

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, Ethiopia

P. O. Box 3243

Telephone: 5517 700

Fax: 5517844

Website: www.au.int

SC19567

EXECUTIVE COUNCIL

Thirty-First Ordinary Session

27 June – 1 July 2017

Addis Ababa, ETHIOPIA

EX.CL/1020(XXXI)

Original: English

**REPORT OF THE COMMISSION ON
LIQUIDATION OF THE LIABILITIES OF THE DISSOLVED
AFRICAN REHABILITATION INSTITUTE (ARI)**

**REPORT OF THE COMMISSION ON
LIQUIDATION OF THE LIABILITIES OF THE DISSOLVED
AFRICAN REHABILITATION INSTITUTE (ARI)**

I. INTRODUCTION

1. This report is submitted pursuant to the Decision of the Executive Council of January 2013 (EX.CL/Dec.750 (XXII)) that took note of the Report of the 3rd AU Conference of Ministers of Social Development (CAMSD3) and endorsed the following decision of the CAMSD3, (on), "The dissolution of the African Rehabilitation Institute (ARI) according to Article XVII of its Agreement and the establishment of Committee of 7 Member States to oversee the liquidation of the assets of ARI and **to prepare a report to be submitted to the Assembly of Heads of States through the Executive Council on the dissolution.**

II. BACKGROUND

2. The Assembly of Heads of State and Government at its eighteenth Ordinary Session held in Nairobi, Kenya in June 1981 endorsed resolution CM/Res.375 (XXXVII) adopted by the OAU Council of Ministers at its thirty seventh ordinary session which recommended the establishment of the African Rehabilitation Institute (ARI). The African Rehabilitation Institute (ARI) Secretariat was then established in May 1988, in Harare, Zimbabwe as the central planning and coordinating unit to promote and develop regional and sub-regional training and research programmes in the field of rehabilitation (for persons with disabilities) and prevention of disability. Three regional offices in Brazzaville, Dakar and Nairobi were subsequently established.

3. ARI was founded during the time when disability was approached from a rehabilitation perspective only, which has in the meanwhile evolved into the multi-pronged approach of disability inclusion, also referred to as the social approach to disability. ARI found itself in chronic financial difficulties due to non-payment of assessed annual contributions by the majority of the twenty-six (26) AU Member States that signed up as members; ARI never really had sufficient funding for adequate personnel, programmes and dedicated projects. The financial situation of ARI was further aggravated by gross mismanagement and a consistent pattern of violation of the administrative and financial rules of the Institute, according to the financial audits conducted the Department of Internal Audit of the AUC.

4. Not all AU Member States have been members of ARI. Only twenty-six (26) Member States signed the ARI Agreement. Of those, nineteen (19) Member States owe outstanding arrears to the Institute. Three (3) Members are fully paid up in their contributions to ARI. The four (4) Member States that hosted the Headquarters of ARI (Zimbabwe) and Regional Offices (Congo, Kenya and Senegal) have been exempted from the arrears payments in terms of earlier decisions of the Conference of Ministers of Social Development. The reason was that the hosting Member States have made many

supplementary payments towards staff costs of the Institution as well as towards equipment and office rental over the years.

5. More than three years after the dissolution of ARI, the staff has not been paid the balance of their dues, owed by the nineteen (19) Member States with outstanding arrears. In December 2013, the former ARI staff members received 26.39% of the amounts due to them, from the available funds in the ARI accounts at that time. The audited balance of US\$1,360,702.62 is still due to retired, deceased and redundant ARI staff.

III. ACTIONS TAKEN BY THE COMMISSION

6. In January 2011, the Executive Council requested the Commission **“to assist in the restructuring process of the African Rehabilitation Institute (ARI)”**. The Commission sent a team comprising of officers from the Department of Social Affairs, Office of the Legal Counsel and Department of Internal Audit to Harare and Nairobi to conduct an in-depth assessment of the legal, financial and personnel situation of the ARI.

