

**ACHPR/Res.76(XXXVII)05: RESOLUTION ON THE ESTABLISHMENT OF AN EFFECTIVE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS**

*The African Commission on Human and Peoples' Rights meeting at its 37th Ordinary Session held from the 27th of April to the 11th of May 2005 in Banjul, The Gambia;*

**Noting** that the Protocol on the establishment of an African Court on Human and Peoples' Rights entered into force on 25 January 2004;

**Noting** the Decision of July 2004 of the Assembly of Heads of State and Government of the African Union to merge the African Court on Human and Peoples' Rights with the African Court of Justice of the African Union;

**Considering** that the two Courts have essentially different mandates and litigants;

**Deeply concerned** that the July 2004 AU Assembly decision, and the non-ratification by the majority of Member States of the African Union have a negative impact on the establishment of an effective African Court on Human and Peoples' Rights;

**Noting** that Decision **EX.CL/Dec.165 (VI)** of the Executive Council in January 2005 allows the operationalization of the Court notwithstanding the continuing discussions on the merger;

**Welcoming** the recommendations by the Executive Council of the African Union asking Member States of the AU which have not yet done so to ratify or accede to the Protocol establishing the African Court on Human and Peoples' Rights as soon as possible;

- i. **CALLS ON** the Assembly of Heads of State and Government of the African Union to operationalize the African Court on Human and Peoples' Rights at the earliest through the election of Judges, determination of the seat of the Court and allocation of adequate resources;
- ii. **URGES** the Assembly, when considering determination of the seat of the Court to, accord due consideration to easy accessibility by litigants and delegates, among other criteria, in particular entry visa requirement policies;
- iii. **CALLS ON** Member States, which have not done so, to ratify or accede to the protocol without further delay;
- iv. **CALLS ON** Member States, which have not done so, to make and deposit the declaration under Article 34 (6) of the Protocol, and those yet to ratify or accede to do so upon ratification or accession;
- v. **CALLS ON** Member States to comply with the requirements specified under the African Union Commission Note Verbale to member states on the nomination of

judges, by observing a transparent nomination process and respecting gender parity, among others;

- vi. **CALLS ON** Member States to meet their financial obligation towards the African Union, and in particular to establish the Human Rights Fund and make regular voluntary contributions to the said Fund.