

African Union, African Regional Bodies

Constitutive Act of the African Union

Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament

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African Union

Constitutive Act of the African Union

Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament

Published

Commenced

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Preamble

The Member States of the African Union, States Parties to the Constitutive Act of the African Union:

Bearing in mind the Sirte Declaration adopted at the Fourth Extraordinary Session of the Assembly of Heads of State and Government held in Sirte, Libya on 9.9.99 establishing the African Union and calling for the speedy establishment of the institutions provided for in the Treaty Establishing the African Economic Community signed in Abuja, Nigeria, on 3 June 1991, and the establishment of the Pan-African Parliament by the year 2000;

Noting, in particular, the adoption by the Assembly of Heads of State and Government meeting at its 36th Ordinary Session in Lomé, Togo, from 10 to 12 July 2000, of the Constitutive Act of the African Union, thereby giving concrete expression to the common vision of a united, integrated and strong Africa;

Considering the principles and objectives stated in the Constitutive Act of the African Union;

Further considering that Articles 5 and 17 of the Constitutive Act of the African Union provide for a Pan-African Parliament as an organ of the African Union, whose composition, functions, powers and organization are to be defined in a Protocol;

Further noting that the establishment of the Pan African Parliament is informed by a vision to provide a common platform for African peoples in the continent and the diaspora and their grassroots organizations to be more involved in discussions and decision-making on the problems and challenges facing the continent;

Conscious of the imperative and urgent need to further consolidate the aspiration of the African peoples for greater unity, solidarity and cohesion in a larger community transcending cultural, ideological, ethnic, religious and national differences;

Recalling the Cairo Agenda for Action which was endorsed by the Thirty-first Ordinary Session of the Assembly held in Addis Ababa, Ethiopia, from 26 to 28 June 1995 (AHG/Res. 236 (XXXI)), and which recommended the speeding up of the rationalization of the institutional framework in order to achieve economic integration at the regional level;

Further Recalling the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, which was adopted by the Twenty-sixth Ordinary Session of the Assembly in Addis Ababa, Ethiopia, on 11 July 1990;

Considering that by the Algiers Declaration (AHG/Decl. 1 (XXXV) of 14 July 1999, the Assembly reaffirmed its faith in the African Economic Community;

Determined to promote democratic principles and popular participation, to consolidate democratic institutions and culture and to ensure good governance;

Further determined to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;

Conscious of the obligations and legal implications for Member States of the need to establish the Pan African Parliament;

Taking into account the decision of the Assembly adopted at its Twelfth Ordinary Session held in Addis Ababa, Ethiopia in February 2009 [Assembly/AU/Dec. 223 (XII)] requesting the Commission to initiate a review process of the Protocol in consultation with the Permanent Representatives Committee taking into account the views of the Pan African Parliament;

Noting that Articles 25 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament provided for a review of the operation and effectiveness of the Protocol and the system of representation in the Pan African Parliament after five years and also for further Conferences of the Members at intervals of ten (10) years or such shorter time as may be decided by the Pan-African Parliament;

Firmly convinced that the strengthening of the Pan-African Parliament will ensure effectively the full participation of the African peoples in the economic development and integration of the continent;

HEREBY AGREE AS FOLLOWS:

Article 1 – Definitions

In this Protocol,

"**AU**" means the African Union;

"**African Diaspora**" means peoples of African origin living outside the Continent irrespective of their citizenship and nationality and who are willing to contribute to the development of the Continent and the building of the African Union;

"**Assembly**" means the Assembly of Heads of States and Government of the African Union;

"**Bureau**" means the Bureau of the Pan-African Parliament and it is composed by the President and Vice-Presidents of the Pan-African Parliament;

"**Chairperson of the Commission**" refers to the Chairperson of the African Union Commission;

"**Secretary-General**" means the Secretary-General of the Pan African Parliament;

"**Commission**" means the African Union Commission;

"**Community**" means the African Economic Community;