7. In January 2012, the Executive Council endorsed the recommendations of the Report of the Commission on the Restructuring of the African Rehabilitation Institute (ARI) requested the Commission **“...to continue to assist the ARI in its restructuring process, and provide oversight regarding the financial and administrative management of the Institute in order to facilitate its leading role in the implementation of the extended African Decade of Persons with Disabilities (2010 – 2019).”** Pursuant to this Executive Council Decision, the AU Commission took the following measures:

- i) Wrote a Note Verbale to ARI Member States requesting for the payment of annual contributions and arrears, which resulted in the collection of approximately US\$800,000;
- ii) Dispatched a team of Auditors to audit the ARI financial books of the ARI Regional Offices in September 2012, as a follow-up and to complete the audit conducted in 2010;
- iii) Conducted a study regarding the integration of the functions of ARI into the Commission and prepared a proposal for a new structure for the successor institution for the ARI.

8. In January 2013, the Executive Council decided to dissolve the ARI (EX.CL/Dec.750 (XXII)) and requested that the liabilities of ARI be liquidated, and instituted a Committee of Seven (7) States, Chaired by Ministers to oversee the process. The 4th Session of the AU Conference of Ministers of Social Development (CAMSD4), Addis Ababa, Addis Ababa, Ethiopia, 26-30 May 2014, considered the Report of the Committee of 7 States regarding the liquidating of the ARI liabilities, as well as the

replacement structure for ARI, and the report of the CAMSD4 was submitted for consideration by the 22nd Ordinary Session of the Executive Council in January 2015.

9. Subsequently, the Executive Council made the Decision (EX.CL/Dec.857 (XXVI) of January 2015, **urging Member States that have signed the ARI Agreement to pay at least 30% (amounting to US\$3.5m) of their arrears in contributions to the dissolved ARI in order to liquidate the liabilities owed to deceased, retired and redundant ARI staff.** The Department of Social Affairs sent three (3) Note Verbales to the twenty-six (26) ARI Member States, on 1 September 2014, 28 November 2014 and 18 March 2015, respectively, specifying the 30% outstanding amount of the respective Member State payable, as audited by the AUC.

IV. SITUATION OF FORMER ARI STAFF AT PRESENT (MARCH 2017)

10. The matter of arrears payable to former ARI staff has become very serious. They are suffering, and this can potentially become a huge embarrassment to not only the Commission, but to the AU. Among others deceased, the staff member owed the largest amount of arrears, who was a Regional Director, passed away in December 2015. Due to their pressing needs, former ARI staff members have enquired about legal procedures according to messages received by AUC staff members who deal with disability. Furthermore, the Embassy of Zimbabwe in Addis Ababa sent three Note Verbales to the Commission in 2016 and 2017, requesting for the urgent finalization of the outstanding payment of severance packages to the former African Rehabilitation Institute (ARI) staff.

V. CONCLUSIONS AND RECOMMENDATIONS ON THE WAY FORWARD

The AU Commission

11. The AU Commission does have obligations towards ARI, as the ARI's supreme organ is the Conference of Ministers responsible for Social Affairs (later Social Development, and currently the STC on Social Development, Labour and Employment), and the Commission as the functional Secretariat for the Ministerial Conferences (Article VII of the ARI Agreement). Subsequently, the Commission submitted reports on the ARI and its Governing Board to the relevant sectorial ministerial conferences, which in turn, made decisions for consideration by the higher AU policy organs. Article XVII of the ARI Agreement, regarding its dissolution, requires agreement of two-thirds of the Conference (Sectorial Conference of Ministers) for dissolution, "...and upon such agreement (for dissolution), shall appoint a sub-committee for the liquidation of assets of the Institute and prescribe for such a sub-committee its terms of reference." The Committee of Seven (7) States was thus instituted, which decisions were endorsed by both the 4th Session of the Conference of Ministers of Social Development in 2014, and the Executive Council, in January 2015. In other words, the AU Policy Organs and the Commission have also become liable for the dissolution of the ARI.

