

**ACHPR/Res.167 (XLVIII) 10: RESOLUTION ON SECURING THE EFFECTIVE REALISATION OF ACCESS TO INFORMATION IN AFRICA**

*The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 48<sup>th</sup> Ordinary Session, held in Banjul, The Gambia, from 10 – 24 November 2010;*

**Recalling** its mandate to promote and protect human and peoples' rights under the *African Charter on Human and Peoples' Rights* (the African Charter);

**Underscoring** that the right of access to information is enshrined in Article 9 of the *African Charter*, and other international human rights instruments, including Article 19 of the *Universal Declaration of Human Rights* (UDHR), and the *International Covenant on Civil and Political Rights* (ICCPR);

**Recognising** that the right of access to information is an important tool for promoting accountability and transparency in Africa, and ensuring the effective realisation of all rights, in particular, socio-economic rights;

**Aware** that existing legislative provisions on the continent are used by governments, either directly or indirectly, to restrict the right of access to information in their countries;

**Recalling** ACHPR/Res.62 (XXXII) 02 on the adoption of the *Declaration of Principles on Freedom of Expression in Africa* (the Declaration) of 2002, which elaborates on the scope of Article 9 of the *African Charter*;

**Underscoring** Principle IV (1) of the Declaration, which provides that “*public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law,*” and Principle IV (2) which stipulates that “*the right to information shall be guaranteed by law in accordance with the principles*” set out in the Declaration;

**Recalling** Resolution ACHPR/Res.122 (XXXII) 07, adopted during its 42<sup>nd</sup> Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo, which expanded the mandate of the Special Rapporteur on Freedom of Expression in Africa, to include access to information;

**Noting** Article 9 of the AU Convention on Preventing and Combating Corruption (AU Convention on Preventing Corruption), adopted in Maputo, Mozambique on 11 July 2003 which provides that “*each State Party shall adopt such legislative and other measures to give effect to the right to access to any information that is required to assist in the fight against corruption and related offences*”;

**Recalling** that one of the objectives of the African Charter on Democracy, Elections and Governance (the African Charter on Democracy) adopted on 30 January 2007 is the “establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs”;

**Cognizant** of the absence of a model law in Africa, to guide States Parties in the development or revision of their access to information legislation;

**Recognizing** the need for such a model law, including guidelines on implementation, taking into consideration institutional, legal and structural differences in various States Parties;

**Mindful** of the constraints that may hamper the ability of States Parties to draft access to information legislation that meets with the global best practice;

**Deeply concerned** that of all the fifty-three (53) AU Member States in the continent, only a few have adopted access to information laws;

**Commending** countries that have adopted access to information laws, namely: the Republic of Angola; Republic of Ethiopia; Republic of Liberia; Republic of South Africa; Republic of Uganda; and Republic of Zimbabwe;

1. **Decides** to start the process of developing a model access to information legislation for Africa, including guidelines for its effective implementation through its Special Rapporteur on Freedom of Expression and Access to Information (the Special Rapporteur);
2. **Urges** States Parties, civil society and other stakeholders, to collaborate with the Special Rapporteur by contributing to the process of drafting the model law;
3. **Requests** the Special Rapporteur to report the progress made on the model law at its next Ordinary Session.