

ACHPR/Res. 361(LIX) 2016: Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Bearing in mind the provisions of Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), which establishes the competence and determines the mandate of the Commission;

Recalling the Grand Bay (Mauritius) Declaration and Plan of Action, adopted at the 1st Organisation of African Unity (OAU) Ministerial Conference on Human Rights, meeting from 12 to 16 April, 1999 in Grand Bay, Mauritius which recognises "the contribution made by African NGOs to the promotion and protection of human rights in Africa ...";

Further recalling the Kigali Declaration, adopted at the 1st African Union (AU) Ministerial Conference on Human Rights in Africa, on 8 May 2003 in Kigali, Rwanda, which "recognizes the important role of civil society organizations (CSOs)... in the promotion and protection of human rights in Africa" and "calls upon Member States and regional institutions to protect them and encourage the participation of CSOs in decision-making processes with the aim of consolidating participatory democracy and sustainable development";

Reaffirming Rule 68 of the Rules of Procedure of the Commission adopted at its 47th Ordinary Session, held from 12 to 26 May 2010, in Banjul, The Gambia, which provides that Non-governmental organisations (NGOs) may be granted observer status with the Commission and notes their rights and obligations;

Considering that since its establishment in October 1987, 504 NGOs have been granted observer status with the Commission;

Recognising the important role of NGOs in supporting the Commission to fulfill its mandate of promoting and protecting human and peoples' rights in Africa;

Noting Executive Council Decisions **Ex.CL/887(XXVII)** and **EX.CL/Dec.902 (XXVIII) Rev.1**, which requested the Commission "to take into account the fundamental African values, identity and good traditions, and to [...] review its criteria for granting Observer Status to NGOs."

Further noting Executive Council Decision **EX.CL/Dec.902 (XXVIII) Rev.1** for the Commission “*to review the criteria for... representation before the ACHPR by non-African individuals and groups...*”

The Commission:

1. *Welcomes* the opportunity to improve its criteria for the grant of observer status, and enhance its co-operation and partnership with NGOs working on human rights in Africa;
2. *Adopts* the new criteria for granting and maintaining observer status, the text of which is annexed to the present Resolution;
3. *Decides* that the new criteria shall immediately enter into force; and
4. *Requests* the Secretary to the Commission to report on the implementation of the present Resolution at each Ordinary Session.

ANNEX - CRITERIA FOR THE GRANTING OF AND FOR MAINTAINING OBSERVER STATUS WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

CHAPTER I

1. All Non-Governmental Organisations (NGOs) applying for observer status with the African Commission on Human and Peoples' Rights (the Commission) shall be expected to submit a documented application to the Secretariat of the Commission, with a view to showing their willingness and capability to work for the realisation of the objectives of the African Charter on Human and Peoples' Rights (the African Charter).
2. All NGOs applying for observer status with the Commission shall consequently:
 - a. Have objectives and activities in consonance with the fundamental principles and objectives enunciated in the African Union (AU) Constitutive Act, the preamble to the African Charter on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol);
 - b. Be NGOs working in the field of human rights in Africa; and

- c. Declare their financial resources.

3. NGOs applying for Observer Status with the Commission are required to provide, at least three months prior to the Ordinary Session, the following documents:
 - a. A letter of application addressed to the Secretariat requesting Observer Status with the Commission;
 - b. A list of the Board of Members, and other members of the NGO;
 - c. The signed and authenticated Constitutive Statute of the NGO;
 - d. The Certificate of Legal Status of the NGO issued by the relevant Government authority, in the country in which the NGO is based;
 - e. The sources of funding of the NGO;
 - f. The latest independently audited financial statement of the NGO;
 - g. The latest Annual Activity Report of the NGO; and
 - h. A current comprehensive Plan of Action or Strategic Plan for the NGO, signed or approved by the relevant members of the NGO, which covers a minimum of two years, and which contains the objectives of the NGO during the specified period, the list of activities to be carried out, the timeline for their realisation, the places of implementation, the strategies to implement them and the target groups."

4. No application for Observer Status shall be put forward for examination by the Commission without having been previously processed by the Secretariat.

5. The Commission's Bureau shall designate a rapporteur to examine the dossiers. The Commission's decision shall be notified without delay to the applicant NGO.

CHAPTER II: PARTICIPATION OF NGOS WITH OBSERVER STATUS IN PROCEEDINGS OF THE COMMISSION

1.
 - a) All NGOs with Observer Status (observers) shall be invited to be present at the opening and closing sessions of the Commission.
 - b) An observer shall not participate in the Commission's proceedings in any manner other than as provided for in the Rules of Procedure governing the conduct of its sessions.
2. All observers shall have access to the documents of the Commission subject to the condition that such documents:
 - a. shall not be of a confidential nature;
 - b. deal with issues that are of relevance to their interests. The distribution of general information documents shall be free of charge; the distribution of specialised documents shall be on a paid-for basis, except where reciprocal arrangements are in place.
3. Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them.
4. Observers may be authorised by the Chairperson of the Commission to make a statement on an issue that concerns them, subject to the text of the statement having been provided, with sufficient lead-time, to the Chairperson of the Commission through the Secretary to the Commission.
5. The Chairperson of the Commission may give the floor to observers to respond to questions directed at them by participants.
6. Observers may request to have issues of a particular interest to them included in the provisional agenda of the Commission, in accordance with the provisions of the Rules of Procedure of the Commission.

CHAPTER III: RELATIONS BETWEEN THE COMMISSION AND OBSERVERS

1. Observers shall undertake to establish close relations of co-operation with the Commission and to engage in regular consultations with it on matters of common interest.
2. Observers shall present their activity reports to the Commission every two years.
3. Administrative arrangements shall be made, whenever necessary, to determine the modalities of this co-operation.

CHAPTER IV: FINAL PROVISIONS

1. The provisions of the General Convention on the Privileges and Immunities of the OAU and those of the Headquarters Agreement of the Commission shall not apply to observers except as regards the granting of visas.
2. The Commission reserves the right to take the following measures against Observers that are in default of their obligations:
 - non-participation in sessions;
 - denial of documents and information;
 - denial of the opportunity to propose items to be included in the Commission's provisional agenda and of participating in its proceedings.
3. Observer status may be suspended or withdrawn from any NGO that does not fulfil the present criteria, after deliberation by the Commission.

Done in Banjul, Islamic Republic of The Gambia, 4 November 2016