Resolution of the Commission relating to the African Court of Human Rights and Peoples

The above-mentioned Commission met on Tuesday June 15th, 2004 at 4.00 p.m. in the Town Hall of Ouagadougou after its composition had been approved by the plenary session of the meeting of the African Group on June 14, 2004 under the control of the Presidency of the Group.

On opening the meeting, the President of the Commission in the person of Mr Yaya Bawa ABDOULAYE, Secretary-General of the Association of Judges of Togo (APMT), Delegation of Togo, proposed a working plan to the members of the Commission which decided in favour, with an additional proposal on organisation.

The proceedings were directed by the President, assisted by a Vice-President as well as by a Rapporteur.

Finally, it was decided as follows:

Firstly, the Commission expressed its approval of the choice of the subject to be examined, concerning the establishment of the African Court of Human Rights and Peoples, which is a decisive step amid the general drive of many young States towards socio-political stability, which constitutes the prelude to efficient and democratic evolution.

After this, the delegates from each of the participating countries read out their respective reports. A debate ensued in which the following points were considered:

1° Selection of Judges
2° Access to the Court
3° Enforcement of decisions
4° Existence and Role of a Prosecution Office
5° Court Proceedings

Expanding upon these points, the Commission estimated that:

As far as the selection of judges is concerned, the Court should be mainly composed of professional judges who, in addition to their recognised competence, should be specialised in the field of human rights.

Regarding access to the Court, two major aspects deserve special attention: namely, access should be granted unconditionally to any individual citizen of the Member States of the African Union and party to the charter. In addition, there should be a procedure which can overcome the problem of "the exhaustion of appeals before domestic jurisdictions", without overwhelming the Court's offices with inopportune or whimsical requests.

As to the enforcement of the decisions of the Court, it is necessary to seriously consider coercive measures against States which refuse to comply with unfavourable decisions.

A procedural system should be devised for the Prosecution Office, with special regard to methods in following up and investigating crimes, whereby delays and slow progress can be avoided.

Lastly, concerning court proceedings and the statutory position of judges, these should be permanent judges, sitting and domiciled in the place where the jurisdiction is located.

Made in Ouagadougou, June 15th, 2004

The Commission