

AFRICAN UNION

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NOMINATION OF ONE (1) JUDGE OF THE AU
AD-HOC ADMINISTRATIVE TRIBUNAL

**NOMINATION OF A MEMBER STATE TO DESIGNATE
A JUDGE TO THE AD-HOC ADMINISTRATIVE
TRIBUNAL OF THE AFRICAN UNION**

I. INTRODUCTION

1. The Administrative Tribunal of the African Union Commission was established in 1966. In accordance with Article 2 of the Statute of the Administrative Tribunal, the Tribunal has the competence to adjudicate disputes between staff members or their beneficiaries and the Organization. It is the only body vested with competence to address employment relations matter between the Union and its staff members. The competence of national courts is excluded outright.

2. The Tribunal is composed of three (3) Judges designated by Member States nominated in an alphabetical order by the Executive Council of the African Union for a term of four (4) years.

3. It will be recalled that the last nomination of Member States to designate judges of the Tribunal was done in 2001 by virtue of Executive Council of Ministers' Decision CM/Dec.584 (LXXIII) taken at its Seventy-Third Ordinary Session held in Tripoli, Libya, from 22 to 26 February 2001. The Member States nominated in 2001 were as follows:

1. Madagascar
2. Malawi
3. Mali

4. Each of the nominated Member States has accordingly designated a judge to the Administrative Tribunal.

5. Further, the Rules of Procedure of the Tribunal provides that *"the Tribunal shall meet twice a year, at the end of each Ordinary Session of the Executive Council provided that the session shall not be held if, in the opinion of the President, there are no cases on the list which would justify the holding of a session."*

6. The Tribunal is expected to convene in 2012 to consider the twenty-one (21) pending cases. These include, among others, the following:

- i. unlawful termination of contract;
- ii. failure by the Disciplinary Board to follow procedure of the Staff Rules and Regulations before issuing a decision;
- iii. wrongful payment of benefits; and
- iv. non-shipment and loss of personal effects following a transfer of staff member.

7. However, the Tribunal is currently constrained to hold a hearing because Madagascar is still under sanction. Article 8 of the Rules of Procedure provides that the Tribunal can only convene and hold a session when **“all three members are present”**.

8. Nevertheless, the Commission, while awaiting the nomination of the third judge, convened a preliminary session of the two (2) judges at the AU Headquarters in Addis Ababa, Ethiopia, from 23 to 25 November 2011 with the purpose making all necessary and preparations of paving the way to hold its two (2) sessions in 2012 without any hindrance. The Commission intends to convene the Tribunal session in the first quarter of 2012

II. CURRENT SITUATION: JANUARY 2012

9. The process of nominating a Member State to designate a judge to the Administrative Tribunal of the African Union is based on the provisions of Article 1 of the Rules of Procedure for the AU Ad-Hoc Administrative Tribunal. The said Article provides that the Executive Council **“shall nominate three Member States alphabetically ... to designate from among members of its delegation, a qualified member to the office of Judge on the Ad Hoc Administrative Tribunal.”**

10. The Executive Council is, therefore, invited at the present session, to nominate a Member State to designate a judge to the Administrative Tribunal by following the alphabetical order of Member States as per Article 1 of the Rules of Procedure of the Ad Hoc Administrative Tribunal to replace Madagascar.

III. CONCLUSION

11. The Republic of Mauritania is currently the eligible Member State following, alphabetically the last nomination of Mali by the Executive Council during its Seventy-Third Ordinary Session held in Tripoli, in 2001.

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