

## **African Court on Human and Peoples' Rights: Checklist to ensure the nomination of the highest qualified candidates for judges**

The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol) entered into force on 25 January 2004 after receiving the required 15 ratifications. At its forthcoming Third Ordinary Session in Addis Ababa, Ethiopia, in July 2004, the Assembly of Heads of State and Government of the African Union (AU Assembly) is expected to take a number of legal, political and operational decisions that would pave the way for the establishment of a functioning African Court. The Assembly would take decisions on such matters as the location of the Court and its budget, and elect eleven judges to the Court.

The judges will be the most visible representatives of the Court. The effectiveness and efficiency of the Court will, to a large extent, depend on the personal and professional capacities of the judges, their skills and experience as well as their commitment and integrity. The African Court can only contribute meaningfully to the promotion and protection of human rights in Africa if the nomination and election of judges comply fully with the requirements stipulated under the Protocol and the Court receives full political support from the AU member states. Therefore, it is essential for the credibility and effective operation of the Court that judges of the highest quality, with a fair representation of men and women from the main regions and legal systems of Africa, are elected.

The procedures for nominating candidates and electing judges to the African Court are spelled out in Articles 11 to 14 of the Protocol. Article 11 provides that the African Court shall consist of eleven judges who are nationals of member states of the AU, and elected in an individual capacity "from among jurists of high moral character and of recognized practical, judicial or academic competence and experience in the field of human and peoples' rights". Article 12 requires states parties to the Protocol to each nominate up to three candidates, at least two of whom shall be nationals of that state. It also requires each state party to give due consideration to adequate gender representation in the nomination process. Article 13 which deals with the list of candidates requires the Chairperson of the Commission of the AU to, upon entry into force of the Protocol, requests each state party to present, within ninety days (i.e. approximately until the end of April 2004), its nominees for the office of judge of the Court.

Thereafter, the Chairperson shall prepare a list of candidates and transmit the same to AU member states, "at least thirty days prior to the next session of the Assembly of Heads of State and Government of the OAU [AU]". As stated above, this session will now take place in Addis Ababa, Ethiopia in July 2004. Article 14 requires the AU Assembly to elect eleven judges to the Court from the list submitted to it by the Chairperson of the Commission of the AU. Furthermore, it requires the Assembly to ensure adequate representation of the main regions of Africa and their principal legal traditions, as well as adequate gender representation.

Amnesty International is calling on each state party to nominate three candidates and to do so in a transparent selection procedure, which includes consultation at all stages of the nomination process with all sections of civil society. Amnesty International has consistently called for the procedure for nominating judges to be as open as possible and to involve the broadest possible consultation, including with the highest courts, law faculties, bar associations and other relevant non-governmental organizations (NGOs). A transparent process with the broadest possible consultation with civil society will ensure that the best criteria are devised, that an effective method is devised to attract the best possible candidates, including women, and that the criteria are applied effectively. Ultimately, the process would ensure the establishment of an African Court that is able to carry out its enormous tasks both effectively and efficiently.

This Checklist sets out Amnesty International's recommendations for states to conduct a transparent and effective nomination process.

**Principle 1 - All states parties should nominate three candidates – one of whom may be a national of another AU member state.**

Article 12 of the Protocol provides:

“States Parties to the Protocol may each propose up to three candidates, at least two of whom shall be nationals of that State.”

In order for the AU Assembly to have the broadest possible pool of qualified candidates, providing for adequate gender representation and representation from all regions and legal traditions, it is essential that each state party nominates the maximum number of candidates allowed under the Protocol, including by proposing candidates who are nationals of other AU member states. This would provide a real choice and facilitate the nomination of only the most qualified candidates. Furthermore, states parties should not deny qualified candidates from their national legal community the opportunity to apply for nomination, by deciding not to nominate a candidate in favour of supporting a candidate nominated by another state party. To realize the full potential of the African Court, the nomination process should be based purely on merit, not politics. States should avoid political ‘trade-offs’ and bargaining that often enters into nomination and election process. The nominees’ credentials should speak for themselves. In addition, states should actively seek out the best qualified candidates including through press releases, bar associations and public announcements. The rationale for this rule is that the most qualified candidates may not seek appointment and must be encouraged to apply.

**Principle 2 - States parties should ensure that the nomination process is open to all potential candidates who meet the requirements contained in the Protocol.**

According to Article 11 of the Protocol:

“The Court shall consist of eleven judges, nationals of AU Member States, elected in an individual capacity from among jurists of high moral character and of recognized practical, judicial or academic competence and experience in the field of human and peoples’ rights.”

