

# AMNESTY INTERNATIONAL

## Public Statement

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## ORAL STATEMENT BY AMNESTY INTERNATIONAL

### ITEM 8: The Establishment of the African Court on Human and Peoples' Rights

Chairperson, Commissioners,

Amnesty International reiterates its serious concerns about the continuing delay to establish the African Human Rights Court and the lack of active participation by the African Commission in the discussion about the merger of the African Court on Human and Peoples' Rights with the Court of Justice of the African Union (AU).

The organization notes the decision of the AU Executive Council at its 6th Ordinary Session held in Abuja, Nigeria, in January 2005 to ensure further discussion and consultation on the merger of the two courts and the fact that this process will be "without prejudice to the operationalization of the African Court on Human and Peoples' Rights". Amnesty International also notes the Executive Council's call to all member states that have not yet done so to ratify the Protocol establishing the African Human Rights Court (the Protocol).

Amnesty International welcomed the renewed commitment by the AU to ratify the Protocol establishing the African Human Rights Court. However, the organization notes that several similar statements that have been made previously have not resulted in full ratification of the Protocol by AU member states and that until to date only Burkina Faso has made the declaration accepting individual's and non-governmental organization's direct access to the Court.

Moreover, the discussion and consultation on the merger of the two Courts do not involve many national and international non-governmental organizations that have been working on the African Human Rights Court for years. Their expertise and experience could prove vital in elaborating a legal framework on the merger, which would not undermine the efficiency and effectiveness of the African Human Rights Court.

Amnesty International believes that these two processes - on the establishment of an African Human Rights Court and the discussion on the merger - also require a more active participation of the African Commission.

As you know, the Protocol of the AU Court of Justice has - as of today - only been ratified by 7 states; and has therefore not yet entered into force. In contrast, the Protocol establishing the

African Court on Human and Peoples' Rights entered into force more than one year ago and has - until today - been ratified by 20 African states. Amnesty International emphasizes that states parties to the Protocol establishing the African Court are under a legal obligation to implement this treaty and to make the African Human Rights Court operational in accordance with the letter and the spirit of the Protocol.

While the African Human Rights Court needs to become a reality now, the elaboration of a legal instrument on the merger should not be rushed and a decision on the exact modalities of a future merger should not be taken prematurely.

Amnesty International urges the African Commission to call on African governments and the AU authorities to immediately resume the process of making the African Human Rights Court operational pending the finalization of the discussion and consultations on the merger.

Amnesty International also calls on the African Commission to adopt a resolution to support and reiterate its commitment to the establishment of an independent and effective African Human Rights Court. Through this resolution the African Commission should urge AU authorities and all AU member states to:

- ensure that the process of making the African Human Rights Court operational will continue without further delay in accordance with the Protocol establishing the African Court on Human and Peoples' Rights, take the final decision on the location of the African Human Rights Court and resume the procedure for the nomination of candidates and the election of judges;
- encourage further ratifications of the Protocol establishing the African Court on Human and Peoples' Rights by those countries that have not yet ratified the Protocol;
- encourage states parties to the Protocol establishing the African Court on Human and Peoples' Rights that have not yet done so to make the declaration in accordance with Article 34 (6) of the Protocol allowing individuals and non-governmental organizations direct access to the Court;
- encourage states parties to the Protocol establishing the African Court on Human and Peoples' Rights that have not yet done so to nominate candidates for the office of judge at the African Court.