

## OPEN LETTER TO THE AU ASSEMBLY OF HEADS OF STATE AND GOVERNMENT ON DEVELOPMENTS AT THE PAN-AFRICAN PARLIAMENT AND THE WAY FORWARD

Tuesday, 13 February 2024

Your Excellencies,

1. We, a coalition of national and regional civil society organisations (CSOs) and the Pan-African Parliament Civil Society Forum (PAP CSO Forum) working closely with the Pan-African Parliament (PAP), extend greetings to the Assembly of Heads of States and Government (Assembly) on the event of the 37<sup>th</sup> Heads of State and Government Summit. We seek your audience because of the ongoing leadership crisis at the PAP. We want to bring to your attention the critical issues regarding financial transparency and accountability of the resources at the PAP, the persistent interference of the AU in the affairs of the PAP, and the general instability at the PAP.
2. As defenders of democracy, good governance, human rights, rule of law, transparency and accountability of democratic institutions on the African continent under the tenets of Open Parliaments, we are concerned about past, and current developments at the PAP. These include disruptive efforts by some past and present members of the Bureau, particularly at the level of the Presidency, whose position has been repurposed by its various occupants, starting from Hon. Roger Nkodo Dang – Cameroon (2015-2022); Hon. Chief Fortune Charumbira – Zimbabwe (2022-2023); and the current acting President of PAP, Hon. Dr Ashebiri Gayo – Ethiopia, to consolidate power in the position of the president to the detriment of the PAP. During the tenure of the past three presidents, the PAP was riddled with scandals, reports of corruption, and abuse of office and resources. Although investigations have been mounted on each occasion, no punitive measures have ever been taken.
3. The PAP was established to nurture and encourage popular dialogue and effective participation of the African citizenry, with their (indirectly) elected leaders, on how they wish to be governed as a continental collective. This is aptly captured under Article 17(1) of the Constitutive Act of the AU which explicitly states that the Pan-African Parliament exist *“in order to ensure the full participation of African peoples in the development and economic integration of the continent.”*
4. Regrettably, the ongoing developments at the PAP and the unsettled leadership impasse are denying ordinary Africans across the Continent the opportunity to be active participants in discussions and decision-making on the problems and challenges they are facing. The fact that the PAP has not met since May 2023 has further exacerbated the leadership turmoil.

### APPROPRIATE RESOURCING OF PAP AND ENSURING FINANCIAL TRANSPARENCY AND ACCOUNTABILITY

5. Your Excellencies, the failure of the PAP to convene ordinary sittings has been attributed to financial constraints. We recall that the Executive Council of the AU, at its 41<sup>st</sup> Ordinary Session held in Lusaka, Zambia, in June 2022, acknowledged the glaring inadequacy of the PAP budgets for 2022 and 2023 and called for the PAP to be adequately resourced to enable the institution to fulfil its mandate. However, this decision has not been implemented. Your Excellencies, further to this, the Executive Council at the 42<sup>nd</sup> Ordinary

Session on 15 and 16 February 2023 at Addis Ababa, Ethiopia, (EX.CL/Dec.1189-1216(XLII) EX.CL/Decl.1(XLII) Original: English/French), requested the Permanent Representative Committee (PRC), through the relevant Sub-Committee, to reconsider the 2023 budget of the PAP in order to enable the Parliament to meet its institutional and operational needs and to effectively fulfil its mandate. It further requested the PRC and the AU Commission to consider the recommendation with financial, legal and structural implications and to report on progress on the implementation of this Decision at the next Session of the Executive Council in July 2023 at Nairobi, Kenya.