In making nominations, states must comply fully with the requirements under the Protocol, and without regard to political affiliation. In order to bring to realization the promises contained in the Protocol and the African Charter on Human and Peoples’ Rights, states parties should take all necessary measures to ensure that candidates nominated for elections possess proven competence in human rights law and relevant areas of international law as well as extensive experience in a professional legal capacity. Furthermore, candidates that will be nominated and elected should be of high moral character. States should nominate and elect candidates that will undertake their duties impartially and conscientiously. This should disqualify candidates holding government positions. Such independence is crucial to the effective functioning of the African Court. The UN Treaty Bodies Chairpersons have called on states to “refrain from nominating or electing to the treaty bodies persons performing political functions or occupying positions which were not readily reconcilable with the obligations of independent experts under the given treaty”.<sup>1</sup>

The expertise of the judges is of importance not only in as far as it relates to the ability of the African Court to discharge its enormous responsibilities and render justice in individual cases but also in that it lends to the credibility of the Court in the eyes of interested people who may approach the Court for redress. In the final analysis, the competence and professional integrity of members of the African Court will be central to the Court’s overall effectiveness. Therefore, states should actively seek and encourage the nomination and election of candidates who fulfil the requirements of the Protocol. Any restrictions or limitations to the nomination procedure would risk unfairly excluding highly qualified candidates and ultimately jeopardizing the capacity of the African Court to make a substantial contribution to the protection of human rights in Africa.

The AU Assembly must encourage free and open discussion of the candidates’ qualifications among its members. This process should give paramount considerations to the values of judicial independence and judicial accountability. Amnesty International believes that effective protection of human rights requires the existence of an independent judiciary that is not subject to shifting political winds and interests. Indeed, judicial independence is recognized to be a significant factor in maintaining the credibility and legitimacy of international courts and tribunals.

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<sup>1</sup> UN Doc. A/52/507, Report of Eighth Meeting of the Chairpersons, 21 October 1997.

**Principle 3 - States parties should encourage applications from female candidates as well as from candidates from all regions within that State.**

Article 12 of the Protocol provides: "Due considerations shall be given to adequate gender representation in the nomination process."

Amnesty International calls on states to make conscious effort to nominate and elect qualified women to the African Court. States should be particularly alert to the potential problem of a serious imbalance between men and women among the nominees. The failure to elect a fair representation of female and male judges to other international institutions, e.g. the International Criminal Tribunals for the former Yugoslavia and Rwanda, the International Court of Justice and other international courts, as well as to the International Law Commission and many other international expert bodies, is unacceptable and states parties must ensure that such a practice is not adopted with respect to the African Court.

Female candidates should be particularly encouraged to apply; and the application and selection procedure should ensure that a fair gender representation is accorded a high priority. As stated above, the Protocol expressly provides for a fair representation of female and male candidates. Similarly, under Article 14(3), the AU Assembly shall ensure that there is adequate gender representation in the election of the judges. Giving due considerations to adequate gender representation would ensure that African women are given a leadership role to contribute to the development of the continent. It would also bring a unique and balanced perspective to the work of the African Court, especially on women's human rights issues.

To facilitate identification of potential women judges, women legal professional organizations should be consulted in the nomination and election process. Bar associations and women organizations should play a role in this endeavor. Such organizations have greater access to "women networks" and thus to information concerning qualified women candidates. The role of the women professional organizations should complement that of the bar associations.

Furthermore, Article 14 (2) requires the AU Assembly to ensure that, in the Court as a whole, there is representation of the main regions of Africa and of their principal legal traditions. States should take this into account during the nomination process. Candidates from all regions within the state should be encouraged to apply.

**Principle 4 - States parties should ensure that the nomination process is widely advertised, including in publications chosen to target those who may meet the requirements.**

To ensure transparency and a broad range of applications from people who meet the requirements of the Protocol, the nomination process must be widely publicised. The description of the required competency outlined above will apply to persons in many areas of the legal profession, including judges, prosecutors, advocates, academics, legal advisers and others. It is important that the nomination process is advertised so that it reaches all potential applicants, including advertisements in legal publications and through professional legal bodies.

On the basis of the requirements contained in the Protocol and other relevant professional and personal qualifications required to effectively and efficiently perform the duties of a judge at the African Court, the advertisement should clearly set out relevant and functional criteria that would facilitate the best choice among a variety of candidates.