"**Council**" means the Executive Council of Ministers of the African Union;

"**Court**" means the African Court of Justice and Human and Peoples' Rights of the African Union;

"**Deputy Secretary-General**" means the Deputy Secretary-General of the Pan African Parliament;

"**Inaugural Session**" means the first meeting of the Pan African Parliament after the election of the Members;

"**Member of Pan African Parliament**" or Pan African Parliamentarian" or "Member" means a person elected to the Pan African Parliament in accordance with Article 5 of this Protocol;

"**Member State**" means a Member State of the African Union;

"**OAU**" means the Organization of African Unity;

"**Other deliberative body**" means the institution in a Member State which performs the legislative functions of the State;

"**Parliament**" means the Pan African Parliament;

"**Plenary**" means a meeting of the whole or full Parliament;

"**President**" unless otherwise specified means the Member of the Pan African Parliament elected to preside over the business of Parliament in accordance with Article 13 of this Protocol;

"**Protocol**" means the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament;

"**Region of Africa**" shall have the meaning assigned to it in the relevant decisions of the Assembly;

"**State Party**" means a Member State who has ratified or acceded to this Protocol.

"**Treaty**" means the Treaty Establishing the African Economic Community.

Article 2 – The Pan African Parliament

1. The Pan African Parliament established by the Protocol to the Treaty establishing the African Economic Community Relating to the Establishment of the Pan African Parliament is hereby continued in existence and shall have the functions and powers provided for in the present Protocol.
2. The organs of the Pan African Parliament shall be the Plenary, the Bureau, the Secretariat, Committees and regional groups.
3. The Pan African Parliamentarians shall represent all the peoples of Africa and the interests of the African diaspora.

Article 3 – Objectives of the Pan African Parliament

The objectives of the Pan African Parliament shall be to:

- a) give a voice to the African peoples and the Diaspora;
- b) facilitate the effective implementation of the policies and objectives of the AU;
- c) promote the principles of human and peoples' rights and democracy in Africa;
- d) encourage good governance, respect for the rule of law, transparency and accountability in Member States;
- e) familiarize the peoples of Africa and the African Diaspora with the objectives and policies aimed at integrating the African Continent within the framework of the African Union;
- f) promote peace, security and stability;
- g) contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- h) facilitate cooperation and development in Africa;
- i) strengthen continental solidarity, co-operation and development and build a sense of common destiny;
- j) facilitate cooperation among Regional Economic Communities in Africa and their Parliamentary fora;
- k) to encourage National and Regional Parliaments to ratify and integrate treaties adopted by the AU into their legal systems';
- l) co-operate with National and Regional Parliaments and similar bodies within and outside Africa as well as civil societies, community based organizations and grassroots organizations;
- m) invite and encourage the full participation of African Diaspora as an important part of the African peoples in the building of the African Union in accordance with modalities approved by the Assembly.

Article 4 – Membership

1. Until the Assembly decides otherwise, each State Party shall be represented in the Pan African Parliament by an equal number of parliamentarians.
2. The membership of the Pan African Parliament shall comprise five (5) members elected by each State Party.

3. At least two (2) of the elected members, shall be women. A Delegation which does not satisfy this requirement shall not have the right to be accredited for representation in the Parliament.

