

Annexure A

Criteria for granting observer status in the African Committee of Experts on the Rights and Welfare of the Child to non-governmental organisations (NGOs) and associations

Introduction

The AU African Committee of Experts on the Rights and Welfare of the Child, in conformity with article 42 of the Charter and articles 34, 37, 81 and 82 of the Rules of Procedure on representation and co-operation with civil society organisations grant observer status to civil society organisations according to the following criteria and principles.

Section I

Principles to be applied in granting observer status in the AU African Committee of Experts on the Rights and Welfare of the Child

- 1 The aim and objectives of NGOs/associations applying for observer status should be in keeping with the spirit, objectives and principles of the Constitutive Act of the African Union and of the African Committee of Experts on the Rights and Welfare of the Child and those enshrined in the Charter.
- 2 The NGOs/associations shall undertake to support the work of the African Union and the Committee, and promote the dissemination of information on its principles and activities, in accordance with the aims and objectives, the nature and areas of competence and activities.
- 3 The NGOs and human rights associations in general for the promotion and protection of the child in particular should have a recognised reputation in their particular areas. When there are several NGOs/associations with similar objectives, interests and viewpoints in a given area, they should be encouraged with a view to obtaining observer status with the Committee to form a coalition.
- 4 The NGOs/associations should:
 - a) be registered in a state party, at least three (3) years after the submission of the request, to undertake without restriction regional and continental activities as African civil society organisations or of the diaspora working in the area of defending, protecting and promoting the rights of children; and
 - b) provide proof of their official recognition as well as their activities during that period.
- 5 The NGOs/associations should have:
 - a) a recognised headquarters and an executive organ;
 - b) democratically adopted statutes, a copy of which shall be deposited with the Chairperson of the Committee of Experts;
 - c) a representative structure and appropriate mechanisms to enable them to report to their members who should exercise effective con-

- trol over their policies, through an appropriate democratic and transparent decision-making process;
- d) an administration comprising a majority of African citizens or Africans from the diaspora as defined by the executive council and an elected children's representative. These conditions shall be applicable to international non governmental organisations.
- 6 The NGOs/associations shall be required to provide all the details concerning their different sources of financing. In case of voluntary contributions from external sources, the amounts and names of donors should be accurately indicated in the application for observer status. Any support, financial or other contributions, granted directly or indirectly by a government to the NGO/association, should be duly declared and recorded in its financial statements.
 - 7 Any NGO/association that practises discrimination on the basis of specific criteria such as gender, colour, religion, ethnic group, tribe or race, or practises any other activity involving children that could be described as the worst forms of work and other abuses cannot enjoy observer status.

Section II

Application procedure for non-governmental organisations

- 1 Any NGO/association wishing to obtain observer status should submit:
 - a) a written application addressed to the Committee, stating its intention, at least three (3) months before the session of the Committee to consider the application in question;
 - b) its statute or charter; an updated list of its members; its sources of financing together with copies of its most recent statements; and a memorandum of its activities.
- 2 The memorandum of activities should contain a presentation of the past and present activities of the NGO/association; its links, including any links outside Africa and any other information which will help to define its identity, and above all, its area of activity.
- 3 The submission of documents shall be in two (English and French) of the official languages of the African Union and in sufficient number of copies to allow their distribution to Committee members.
- 4 If it is a non-governmental organisation of the diaspora, it should also submit all the information and the names of at least two (2) AU member states or civil society organisations recognised by the Union that are well acquainted with the organisation and are willing to certify its authenticity.

Section III

Procedure for consideration of applications by the Committee

- 1 The Committee shall, during its ordinary sessions, in conformity with the agenda prepared, consider the applications received within the set deadline.
- 2 The Committee shall, on the basis of defined criteria and principles, decide on the applications considered during its session and inform, through the Chairperson of the Committee, the organisations and associations of the decisions of the Committee, without delay.