6. In July 2023, the PAP wrote to the African Union Commission (AUC) Chairperson to apprise him that the 2023 PAP budget, which was developed between December 2021 and March 2022 in compliance with the AU budget cycle, under the assumption that most of the activities of the Parliament would be held virtually owing to the restrictions imposed on physical meetings by the COVID-19 pandemic as well as the suspension of the Parliament, was wholly inadequate.
7. In 2022, out of a Supplementary Budget request of USD 1.7 million, the PAP was allocated USD 664,645. It is instructive to note that the 2022 budget was inadequate and needed to be augmented through a Supplementary Budget despite the fact that the PAP had only resumed full operations on 29 June 2022. This was barely six months before the end of the year. It is only logical, therefore, that the PAP would require more resources for 2023 as it would have been fully operational for an entire year. However, instead of getting a better resource envelope, the approved budget for 2023 was USD 11,925,224, which is a slight decrease on the 2022 initial budget of USD 11,992,597 and a decrease of 6% on the final budget for 2022 of USD 12,657,242.
8. The decreased budget resulted in the unprecedented cancellation of the statutory August Committee Meeting of the Parliament and the Second Ordinary Session slated for October 2023 in Uganda, a situation that has never happened since its inaugural session in March 2004. The Chairperson of the Committee on Monetary and Financial Affairs, Hon. Mubarak Muntaka, reporting in plenary in May 2023, revealed that the situation was likely to be even worse in 2024 if no urgent action was taken.
9. The strength of any parliament lies in the effectiveness of its committees. And, therefore, it stands to believe that the inability of PAP to convene committees to fully discharge their work due to these financial constraints is a reflection of the performance of the institution itself.

## **AFRICAN UNION COMMISSION INTERFERENCE IN THE INTERNAL AFFAIRS OF THE PAP**

10. Your Excellencies, in 2022, the PAP proposed to amend its Rules of Procedure to enable the institution to better fulfil its mandate, address historical challenges with respect to geographical rotation of leadership, and avoid institutional instability and uncertainty arising from national parliamentary transitions. The PAP was praised by the PRC and the AU Executive Council for the progress made after the adoption of these new Rules. However, the amended rules of procedure have been set aside.
11. On 5 October 2023, an interoffice memorandum from the AUC Chairperson with the Subject: *"Suspension of the Rules of Procedures of the Pan African Parliament revised on 4 November 2022"*, led to confusion and a series of unprocedural actions at the PAP.
12. The AUC memo states: *"The legal opinion reveals clear incompatibilities of the various provisions of the Revised Rules with the Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament (PAP Protocol). In my capacity as the Legal Representative of the Union and depositary of the legal instruments*

*of the Organization, I hereby inform you of the suspension of the PAP Rules of Procedure revised on 4 November 2022 due to the fact that its provisions are contrary to the Protocol”.*

13. Your Excellencies, as evidenced by the above, the memo did not specify the specific provisions of the revised Rules that were incompatible with the PAP Protocol. And more seriously, we are of the view that the AUC Chairperson does not have the authority to withdraw the Rules.
14. Article 26 of the Constitutive Act of the African Union on Interpretation states: *“The Court shall be seized with matters of interpretation arising from the application or implementation of this Act. Pending its establishment, such matters shall be submitted to the Assembly of the Union, which shall decide by two-thirds majority”*. Since this Court – the AU Court of Justice – has not yet been established, it is the Assembly that has the mandate to provide interpretation with such matters.
15. Article 17(2) of the Constitutive Act of the African Union states: *“The composition, powers, functions and organization of the Pan-African Parliament shall be defined in a Protocol relating thereto”*.
16. Article 11 of the PAP Protocol provides: *“The Parliament may adopt and amend its own Rules of Procedure including the procedures for giving effect to its mandate under Article 8 of this Protocol, by a two-thirds majority of all its members. In developing its Rules of Procedure, the Parliament shall ensure consistency of these Rules with AU rules and regulations.”*
17. Your Excellencies, nowhere in the Constitutive Act or the PAP Protocol is the AUC Chairperson mandated or authorised to interpret the AU Constitutive Act, or to interfere in the internal affairs of the PAP. The role of the AUC Chairperson should have been limited to transmitting any petition he had received to the PRC to be tabled before the Assembly.
18. We are, therefore, of the opinion that the PAP is equipped and well-placed to handle any issue with regard to its Rules of Procedure, and wish to remind all stakeholders of the provisions in Rule 93 of the Rules of Procedure of the Pan-African Parliament that provides the mechanism to use to amend the Rules of Procedure. Rule 93 states the following: *“(1) Any Member may propose amendments to these Rules including the appendices by forwarding such proposal to the Bureau, which shall consider and refer it to the Permanent Committee on Rules, Privileges and Discipline, for report to Parliament. (2) Amendments to these Rules shall be adopted only if they secure the votes of a two-thirds majority of all the Members. (3) Unless otherwise specified, when the vote is taken, amendments to these Rules and the appendices shall enter into force on the first day of the Session following their adoption.”*

The aftermath of the action by the AUC Chairperson has resulted in chaos at the PAP.