Article 5 – Elections

1.
 - (a) The National Parliament or other deliberative body shall elect from outside its membership, five (5) members of the Pan African Parliament.
 - (b) The representation of each State Party must reflect the diversity of political opinions in each National Parliament or other deliberative body taking into account the number of members from each political party represented in the national Parliament.
 - (c) The elections of Members of the Pan African Parliament by the National Parliaments or other deliberative body shall be conducted as far as possible in the same month throughout the Member States as maybe decided by the Assembly.
 - (d) The election of the President of the Pan African Parliament shall be presided over by the Chairperson of the Assembly
2.
 - (a) Qualifications for election to the Pan African Parliament shall be the same as for a National Parliament or other deliberative body.
 - (b) Notwithstanding paragraph 2(a) of this Article, membership of the Pan African Parliament shall not be compatible with the exercise of executive or judicial functions in a State Party or a permanent office in the AU, a Regional Economic Community or other international organization.
3. Until a code is developed for election to the Pan African Parliament by direct universal suffrage, the procedure for election to the Pan African Parliament shall be determined by the National Parliament or other deliberative body of each Member State.
4.
 - (a) The institution of a Member State which determines disputes about elections to the National Assembly or other deliberative body shall be responsible for determining any question that may arise as to whether a person has been duly elected a Member of the Pan African Parliament or whether a vacancy has occurred in the representation at the Pan African Parliament of a Member State.
 - (b) Where the institution decides that a vacancy has occurred a bye-election shall be conducted to elect another person to fill the vacancy.
5. The Speaker/President of the National Parliament or other deliberative body shall notify the President of the Pan African Parliament of every election under paragraph one (1) of this Article and every determination under paragraph four (4) of this Article.
6. For the avoidance of doubt, a Member of a National Parliament or other deliberative body is eligible to contest an election to the Pan African Parliament. However, if elected, he or she shall resign from the National Parliament or other deliberative body.

Article 6 – Tenure of office of a Member and vacancies

1. The term of a Member of the Pan African Parliament shall be five (5) years. He or she shall be eligible for re-election for one (1) further term only.
2. The term of a Member of the Pan African Parliament shall commence from the date on which he or she is sworn into office and shall end on the last day of the term of the Parliament.
3. The seat of a Member of the Pan African Parliament shall become vacant if the holder:
 - a) dies;

- b) ceases to satisfy the eligibility criteria stipulated in this Protocol for Members of the Pan African Parliament;
 - c) is unable to perform his or her functions because of physical or mental incapacity;
 - d) resigns in writing to the President;
 - e) is removed on grounds of misconduct by the Pan African Parliament in accordance with its Rules of Procedure;
 - f) is absent from the Pan African Parliament meetings for such period and in such circumstances as are prescribed by the Rules of Procedure of the Pan African Parliament;
 - g) is convicted by a court of competent jurisdiction of an offence involving fraud, dishonesty or moral integrity and sentenced to a term of imprisonment exceeding six (6) months
 - h) Represents a State Party which is suspended from participating in the activities of the AU;
 - i) When his or her term expires.
4. Removal on the grounds stipulated in paragraph 6(c) or 6 (e) above shall be by a resolution on a motion to be decided on by secret ballot and supported at the end of a debate by two-thirds majority of all the Members of the Pan African Parliament. In the case of a removal on the grounds stipulated in paragraph 6(c), the motion shall, in addition, be supported by a medical report in accordance with rules provided for in the Rules of Procedure.
5. Where a vacancy occurs in the office of a member of the Pan African Parliament a bye-election shall be conducted to fill his or her place subject to Article 4(3). The person elected shall serve for the remainder of the term of the member and shall be eligible for re-election for a full term.

Article 7 – Voting in the Pan African Parliament

The Pan African Parliamentarian shall vote in person and in his or her personal and independent capacity except when he or she is on an official mission of the Parliament in which case he or she may vote through a proxy. A Parliamentarian cannot act as a proxy for more than one (1) Member at a time.

Article 8 – Functions and powers

1. The Pan African Parliament shall be the legislative organ of the African Union. In this regard,
- a) The Assembly shall determine the subjects/areas on which the Pan African Parliament may propose draft model laws;
 - b) The Pan African Parliament may on its own make proposals on the subjects/areas on which it may submit or recommend draft Model Laws to the Assembly for its consideration and approval.
2. The Pan African Parliament shall also:
- a) Receive and consider reports of other organs of the African Union as may be referred to it by the Council or the Assembly, including audit and other reports and make recommendations thereon;
 - b) Debate and discuss its own budget and the budget of the Union and make recommendations thereon to the relevant policy organs;
 - c) Establish any Parliamentary Committee and determine its functions, mandate, composition and term of office;
 - d) Discuss any matter relevant to the African Union and make recommendations to the Council or the Assembly as it may deem appropriate;

