

Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament (2001/2003)

The Pan-African Parliament (PAP) was provided for under the AU Constitutive Act as well as the Treaty Establishing the AEC. The Protocol Establishing PAP, reprinted here, was adopted in Sirte, Libya, on 2 March 2001 and entered into force on 14 December 2003. The first meeting of PAP was held in Addis Ababa, Ethiopia, in March 2004. PAP is based in Midrand, South Africa. Its powers are currently purely advisory and consultative. In June 2014 the AU adopted a Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament. For more information see www.pan-african-parliament.org. The full text is available at www.au.int

Excerpts

Preamble

The member states of the Organization of African Unity state parties to the Treaty Establishing the African Economic Community:

...

Further noting that the establishment of the Pan-Parliament is informed by a vision to provide a common platform for African peoples and their grass-roots organisations to be more involved in discussions and decision-making on the problems and challenges facing the continent;

Conscious of the imperative and urgent need to further consolidate the aspiration of the African peoples for greater unity, solidarity and cohesion in a larger community transcending cultural, ideological, ethnic, religious and national differences;

...

Determined to promote democratic principles and popular participation, to consolidate democratic institutions and culture and to ensure good governance;

Further determined to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;

Conscious of the obligations and legal implications for member states of the need to establish the Pan-African Parliament;

Firmly convinced that the establishment of the Pan-African Parliament will ensure effectively the full participation of the African peoples in the economic development and integration of the continent;

HEREBY AGREED as follows:

...

Article 2: Establishment of the Pan-African Parliament

1. Member states hereby establish a Pan-African Parliament the composition, functions, powers and organisation of which shall be governed by the present Protocol.

2. The Pan-African Parliamentarians shall represent all the peoples of Africa.

3. The ultimate aim of the Pan-African Parliament shall be to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage. However, until such time as the member states decide otherwise by an amendment to this Protocol:

(i) The Pan-African Parliament shall have consultative and advisory powers only; and

(ii) The members of the Pan-African Parliament shall be appointed as provided for in article 4 of this Protocol.

Article 3: Objectives

The objectives of the Pan-African Parliament shall be to:

1. facilitate the effective implementation of the policies and objectives of the OAU/AEC and, ultimately, of the African Union;

2. promote the principles of human rights and democracy in Africa;

3. encourage good governance, transparency and accountability in member states;

4. familiarise the peoples of Africa with the objectives and policies aimed at integrating the African Continent within the framework of the establishment of the African Union;

5. promote peace, security and stability.

Article 4: Composition

1. Member states shall be represented in the Pan-African Parliament by an equal number of Parliamentarians;
2. Each member state shall be represented in the Pan-African Parliament by five (5) members, at least one of whom must be a woman;
3. The representation of each member state must reflect the diversity of political opinions in each National Parliament or other deliberative organ.

...

Article 5: Election, tenure and vacancies

1. The Pan-African Parliamentarians shall be elected or designated by the respective national parliaments or any other deliberative organs of the member states, from among their members.
2. The Assembly shall determine the beginning of the first term of office of the Pan-African Parliament at its session immediately following the entry into force of this Protocol.
3. The term of a member of the Pan-African Parliament shall run concurrently with his or her term in the national parliament or other deliberative organ.
4. The seat of a member of the Pan-African Parliament shall become vacant if he or she:
 - (a) dies;
 - (b) resigns in writing to the President;
 - (c) is unable to perform his or her functions for reasons of physical or mental incapacity;
 - (d) is removed on grounds of misconduct;
 - (e) ceases to be a member of the National Parliament or other deliberative organ;
 - (f) is recalled by the National Parliament or other deliberative organ; or
 - (g) ceases to be a Pan-African Parliamentarian in terms of article 19 of this Protocol.

Article 6: Vote

The Pan-African Parliamentarians shall vote in their personal and independent capacity.

Article 7: Incompatibility

Membership of the Pan-African Parliament shall not be compatible with the exercise of executive or judicial functions in a member state.

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Article 11: Functions and powers

The Pan-African Parliament shall be vested with legislative powers to be defined by the Assembly. However, during the first term of its existence, the Pan-African Parliament shall exercise advisory and consultative powers only. In this regard, it may:

1. examine, discuss or express an opinion on any matter, either on its own initiative or at the request of the Assembly or other policy organs and make any recommendations it may deem fit relating to, inter alia, matters pertaining to respect of human rights, the consolidation of democratic institutions and the culture of democracy, as well as the promotion of good governance and the rule of law;
2. discuss its budget and the budget of the Community and make recommendations thereon prior to its approval by the Assembly;
3. work towards the harmonisation or co-ordination of the laws of member states;

4. make recommendations aimed at contributing to the attainment of the objectives of the OAU/AEC and draw attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them;
 5. request officials of the OAU/AEC to attend its sessions, produce documents or assist in the discharge of its duties;
 6. promote the programmes and objectives of the OAU/AEC, in the constituencies of the member states;
 7. promote the co-ordination and harmonisation of policies, measures, programmes and activities of the Regional Economic Communities and the parliamentary fora of Africa;
 8. adopt its Rules of Procedure, elect its own President and propose to the Council and the Assembly the size and nature of the support staff of the Pan-African Parliament;
 9. perform such other functions as it deems appropriate to achieve the objectives set out in article 3 of this Protocol.
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