OBTAINING AND THE BENEFITS OF OBSERVER STATUS WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

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1 Introduction

The African Commission on Human and People’s Rights (the Commission) was established under article 30 of the African Charter on Human and Peoples’ Rights (the Charter) with the twin mandate of promotion and protection of human rights in Africa as provided for in the Charter.1 It is the primary body responsible for human rights in Africa.2 In accordance with articles 75 and 76 of the Commission’s rules of procedure,3 non-governmental organisations (NGOs) granted observer status by the Commission may, through authorised representatives, participate in the public sessions of the Commission4 and its subsidiary bodies. Furthermore, the Commission may consult such NGOs on various issues.

2 Criteria for granting observer status

In terms of a resolution5 adopted by the Commission during its 25th ordinary session held in Bujumbura, Burundi, from 26 April - 5 May 1999, the Commission subjects the granting of observer status to a set of criteria.6 These criteria are as follows:

1. All NGOs applying for observer status with 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 Charter;

1.1 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 OAU Charter (now the Constitutive Act of the African Union) and in the Charter;

b. Be NGOs working in the field of human rights

c. Declare their financial resources

1.2 To this effect, such an NGO shall be requested to provide:

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1 Art 45 of the Charter.
2 Article 30 of the Charter.
3 Adopted in line with art 45(2) of the Charter.
4 According to rule 2(1) of the Commission’s rules, the Commission holds two ordinary sessions per year.
5 Resolution on the criteria for granting and enjoying observer status to non-governmental organisations working in the field of human rights with the African Commission on Human Peoples Rights.
6 This was in line with the AHG/dec.126 (XXXIV) of the Assembly of Heads of State and Government which had requested the Commission to undertake a review of the criteria for observer status with a view to enhancing efficiency and co-operation between the Commission and NGOs.
a. A written application addressed to the Secretariat stating its intentions, at least three months prior to the Ordinary Session of the Commission which shall decide on the application, in order to give the Secretariat sufficient time to process the said application.

b. Its statutes, proof of its legal existence, a list of its members, its constituent organs, its sources of funding, its last financial statement, as well as a statement on its activities.

c. The statement of activities shall cover the past and present activities of the NGO, its plan of action and any other information that may help to determine the identity of the organisation, its purpose and objectives, as well as its field of activities.

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

e. 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.

3 What observer status entails

According to the said resolution, all observers shall be invited to be present at the opening and closing sessions of all Sessions of the Commission.

a. An observer accredited by the Commission shall not participate in its proceedings in any manner other than as provided for in the Rules of Procedure governing the conduct of sessions of the African Commission. Amongst others, NGOs with observer status can prepare “shadow” reports on the human rights situation in their countries. These “shadow” reports enable the Commission to have a constructive dialogue with a state representative when that country’s periodic report is being considered.

b. All observers shall have access to the documents of the Commission subject to the condition that such documents:

(i) shall not be of a confidential nature;

(ii) deal with issues that are of relevance to their interests.

c. The distribution of general information documents of the Commission shall be free of charge; the distribution of specialised documents shall be on a paid-for basis, except where reciprocal arrangements are in place.

d. Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them.
e. Observers may be authorised by the Chairman 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 Chairman of the Commission through the Secretary to the Commission.

f. The Chairman of the Commission may give the floor to observers to respond to questions directed at them by participants.

g. 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.

4 Relations between the Commission and Observers

1 Organisations enjoying observer status shall undertake to;

   a. establish close relations of co-operation with the Commission and to engage in regular consultations with it on all matters of common interest;

   b. present their activity reports to the Commission every two years.

Administrative arrangements shall be made, whenever necessary, to determine the modalities of this co-operation.

2 The Commission reserves the right to take the following measures against NGOs that are in default of their obligations:

   a. non-participation in sessions;

   b. denial of documents and information;

   c. denial of the opportunity to propose items to be included in the Commission's agenda and of participating in its proceedings;

   d. observer status may be suspended or withdrawn from any organisation that does not fulfil the present criteria, after deliberation by the Commission.