- e) Make proposals to the Council on the structure of the Secretariat of the Parliament taking into account its needs;
 - f) Request the attendance of officials of the other organs of the African Union at its sessions to offer assistance to the Parliament in the discharge of its duties;
 - g) Promote the programmes and objectives of African Union in Member States;
 - h) Receive, consider and submit opinions on draft legal instruments, treaties and other international agreements as may be referred to it by the Council or Assembly;
 - i) Liaise with National Parliaments or other deliberative bodies and the Parliaments of the Regional Economic Communities on all matters relating to the African Union and regional integration in Africa;
 - j) Carry out such other activities as it deems appropriate to achieve the objectives set out in Article 3 of this Protocol.
3. Without prejudice to the preceding paragraphs and in so far as it is not in conflict with the mandate of any other organ of the AU, the powers and functions of the Parliament may also be exercised through:
- a) Fact-finding or inquiry missions;
 - b) Observer missions;
4. a) The Pan African Parliament shall have the power in accordance with the Financial Rules and Regulations of the African Union, to engage in fund raising activities.
- b) The Pan African Parliament shall not have the power to raise a loan.
5. For the avoidance of doubt, paragraph 2 shall not apply to the Assembly, Council or Court.

Article 9 – Privileges and immunities of the Pan-African Parliamentarians

1. The Pan African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to representatives of Member States under the General Convention on the Privileges and Immunities of the OAU and the Vienna Convention on Diplomatic Relations.
2. The Pan African Parliamentarians shall enjoy parliamentary immunity in each Member State. Accordingly, a member of the Pan African Parliament shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done by him or her, within or outside the Pan African Parliament in his or her capacity as a Pan African Parliamentarian in the discharge of his or her duties.
3. Without prejudice to paragraph 2 of this Article, the Pan African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

Article 10 – Allowances

1. The Pan-African Parliamentarians shall be paid allowances by their respective State Parties.
2. The allowances for the President, Vice Presidents and other officials of Committees shall be the responsibility of the respective States Parties.

Article 11 – Rules of Procedure

1. The Parliament may adopt and amend its own Rules of Procedure including the procedures for giving effect to its mandate under Article 8 of this Protocol, by a two-thirds majority of all its members.

2. In developing its Rules of Procedure, the Parliament shall ensure consistency of these Rules with AU rules and regulations.

Article 12 – The Bureau of the Pan African Parliament

1. There shall be a Bureau of the Pan African Parliament which shall be elected on a rotational basis among the five (5) regions of the AU.
2. The Pan African Parliament shall elect, at its first sitting, by secret ballot, from among its members and in accordance with its Rules of Procedure, a President and four (4) Vice-Presidents representing the five (5) regions of the AU. The election shall, in each case, be by simple majority of the members present and voting. At least two (2) of the Bureau Members shall be women.
3. The Bureau shall, in line with the relevant AU rules and regulations, be responsible for the development of policies for the management and administration of the affairs and property of the Pan African Parliament, which shall be submitted to the Plenary for approval.
4. The functions of the President and the Vice-Presidents shall be defined in the Rules of Procedure.
5. The term of office of the President and the Vice-Presidents of the Bureau shall be two (2) and a half years renewable once.
6. The President shall preside over all parliamentary proceedings except those held in committees and, in his or her absence, the Vice-Presidents shall act in rotation, in accordance with the Rules of Procedure.
7. The Vice-Presidents shall be ranked in the order of First, Second, Third and Fourth Vice-President, in accordance with the result of the vote. In the absence of the President, each Vice President shall stand in for the President in rotation.
8. The offices of the President and Vice-President shall become vacant if the holder:
 - a) dies;
 - b) resigns in writing to the Bureau;
 - c) is unable to perform his or her functions for reasons of physical or mental incapacity;
 - d) is removed on grounds of misconduct;
 - e) loses his/her membership of the Pan African Parliament or when his or her term of office expires.
9. Removal on the grounds stipulated in paragraph 8 (c) or 8 (d) above shall be by a resolution on a motion to be decided on by secret ballot and supported at the end of debate by two-thirds majority of all the Members of the Pan African Parliament. In the case of removal on the grounds stipulated in 8(c), the motion shall, in addition, be supported by a medical report.
10. In case of a vacancy in the Bureau, a Member of the Pan African Parliament shall be elected in his/her place to complete his/her term, through an election at the sitting of the Pan African Parliament immediately following its occurrence.
11. The President may, with the approval of the Bureau, invite any person to a session of the Pan African Parliament, if in the opinion of the Bureau the business to be transacted at that session renders the presence of that person desirable.