Section IV

Participation of observers in the deliberations of the Committee

The representatives of NGOs/associations enjoying observer status may:

- 1 be invited to be present at all the opening and closing ceremonies;
- 2 participate in meetings of the Committee in conformity with the conditions provided for in this section.
- 3 have access to documents of the Committee provided these documents:
 - a) are not confidential;
 - b) deal with issues concerning the observers.
- 4 The documents of the Committee shall be distributed in accordance with the documents classification system adopted by the Committee;
- 5 be invited to attend closed sessions to consider issues which concern them;
- 6 participate, without voting rights, in the deliberations of meetings to which they are invited, with the authorisation of the Chairperson.
- 7 Observers may be authorised by the Chairperson to make a statement on issues concerning them, provided that the text of the statement is communicated in advance to the Chairperson.
- 8 The Chairperson of the meeting may give the floor to observers to enable them to reply to questions they may be asked by members.
- 9 Observers may request the inclusion of issues of particular interest to them on the agenda of the meeting.

Section V

Relations between the Committee and observers

- 1 The NGOs/associations enjoying observer status undertake to establish close co-operation relations with the Committee and hold regular consultations with the latter on all issues of common interest.
- 2 All NGOs/associations enjoying observer status with the Committee should submit analytic reports on their activities every two years (2) years. These reports should indicate:
 - a) their financial situation and viability;
 - b) their activities during the period considered, particularly concerning the support they provided for the implementation of the African Charter on the Rights and Welfare of the Child;
 - c) their officers and their dates of election, and indicate if the elections were held in conformity with the statute of the organisation.
- 3 The Chairperson of the Committee may authorise any NGO/association enjoying observer status, which has legally changed its name or legally succeeded an organisation which enjoyed observer status, to continue to enjoy the said status under its new name.
- 4 The Committee may suspend or withdraw the observer status, if it appears that an NGO/association enjoying this status has ceased to meet the exigencies of these criteria, namely: be in regular situation or function appropriately, or it loses its representational character or independence.
- 5 Granting, suspension or withdrawal of observer status of an NGO/association is the prerogative of the Committee and may not be the subject of a judgement of a court or tribunal.

Section VI

Final provisions

- 1 Granting of observer status to an NGO/association does not incur any obligation on the part of the Committee to allocate a subsidy or any material assistance whatsoever to this NGO/association.
- 2 Observers shall bear the expenses for their transport and stay at the venue of the conference.

Annexure B

Guidelines on the conduct of investigations by the African Committee of Experts on the Rights and Welfare of the Child under article 45 of the African Charter and article 74 of the Rules of Procedure

Introduction

The African Committee of Experts on the Rights and Welfare of the Child is established under article 32 of the African Charter on the Rights and Welfare of the Child. Its mandate is to, *inter-alia*, promote and protect the rights of children as enshrined in the Charter; collect and document information; commission interdisciplinary assessment of situations on African problems in the area of the rights and welfare of the child; formulate and lay down principles and rules aimed at protecting the rights of the child; and above all monitor the implementation and ensure protection of the rights enshrined in the Charter and to supervise their observance.

Article 44(1) provides that '[t]he Committee may receive communication from any person group or non-governmental organisation recognised by the Organisation of African Unity, by a member state or the United Nations relating to any matter covered by this Charter'.

Further, article 45(i) of the African Charter provides that '[t]he Committee may resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the state parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures a state party has adopted to implement the Charter'.

It would thus appear that, on the basis of the ratification of the African Charter on the Child and without the need for a complementary acceptance of competence, the Committee of Experts is empowered to investigate any issue arising from the Charter, including alleged or observed violations of the rights and welfare of the child that could or could not have been submitted to it.

The Charter on the Child does not clearly or adequately stipulate the procedures for communication and investigation. Therefore, these guidelines have been drafted to provide regulations that will enable the Committee of Experts to conduct investigations within the framework of the Charter.