12. Over the years, the Commission paid an annual voluntary subvention to the ARI, of which the last was budgeted for in 2010 to the amount of US\$50,000. The

Commission was also responsible for the auditing of the ARI financial books. The arrears in subvention from the AUC for three years (2011 to 2013) would then amount to US\$150,000.

ARI Member States

13. ARI Member States are ultimately responsible for the liquidation of the liabilities owed to ARI. Article XI of the ARI Agreement states that, "...the annual contributions to be paid by the Member States (of ARI) shall be determined by the Governing Board on the basis of the OAU (AU) scale of assessment..." Some Member States that signed the ARI Agreement paid their annual contributions to ARI up to 2013 and did not accumulate arrears in their assessed annual contributions. Nineteen (19) Member States still owe the Institute their assessed arrears. In January 2015, the Executive Council urged ARI Member States to pay 30% of their arrears, which would be sufficient to liquidate the liabilities of ARI as well as to have a surplus to establish the replacement structure for the ARI with the mandate of disability inclusive development.

14. However, if ARI Member States would only pay 15 % (amounting to US\$1.75m) of their assessed arrears in 2017, then the ARI arrears can be liquidated, with a surplus of roughly US\$540,000, which will at first be kept aside for possible further claims by former ARI staff or third parties. The assessed amounts for payment of 15% of the arrears by the nineteen (19) ARI Member States are indicated in the attached table.

15. In view of the above, and the urgency of the matter, it is recommended that:

- The AU Commission pay a subvention of US\$150,000 from Member States' contributions towards the liquidation of the liabilities of ARI in 2017;
- The nineteen (19) ARI Member States be billed (invoiced) by the AU Commission for 15% of their audited arrears to ARI in 2017;
- Payments owed to ARI staff are done in proportion to funds received from the AUC and ARI Member States, in other words, that the dues to ARI staff are offset as payments come in, for them not to wait another year for any payments;
- Full amount payments be made to staff to whom less than \$10,000 is owed from dues received in the account;
- Those remaining ARI Member States that still owe arrears to ARI in 2018, are billed by the AU Commission for 30% of their audited arrears to ARI, in addition to their annual assessed contribution to the AU Commission;
- The Executive Council receives a report from the Commission on the liquidation of the liabilities of the ARI at their Ordinary Session January 2018, as requested for already in January 2013.

OUTSTANDING BALANCES OF MEMBER STATE CONTRIBUTIONS

MEMBER STATE	ARREARS OF CONTRIBUTION AS AT 30/06/11	ASSESSED CONTRIBUTION FOR YR 2011/12	CONTRIBUTION RECEIVED			TOTAL CONTRIBUTION RECEIVED	BALANCE OF CONTRIBUTION RECEIVABLE	CONTRIBUTION AT 30%	CONTRIBUTION AT 15%
			ON ARREARS	ON ASSESSED	ON ARREARS				
			2011/12	2011/12	2012/13				
Benin	151,291.87	16,004.15	-	-	-	167,296.02	50,188.81	25,094.40	
Botswana	34,165.83	39,394.83	-	39,394.83	-	39,394.83	34,165.83	10,249.75	
Burkina Faso	147,226.06	19,287.05	-	-	-	166,513.11	49,953.93	24,976.97	
Cameroon	541,864.03	72,429.03	-	-	-	614,293.06	184,287.92	92,143.96	
Chad	432,201.61	10,874.61	-	-	29,658.95	29,658.95	413,417.27	124,025.18	
Congo	335,116.97	14,567.88	-	-	-	349,684.85	-	-	
Ghana	560,803.75	31,392.75	-	-	-	592,196.50	177,658.95	88,829.48	
Guinea Conakry	387,772.68	17,850.78	-	-	-	405,623.46	121,687.04	60,843.52	
Guinea Equatorial	125,273.24	14,978.24	-	-	97,462.00	97,462.00	42,789.48	12,836.84	
Kenya	279,899.86	67,709.86	-	-	-	347,609.72	-	-	
Lesotho	(19,364.83)	6,976.17	-	6,951.17	6,951.17	13,902.34	(26,291.00)	-	
Libya	2,773,911.91	704,798.11	-	-	-	3,478,710.02	1,043,613.01	521,806.50	
Malawi	320,349.68	8,412.44	-	-	-	328,762.12	98,628.64	49,314.32	
Mali	(143,044.31)	18,876.69	-	-	-	(124,167.62)	-	-	
Mauritania	201,165.54	5,129.54	-	-	-	206,295.08	61,888.52	30,944.26	
Mozambique	116,689.45	20,107.78	-	20,107.78	-	20,107.78	116,689.45	-	
Namibia	(2,592.84)	23,390.68	-	23,390.68	23,390.68	46,781.36	(25,983.52)	-	

