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African Court on Human and Peoples' Rights: Only the best qualified candidates should be appointed judges

The effectiveness and efficiency of the African Court on Human and Peoples' Rights will depend on the appointment of highly qualified judges with a strong commitment to human rights, Amnesty International said today in a document outlining a checklist of criteria to ensure the appointment of the best qualified candidates for judges.

"The judges will be the most visible representatives of the Court. It is essential for the credibility and effective operation of the Court that judges of the highest calibre, with a fair representation of men and women from the main regions and legal systems of Africa, are elected," Amnesty International urged.

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 January 25, 2004 after receiving the required fifteen ratifications.

Article 13 of the Protocol requires the Chairperson of the African Union (AU) Commission, upon entry into force of the Protocol, to request each state party to present, within ninety days (about the end of April 2004), its nominees for the office of judge of the Court.

The Assembly of Heads of State and Government of the African Union, at its forthcoming Third Ordinary Session in Addis Ababa, Ethiopia, in July 2004, is expected to take decisions on such matters as the location of the Court, its budget, and elect eleven judges to the Court.

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 relevant non-governmental organizations.

"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," the organization said.

"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," Amnesty

International added.

Background

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 state 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 requires the Chairperson of the Commission of the AU to, upon entry into force of the Protocol, request each state party to present, within ninety days, its nominees for the office of judge of the Court. Article 14 provides among others that judges of the Court shall be elected by secret ballot.

States that have ratified the Protocol are: Algeria; Burkina-Faso; Burundi; Comoros; Côte d'Ivoire; Gambia; Lesotho; Libya; Mali; Mauritius; Rwanda; Senegal; South Africa; Togo; and Uganda. Only Burkina-Faso has made a declaration allowing individuals and non-governmental organizations direct access to the Court.

For several years Amnesty International has campaigned for ratification of the Protocol and believes its entry into force is a significant development in the protection of human rights in the continent. Amnesty International will continue to push for a regional wide ratification of the Protocol and for the establishment of a fully effective and efficient Court.

Since the success of the African Court will to a large extent depend upon the operational efficiency of the African Commission on Human and Peoples' Rights, Amnesty International will continue to seek for the strengthening of the Commission as well.

For a copy of the document outlining a checklist of criteria for the nomination of judges to the African Court, see: <http://web.amnesty.org/library/Index/ENGIOR630012004>

Public Document

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