The nomination process should also be advertised with sufficient time for news of the procedure to circulate and for applicants to apply. The process will of course be of interest to many members and organizations of civil society who will want to follow and, where appropriate, participate in the process. States should take steps to ensure that the nomination process is public knowledge, including by advertising the process in a national newspaper as well as issuing a press release announcing it and sending requests to all relevant sectors of civil society to encourage applications of the most qualified persons.

**Principle 5 - States parties should ensure transparency regarding the nomination as well as the selection procedure.**

The nomination of a candidate to the African Court is a matter of public importance. A transparent procedure for nominating the Court's judges, after consultation with the highest national judicial and academic authorities would guarantee the judges' full competence and independence. Following the closing date for applications, states should make available for public inspection information provided by applicants that relate to their skills, experience and how they meet the requirements for being nominated as a candidate for the position of a judge at the African Court. Greater transparency will provide opportunity for effective evaluation of the merits of possible nominees and ensure the nomination of the best possible candidates. Public support for the African Court will in large part be based on the perceived qualifications and representativeness of elected officials and the degree of transparency in the nomination process.

Amnesty International calls on the AU Assembly to take all appropriate measures to ensure that the final selection of candidates is as transparent as possible. In particular, the names and qualifications of those making the selection should be public in advance of the selection. Furthermore, the criteria for selecting the candidates should be developed in consultation with civil society and made public.

**Principle 6 - States parties should encourage civil society organizations to participate at all stages of the nomination procedure, particularly to assist states parties in obtaining applications from highly qualified candidates and providing information on the qualification of applicants.**

Before issuing the advertisement, states should seek comments and input on the content of the advertisement from civil society organizations, including representatives from all parts of the legal community, human rights organizations and other organizations that have been working actively on the establishment of the African Court.

Civil society could also be essential in helping to identify and to encourage applications from highly qualified candidates. States should encourage civil society to circulate the advertisement as widely as possible and to request persons who meet the criteria to apply. In particular, states should encourage civil society to help obtain applications from a fair representation of female and male candidates. Professional legal bodies and non-governmental organizations should be asked to take part in this process.

Professional groups generally are able to gather together the views of those of their members who are in a position to contribute to the evaluation of potential candidates, so that the information base for the nomination process is as high as possible. Naturally, bar associations can give the most thorough and highest recommendations to those persons about whom they have the greatest knowledge – their own members.

Amnesty International takes no position on individual applicants for nomination. However, a number of organizations and individuals will be able to provide important information regarding applicants that those selecting the candidate should consider. Appropriate mechanisms should be put in place whereby civil society and others can provide substantive comments and information about an applicant and their application. This information should be public and provided to the applicant in advance of selection or interview so that they are able to reply or provide further information.

**Principle 7 - States should issue a detailed statement on how the selected nominees meet the requirements contained in the Protocol and all other criteria that may be specified during the nomination procedure.**

Immediately after a state has selected their nominees the government should issue a public statement announcing the nomination and providing information on how the candidates meet the requirements for being nominated. States should also make publicly available detailed information on how the nominees meet the specified criteria set out in the advertisement. The statement should be made available in widely accessible publications and, among other things, on the state's Internet site.

A detailed statement of nomination containing substantial information on how the nominees meet the requirements is essential in the interest of a transparent selection procedure and also as a basis for the final election during the session of the AU Assembly. In order to ensure that an informed choice can be made and that the final election be based on the merits of the nominees' qualifications and profile rather than political or other considerations, the statement of nomination has to be made available to other AU member states well in advance of the session of the AU Assembly during which the judges will be elected.

Article 13(2) of the Protocol requiring the Chairperson of the AU Commission to prepare a list of candidates and to transmit it to the AU member states should be read to include a request to the Chairperson to circulate also substantial information as contained in the proposed statements of nomination by states parties'. For example, the Rome Statute of the International Criminal Court (ICC) requires that for the purposes of the election of judges nominations "shall be accompanied by a statement in the necessary detail specifying how the candidate fulfils the requirements ...". The absence of a similar provision in the Protocol should not result in an election process flawed by a lack of sufficiently available information. Therefore, it is essential that states parties prepare a statement of nomination and the Chairperson of the AU Commission incorporates this information into the list of candidates, which he transmits to the AU member states.

**Principle 8 - In the event that three candidates who fully meet the requirements cannot be found, the state party should nominate a suitable candidate from another AU member state.**

To ensure that the AU Assembly has the widest choice of qualified candidates, including both men and women, who meet the requirements for judges set out in the Protocol, if a state party is unable to nominate a candidate who meets the requirements, that state party should consider nominating a candidate who is a national from another AU member state.