Article 13 – The Secretary-General of the Pan African Parliament

1. The Pan African Parliament shall, on the recommendation of the Bureau, appoint a Secretary General and two Deputy Secretaries General in accordance with the AU Staff Rules and Regulations.

2. The Secretary General shall appoint, after consultation with the Bureau, such other staff as may be necessary for the proper functioning of the Pan African Parliament, in accordance with the AU Staff Rules and Regulations.
3. The Secretary General and a Deputy Secretary General shall be a person of proven experience or expertise in parliamentary practice, management and financial administration, and a demonstrated interest and understanding of the process of integration in Africa.
4. The Secretary General shall be the head of the Secretariat, and shall be responsible for the day to day management and administration of the affairs and property of the Pan African Parliament. He/ she shall be accountable to the Parliament through the Bureau.
5. The Secretary General shall be the Accounting Officer of the Parliament.
6. The Secretary General shall, as soon as practicable, cause to be transmitted to the Secretaries General/ Clerks of the National Parliaments or other deliberative body and the Parliaments of the Regional Economic Communities copies of the records of all the relevant debates at the sessions and committee hearings of the Pan African Parliament for information.
7. The Deputy Secretaries General shall assist the Secretary General in the discharge of his/her duties.
8. The Secretary General shall ensure that proper books of account are kept for the Pan African Parliament; the Secretary General shall submit annually a report on the utilization of the funds available to the Pan African Parliament including its budgetary allocation through the Bureau to the Council in accordance with the AU Financial Rules and Regulations.
9. The Secretary General and the Deputy Secretaries General shall before assuming office take an Oath or make a Solemn Declaration before the Pan African Parliament.

Article 14 – Oath of office

At its sitting following the election and before transacting any other business, the Parliamentarians shall take an Oath or make a Solemn Declaration. The text of the Oath or Declaration shall be set out as an addendum to the Rules of Procedure.

Article 15 – Sessions and quorum

1. The inaugural session of the Pan African Parliament shall be convened by the Secretary General;
2. The Pan African Parliament shall meet in ordinary session at least twice a year, within a period to be determined in the Rules of Procedure. Each ordinary session may last up to one (1) month.
3. The Bureau, the Assembly, the Council or at least two-thirds of the Pan-African Parliamentarians may, by written notification addressed to the President, request an extraordinary session, subject to the following:
 - a) The request shall provide the reasons for and details of the matters to be discussed at the proposed extraordinary session.
 - b) The President shall convene such a session within such time as provided for in the Rules of Procedure.
 - c) The session shall discuss only those matters stipulated in the request.
 - d) The session shall end upon exhaustion of the agenda.
 - e) In any case, the duration of an extraordinary session shall not exceed ten (10) days.
4. The proceedings of the Pan African Parliament shall be open to the public, unless otherwise directed by the Bureau.

5. (a) The quorum for a meeting of the Pan African Parliament shall be determined by the Rules of Procedure.
- (b) The Rules of Procedure may differentiate between the quorum necessary for the conducting ordinary business by the Pan African Parliament and the quorum needed for making valid decisions.