EX.CL/1020(XXXI)
Annex, Page 2

Niger	205,884.61	10,874.61	-	-	-	-	216,759.22	65,027.77	32,513.88
Nigeria	3,091,858.11	704,798.11	-	704,797.75	-	704,797.75	3,091,858.47	927,557.54	463,778.77
Senegal	172,188.20	35,291.20	-	-	-	-	207,479.40	-	-
Swaziland	151,243.48	9,848.71	-	-	9,848.71	9,848.71	151,243.48	-	-
Tanzania	470,348.45	51,295.35	-	-	-	-	521,643.80	156,493.14	78,246.57
Togo	321,463.71	7,591.71	-	7,561.71	-	7,561.71	321,493.71	96,448.11	48,224.06
Uganda	594,407.41	36,111.93	-	-	-	-	630,519.34	189,155.80	94,577.90
Zambia	252,723.92	20,723.32	56,232.43	20,723.32	-	76,955.75	196,491.49	58,947.45	29,473.72
Zimbabwe	60,152.47	83,098.47	0.71	83,098.47	50,000.00	133,099.18	-	-	-
*** UNKNOWN						9,269.00	-	-	-
TOTAL	11,563,000.86	2,051,814.00	56,233.14	906,025.71	217,311.51	1,188,839.36	12,425,092.74	3,428,648.39	1,714,324.20

**DRAFT DECISION ON THE PROPOSAL OF THE COMMISSION ON THE
LIQUIDATION OF THE LIABILITIES OF THE DISSOLVED AFRICAN
REHABILITATION INSTITUTE (ARI)**
Doc. EX.CL/1020(XXXI)

The Executive Council,

1. **TAKES NOTE** of the Proposal of the Commission on the liquidation of the liabilities of the dissolved African Rehabilitation Institute (ARI) in order to pay the audited dues to deceased, former and redundant ARI staff members;
2. **ENDORSES** the recommendations contained therein as follows:
 - (i) The AU Commission pays a subvention of US\$150,000 from Member States' contributions towards the liquidation of the liabilities of ARI in 2017;
 - (ii) The nineteen (19) ARI Member States that are in arrears to their contributions to ARI, be billed (invoiced) by the AU Commission for 15% of their audited arrears in 2017;
 - (iii) Payments owed to ARI staff are done in proportion to funds received from the AUC and ARI Member States, i.e. that the dues to ARI staff are offset as payments come in, for them not to wait another year for any payments;
 - (iv) Those remaining ARI Member States that still owe arrears to ARI in 2018, are billed by the AU Commission for 30% of their audited arrears to ARI, in addition to their annual assessed contribution to the AU Commission;
 - (v) The Executive Council receives a report from the Commission on the liquidation of the liabilities of the ARI at their Ordinary Session January 2018, as requested for already in January 2013.

AFRICAN UNION UNION AFRICAINE

African Union Common Repository

<http://archives.au.int>

Organs

Council of Ministers & Executive Council Collection

2017

Rapport de la Commission sur la Liquidation des Passifs de l'Institut Dissous de Readaptation en Afrique (IRA)

Union Africaine

Union Africaine

<http://archives.au.int/handle/123456789/3585>

Downloaded from African Union Common Repository