While there may be some practical obstacles in nominating a candidate from another state party, this should not dissuade a state from considering this possibility, which the Protocol expressly provides for in Article 12(1). The nominating state party should take all possible measures, including those listed in this Checklist to ensure that such candidate is of the highest quality and meets the requirements contained in the Protocol as well as any other criteria that may be specified in the course of the nomination procedure.



**Annex:**

**PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS**

The Member States of the Organization of African Unity hereinafter referred to as the OAU, States Parties to the African Charter on Human and Peoples' Rights:

Considering that the Charter of the Organization of African Unity recognizes that freedom, equality, justice, peace and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples;

Noting that the African Charter on Human and Peoples' Rights reaffirms adherence to the principles of human and peoples' rights, freedoms and duties contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, and other international organizations;

Recognizing that the twofold objective of the African Charter on Human and Peoples' Rights is to ensure on the one hand promotion and on the other protection of human and peoples' rights, freedoms and duties;

Recognizing further, the efforts of the African Commission on Human and Peoples' Rights in the promotion and protection of human and peoples' rights since its inception in 1987;

Recalling resolution AHG/Res.230 (XXX) adopted by the Assembly of Heads of State and Government in June 1994 in Tunis, Tunisia, requesting the Secretary-General to convene a Government experts' meeting to ponder, in conjunction with the African Commission, over the means to enhance the efficiency of the African Commission and to consider in particular the establishment of an African Court on Human and Peoples' Rights;

Noting the first and second Government legal experts' meetings held respectively in Cape Town, South Africa (September, 1995) and Nouakchott, Mauritania (April, 1997), and the third Government Legal Experts meeting held in Addis Ababa, Ethiopia (December, 1997), which was enlarged to include Diplomats;

Firmly convinced that the attainment of the objectives of the African Charter on Human and Peoples' Rights requires the establishment of an African Court on Human and Peoples' Rights to complement and reinforce the functions of the African Commission on Human and Peoples' Rights.

HAVE AGREED AS FOLLOWS:

### **Article 1 ESTABLISHMENT OF THE COURT**

There shall be established within the Organization of African Unity an African Court on Human and Peoples' Rights (hereinafter referred to as "the Court"), the organization, jurisdiction and functioning of which shall be governed by the present Protocol.

### **Article 2 RELATIONSHIP BETWEEN THE COURT AND THE COMMISSION**

The Court shall, bearing in mind the provisions of this Protocol, complement the protective mandate of the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Commission") conferred upon it by the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter").

### **Article 3 JURISDICTION**

1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned.
2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

### **Article 4 ADVISORY OPINIONS**

1. At the request of a Member State of the OAU, the OAU, any of its organs, or any African organization recognized by the OAU, the Court may provide an opinion on any legal matter relating to the Charter or any other relevant human rights instruments, provided that the subject matter of the opinion is not related to a matter being examined by the Commission.
2. The Court shall give reasons for its advisory opinions provided that every judge shall be entitled to deliver a separate or dissenting decision.

### **Article 5 ACCESS TO THE COURT**

1. The following are entitled to submit cases to the Court
  - a. The Commission;
  - b. The State Party which has lodged a complaint to the Commission;
  - c. The State Party against which the complaint has been lodged at the Commission;
  - d. The State Party whose citizen is a victim of human rights violation;
  - e. African Intergovernmental Organizations.

2. When a State Party has an interest in a case, it may submit a request to the Court to be permitted to join.

3. The Court may entitle relevant Non Governmental Organizations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with article 34 (6) of this Protocol.

#### **Article 6 ADMISSIBILITY OF CASES**

1. The Court, when deciding on the admissibility of a case instituted under article 5 (3) of this Protocol, may request the opinion of the Commission which shall give it as soon as possible.

2. The Court shall rule on the admissibility of cases taking into account the provisions of article 56 of the Charter.

3. The Court may consider cases or transfer them to the Commission.

#### **Article 7 SOURCES OF LAW**

The Court shall apply the provisions of the Charter and any other relevant human rights instruments ratified by the States concerned.

#### **Article 8 CONSIDERATION OF CASES**

The Rules of Procedure of the Court shall lay down the detailed conditions under which the Court shall consider cases brought before it, bearing in mind the complementarity between the Commission and the Court.

