

AMNESTY INTERNATIONAL

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African Commission on Human and Peoples' Rights: Specific issues relevant to the work of the African Commission

Amnesty International welcomed the adoption of the Protocol on the Statute of the African Court of Justice and Human Rights, by the Eleventh Ordinary Session of the African Union (AU) Assembly, held in Sharm El-Sheikh, Egypt, on 1st of July 2008. However, Amnesty International remains concerned that almost a year after the adoption of the Protocol, no AU member state has ratified the Protocol.

As of 7 April 2009, 14 countries have signed the Protocol. Fifteen ratifications are required for the Protocol to enter into force. Amnesty International has called on African governments to demonstrate their expressed commitment to address impunity for human rights violations by promptly ratifying the Protocol.

The Statute of the African Court of Justice and Human Rights in Article 30 excludes the right of individuals and human rights non-governmental organizations (NGOs) to directly approach the court for remedies, except if state parties make a declaration to the effect, under article 8(3) of the Protocol. Amnesty International remains convinced that the key to the effective functioning of the African Court of Justice and Human Rights is the ability of victims of human rights violations and NGOs to directly approach the Court for an effective remedy. It is therefore crucial that when ratifying the Protocol states simultaneously make declarations under article 8(3) of the Protocol to allow individuals and NGOs direct access to the Court.

Amnesty International believes that once fully operational, the African Court will serve as a powerful tool towards ending impunity for human rights violations, and ensuring the protection and promotion of human rights in Africa. The Court is envisaged as a "judicial organ to supplement and strengthen the mission of the African Commission on Human and Peoples' Rights". Therefore it is important for the African Commission to work with AU member states to ensure that the Court is independent, effective, and efficient, so that it is able to stimulate positive change throughout Africa, as well as provide the platform for the articulation of international legal principles at the regional level, and direction and precedents for domestic courts.

Amnesty International therefore urges the African Commission to:

1. Adopt a resolution encouraging AU member states to move expeditiously to ratify the Protocol on the Statute of the African Court of Justice and Human Rights, and at the time of ratification make the declaration under Article 8(3) of the Protocol that would allow individuals and NGOs direct access to the Court;
2. Raise awareness, including through the Commissioners' promotional missions to African countries, of the Court's mandate and potential as a powerful tool towards ending impunity for human rights violations in Africa and the need for AU member states to ratify the Protocol and make the necessary declaration allowing individual and NGOs direct access to the Court.
3. Consider including in its concluding observations to states reporting to the African Commission a recommendation for state parties to the African Charter to ratify the Protocol on the Court and make the relevant declaration allowing individuals and NGOs

direct access to the Court.

4. Ask AU member states and states parties to the Protocol establishing the African Court on Human and Peoples' Rights to ensure that the Court is fully operational and resourced. The adoption of the Protocol on the Statute of the African Court of Justice and Human Rights should not be used to undermine the process to ensure the effective operation of the African Court on Human and Peoples' Rights during the transitional period.

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