITY REPORT OF THE AFRICAN
COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

The Executive Council,

1. **TAKES NOTE** of the Forty-Third (43rd) Activity Report of the African Commission on Human and Peoples' Rights (the ACHPR) and **AUTHORISES** its publication;
2. **EXPRESSES** its appreciation for the efforts deployed by the ACHPR during the reporting period to promote and protect human rights on the continent;
3. **URGES** State Parties to submit their Periodic Reports in compliance with Article 62 of the African Charter and Article 26 of the Maputo Protocol;
4. **REITERATES ITS CALL** to State Parties to sign the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, thereby ensuring its entry into force;
5. **URGES** the Kingdom of Morocco to ratify the African Charter on Human and Peoples' Rights in addition to other relevant regional human rights instruments, and **FURTHER URGES** the Government of the Kingdom of Morocco to authorize the ACHPR to undertake the fact-finding mission to the territory referred to by the African Union as the Sahrawi Arab Democratic Republic and the United Nations as Western Sahara, as mandated by **Executive Council Decision EX.CL/Dec.689(XX)**;
6. **ENCOURAGES** State Parties to comply with requests for Provisional Measures, as well as Decisions and Recommendations of the ACHPR as set out in the Communications to which they are parties, and **URGES** State Parties to inform the ACHPR of the measures taken to implement its Decisions in line with Rule 112 of the ACHPR's Rules of Procedure;
7. **URGENTLY CALLS ON** the AUC to expedite recruitment for Legal Officers who work in Portuguese and Arabic and Legal Officers for Protection, in addition to the various unfilled positions at the ACHPR Secretariat in accordance with its organogram;
8. **APPROVES** the commencement of the process of reviewing the structure of the Secretariat of the ACHPR to better align its composition and organogram with the mandate entrusted to it and the expansion in its work over the years;
9. **COMMENDS** the ACHPR's decision to increase the number of days for its Ordinary Sessions from fifteen (15) to twenty-one (21) days, and for its Extra-

Ordinary Sessions from ten (10) to fifteen (15) days, in order to dedicate sufficient time to its work;

10. **RECOMMENDS** the convening of a Retreat between the Permanent Representatives Committee and the ACHPR, to better understand the ACHPR's mandate and *modus operandi*, in addition to fostering mutual understanding;
11. **COMMENDS** the Host Government for its commitment to constructing permanent Headquarters equipped with the requisite facilities for the ACHPR, and urges expeditious finalization of the process, including through the adoption of timelines which would form the basis for reporting to the Executive Council on the progress being made;
12. **EXPRESSES ITS APPRECIATION** to the Republic of Gambia for the excellent facilitation accorded to the ACHPR during its commemorative activities to mark the 30th anniversary of the establishment of the ACHPR and the 61st Ordinary Session, held in Banjul, The Gambia in November 2017; and
13. **TAKES NOTE** of the offer by the Republic of the Islamic Republic of Mauritania to host the 62nd Ordinary Session, and **CALLS ON** Member States, particularly those that have not yet done so, to consider hosting one of the Sessions of the ACHPR.

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