#### **Article 9 AMICABLE SETTLEMENT**

The Court may try to reach an amicable settlement in a case pending before it in accordance with the provisions of the Charter.

#### **Article 10 HEARINGS AND REPRESENTATION**

1. The Court shall conduct its proceedings in public. The Court may, however, conduct proceedings in camera as may be provided for in the Rules of Procedure.

2. Any party to a case shall be entitled to be represented by a legal representative of the party's choice. Free legal representation may be provided where the interests of justice so require.

3. Any person, witness or representative of the parties, who appears before the Court, shall enjoy protection and all facilities, in accordance with international law, necessary for the discharging of their functions, tasks and duties in relation to the Court.

#### **Article 11 COMPOSITION**

1. The Court shall consist of eleven judges, nationals of Member States of the OAU, elected in an individual capacity from among jurists of high moral character and of recognized practical, judicial or academic competence and experience in the field of human and peoples' rights.

2. No two judges shall be nationals of the same State.

#### **Article 12 NOMINATIONS**

1. States Parties to the Protocol may each propose up to three candidates, at least two of whom shall be nationals of that State.

2. Due consideration shall be given to adequate gender representation in the nomination process.

#### **Article 13 LIST OF CANDIDATES**

1. Upon entry into force of this Protocol, the Secretary-General of the OAU shall request each State Party to the Protocol to present, within ninety (90) days of such a request, its nominees for the office of judge of the Court.

2. The Secretary-General of the OAU shall prepare a list in alphabetical order of the candidates nominated and transmit it to the Member States of the OAU at least thirty days prior to the next session of the Assembly of Heads of State and Government of the OAU hereinafter referred to as "the Assembly".

#### **Article 14 ELECTIONS**

1. The judges of the Court shall be elected by secret ballot by the Assembly from the list referred to in Article 13 (2) of the present Protocol.

2. The Assembly shall ensure that in the Court as a whole there is representation of the main regions of Africa and of their principal legal traditions.

3. In the election of the judges, the Assembly shall ensure that there is adequate gender representation.

#### **Article 15 TERM OF OFFICE**

1. The judges of the Court shall be elected for a period of six years and may be re-elected only once. The terms of four judges elected at the first election shall expire at the end of two years, and the terms of four more judges shall expire at the end of four years.
2. The judges whose terms are to expire at the end of the initial periods of two and four years shall be chosen by lot to be drawn by the Secretary-General of the OAU immediately after the first election has been completed.
3. A judge elected to replace a judge whose term of office has not expired shall hold office for the remainder of the predecessor's term.
4. All judges except the President shall perform their functions on a part-time basis. However, the Assembly may change this arrangement as it deems appropriate.

#### **Article 16 OATH OF OFFICE**

After their election, the judges of the Court shall make a solemn declaration to discharge their duties impartially and faithfully.

#### **Article 17 INDEPENDENCE**

1. The independence of the judges shall be fully ensured in accordance with international law.
2. No judge may hear any case in which the same judge has previously taken part as agent, counsel or advocate for one of the parties or as a member of a national or international court or a commission of enquiry or in any other capacity. Any doubt on this point shall be settled by decision of the Court.
3. The judges of the Court shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents in accordance with international law.
4. At no time shall the judges of the Court be held liable for any decision or opinion issued in the exercise of their functions.

#### **Article 18 INCOMPATIBILITY**

The position of judge of the Court is incompatible with any activity that might interfere with the independence or impartiality of such a judge or the demands of the office, as determined in the Rules of Procedure of the Court.

#### **Article 19 CESSATION OF OFFICE**

1. A judge shall not be suspended or removed from office unless, by the unanimous decision of the other judges of the Court, the judge concerned has been found to be no longer fulfilling the required conditions to be a judge of the Court.
2. Such a decision of the Court shall become final unless it is set aside by the Assembly at its next session.

#### **Article 20 VACANCIES**

1. In case of death or resignation of a judge of the Court, the President of the Court shall immediately inform the Secretary General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.
2. The Assembly shall replace the judge whose office became vacant unless the remaining period of the term is less than one hundred and eighty (180) days.
3. The same procedure and considerations as set out in Articles 12, 13 and 14 shall be followed for the filling of vacancies.

#### **Article 21 PRESIDENCY OF THE COURT**

1. The Court shall elect its President and one Vice-President for a period of two years. They may be re-elected only once.
2. The President shall perform judicial functions on a full-time basis and shall reside at the seat of the Court.
3. The functions of the President and the Vice-President shall be set out in the Rules of Procedure of the Court.