Article 16 – Budget of the Pan African Parliament

1. The annual budget of the Pan African Parliament shall constitute an integral part of the regular budget of the AU.
2. The budget shall be drawn up by the Pan African Parliament and submitted to the relevant AU policy organs for approval, in accordance with the AU Financial Rules and Regulations.
3. The financial year of the Pan African Parliament shall be the same as that of the AU.

Article 17 – Seat of the Pan-African Parliament

1. The seat of the Pan African Parliament shall be located in the Republic of South Africa.
2. The Pan African Parliament may convene in the territory of any Member State at the invitation of that Member State.

Article 18 – Official and working languages

The official and working languages of the Pan African Parliament shall be those of the AU.

Article 19 – Relations between the Pan African Parliament, the Parliaments of Regional Economic Communities and National Parliaments or other deliberative bodies

1. The Pan African Parliament shall work in close co-operation with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative body. To this effect, the Pan African Parliament may, in accordance with its Rules of Procedure, convene annual consultative fora with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative body to discuss matters of common interest.
2. The Pan African Parliament shall periodically submit a report in writing on its work to the National Parliaments or other deliberative bodies for information. Copies of such reports shall also be submitted to the Ministers with responsibility for foreign affairs, African Union affairs and/or regional integration.

Article 20 – Relations between the Pan African Parliament and other organs of the AU

1. The Chairperson of the Assembly shall deliver a speech on the state of the AU at each inaugural Session of a new term of the Pan African Parliament.
2. The Chairperson of the Commission shall, at least once during the term of each Parliament, present the Activity Report of the Commission to the Pan African Parliament.
3. The other organs of the AU, except the Assembly, the Council and the Court, shall forward their activity reports annually to the Pan African Parliament by the third month of each succeeding year.

4. The Pan African Parliament shall forward its annual Activity Report to the different organs of the AU, at the latest, by the third month of each succeeding year.

Article 21 – Interpretation

The Court shall have jurisdiction on all questions of interpretation of this Protocol.

Article 22 – Signature and ratification

1. This Protocol shall be signed and ratified by Member States in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

Article 23 – Entry into force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairperson of the Commission by a simple majority of the Member States.

Article 24 – Accession

1. A Member State shall accede to this Protocol, after its entry into force, by depositing its instrument of accession with the Chairperson of the Commission. The Chairperson of the Commission shall, upon receipt of such instrument of accession, notify all Member States.
2. For any Member State acceding to this Protocol, the Protocol shall come into force on the date of the deposit of its instrument of accession.

Article 25 – Amendment or revision of the Protocol

1. This Protocol may be amended or revised by a decision of a two-thirds majority of the Assembly.
2. A Member State party to this Protocol or the Pan African Parliament may propose, in writing to the Chairperson of the Commission any amendment or revision of the Protocol.
3. The Chairperson of the Commission shall notify the proposal to all Member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.
4. Save where the proposal originates from the Pan African Parliament, the Chairperson of the Commission shall request the opinion of the Pan African Parliament on the proposal and shall transmit the opinion, if any, to the Assembly, which may approve the proposal, taking into account the opinion of the Pan African Parliament.
5. The amendment or revision shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairperson by a simple majority of Member States.

Article 26 – Review of the Protocol

Conferences to review the operation and effectiveness of the Protocol, the legislative mandate and the system of representation to the Pan African Parliament, may be organized by the States Parties at intervals often (10) years, or within such shorter time as the Pan African Parliament may decide with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realized and that the Protocol meets with the evolving needs of African States.

Article 27 – Transitional provision

1. The present Protocol shall upon entry into force replace the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan African Parliament.
2. The term of office of Member of the Parliament shall terminate within a period not exceeding one year of the entry into force of this Protocol.

Adopted by the twenty-third Ordinary Session of the Assembly, held in Malabo, Equatorial Guinea

27th June 2014