#### **Article 22 EXCLUSION**

If a judge is a national of any State which is a party to a case submitted to the Court, that judge shall not hear the case.

#### **Article 23 QUORUM**

The Court shall examine cases brought before it, if it has a quorum of at least seven judges.

#### **Article 24 REGISTRY OF THE COURT**

1. The Court shall appoint its own Registrar and other staff of the registry from among nationals of Member States of the OAU according to the Rules of Procedure.
2. The office and residence of the Registrar shall be at the place where the Court has its seat.

#### **Article 25 SEAT OF THE COURT**

1. The Court shall have its seat at the place determined by the Assembly from among States parties to this Protocol. However, it may convene in the territory of any Member State of the OAU when the majority of the Court considers it desirable, and with the prior consent of the State concerned.
2. The seat of the Court may be changed by the Assembly after due consultation with the Court.

#### **Article 26 EVIDENCE**

1. The Court shall hear submissions by all parties and if deemed necessary, hold an enquiry. The States concerned shall assist by providing relevant facilities for the efficient handling of the case.
2. The Court may receive written and oral evidence including expert testimony and shall make its decision on the basis of such evidence.

#### **Article 27 FINDINGS**

1. If the Court finds that there has been violation of a human or peoples' right, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.
2. In cases of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons, the Court shall adopt such provisional measures as it deems necessary.

#### **Article 28 JUDGMENT**

1. The Court shall render its judgment within ninety (90) days of having completed its deliberations.
2. The judgment of the Court decided by majority shall be final and not subject to appeal.
3. Without prejudice to sub-article 2 above, the Court may review its decision in the light of new evidence under conditions to be set out in the Rules of Procedure.
4. The Court may interpret its own decision.

5. The judgment of the Court shall be read in open court, due notice having been given to the parties.

6. Reasons shall be given for the judgment of the Court.

7. If the judgment of the Court does not represent, in whole or in part, the unanimous decision of the judges, any judge shall be entitled to deliver a separate or dissenting opinion.

#### **Article 29 NOTIFICATION OF JUDGMENT**

1. The parties to the case shall be notified of the judgment of the Court and it shall be transmitted to the Member States of the OAU and the Commission.

2. The Council of Ministers shall also be notified of the judgment and shall monitor its execution on behalf of the Assembly.

#### **Article 30 EXECUTION OF JUDGMENT**

The States parties to the present Protocol undertake to comply with the judgment in any case to which they are parties within the time stipulated by the Court and to guarantee its execution.

#### **Article 31 REPORT**

The Court shall submit to each regular session of the Assembly, a report on its work during the previous year. The report shall specify, in particular, the cases in which a State has not complied with the Court's judgment.

#### **Article 32 BUDGET**

Expenses of the Court, emoluments and allowances for judges and the budget of its registry, shall be determined and borne by the OAU, in accordance with criteria laid down by the OAU in consultation with the Court.

#### **Article 33 RULES OF PROCEDURE**

The Court shall draw up its Rules and determine its own procedures. The Court shall consult the Commission as appropriate.

#### **Article 34 RATIFICATION**

1. This Protocol shall be open for signature and ratification or accession by any State Party to the Charter.



2. The instrument of ratification or accession to the present Protocol shall be deposited with the Secretary-General of the OAU.
3. The Protocol shall come into force thirty days after fifteen instruments of ratification or accession have been deposited.
4. For any State Party ratifying or acceding subsequently, the present Protocol shall come into force in respect of that State on the date of the deposit of its instrument of ratification or accession.
5. The Secretary-General of the OAU shall inform all Member States of the entry into force of the present Protocol.
6. At the time of the ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under article 5 (3) of this Protocol. The Court shall not receive any petition under article 5 (3) involving a State Party which has not made such a declaration.
7. Declarations made under sub-article (6) above shall be deposited with the Secretary General, who shall transmit copies thereof to the State parties.

#### **Article 35 AMENDMENTS**

1. The present Protocol may be amended if a State Party to the Protocol makes a written request to that effect to the Secretary-General of the OAU. The Assembly may adopt, by simple majority, the draft amendment after all the States Parties to the present Protocol have been duly informed of it and the Court has given its opinion on the amendment.
2. The Court shall also be entitled to propose such amendments to the present Protocol as it may deem necessary, through the Secretary-General of the OAU.
3. The amendment shall come into force for each State Party which has accepted it thirty days after the Secretary-General of the OAU has received notice of the acceptance.