## **INSTABILITY AND DEFICIENCY OF DECORUM AT THE PAP**

19. Your Excellencies, in recent times, there has been a litany of unlawful administrative decisions led by the political leadership of the Institution. For instance, the Second Vice President of the Parliament suspended the newly appointed Clerk, Mrs Lindiwe Khumalo, based on his criticism of the African Union recruitment process that led to the appointment.
20. The suspension is consequential because the PAP did not have a Clerk for over a year, thereby creating a gap in leadership and management of corporate services, finances, and general administration necessary to ensure the smooth running of the Institution’s internal day-to-day operations.

21. An open letter by the staff of the PAP on 9 January 2024, titled “[Call for African Union action to rescue the Pan-African Parliament from the abuse of power and dictatorship of Dr. Ashebir W. Gayo](#)”, which came to our attention, enumerated numerous infractions alleged to have been perpetrated by the Second Vice President. These infractions include abuse of power, intimidation, harassment, bullying, illegal appointments, and violation of AU Staff Rules and Regulations. These allegations fundamentally undermine the role and purpose of the PAP.

## RECOMMENDATIONS

22. Your Excellencies, based on the foregoing, we recommend the following, for your immediate action, to restore the dignity and functionality of the PAP:

- a) The AU should ensure that the PAP is adequately and appropriately resourced in terms of financial and human to discharge its mandate. This ought to include the deployment of competent personnel to safeguard against maladministration and corruption and ensure transparency and accountability in the use of its financial resources.
- b) The PAP Protocol should be respected by all stakeholders to forestall any future interference in the affairs of the Parliament.
- c) The AU Executive Council should guide the PAP in the process of establishing a distinct separation of powers between the political leadership and the administrative staff. The administrative management should be empowered to discharge their mandate without political interference.
- d) The AU should rescind the decision of the AUC Chairperson to set aside the revised Rules of Procedure of the Parliament, and instruct the PAP to use its internal mechanism to address inconsistencies in the revised Rules, if any.
- e) The AUC Chairperson should reinstate the Clerk of the PAP immediately, unless there are credible reasons brought forward by the Plenary of the PAP to the alternative.
- f) All the unlawful decisions taken by the Second Vice President and/or the non-quorate Bureau at the PAP, should be nullified.
- g) The AU should ensure effective coordination and consistency in its response to and communication on the issues that affect the institution and its work.

23. We understand that matters relating to the PAP are on the agenda of the Summit. We are pleased that the organ is being discussed at this level, especially given the recent and ongoing developments in the PAP hierarchy. We hope that the Assembly will prioritise a swift, effective, and permeant solution to the myriad of challenges that PAP is bedevilled with. It is in line with this prayer, that we wish to officially state our concerns with regards to the PAP.

**Signed:**



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Acting Director, Centre for Human Rights



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**Ms. Bonolo Makgale,**  
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**Sammy Obeng**  
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**Cc:**

- The AU Assembly
- The Executive Committee
- Heads of State
- The African Union Commission
- The Pan-African Parliament
- The Permanent Representative Committee
- Foreign Ministers and Ambassadors
- ECOSSOC

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**Signed:**

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- Mzalendo Trust, Kenya
- Ghana Center for Democratic Development (CDD-Ghana)
- Parliamentary Monitoring Group (PMG), South Africa
- Southern African Council of Non-Governmental Organizations (SAf-CNGO), Botswana
- Southern Africa Human Rights Defenders Network
- Centre for Policy Analysis (CEPA), Uganda
- African initiative of Women Rights Defenders, South Africa
- Democracy Development Program, South Africa
- Jeggan Grey-Johnson (Concerned Citizen)
- ONG IMANI Niger
- Assistance Plus Togo
- CNSC Togo
- Crisis in Zimbabwe Coalition, South Africa
- Fasopic, Burkina Faso
- BudgIT Ghana
- Africa Education Watch, Ghana
- Centre for Democracy and Human Rights (CDD), Mozambique
- Bloggers of Zambia
- Agence Société Civile Medias, Togo
- Réseau Nigérien Anti-Corruption, Niger
- NIGER CITIZEN LAB, Niger
- JVE, Niger
- Agir pour Etre-Niger
- Norsaac, Ghana
- Youth Network for Positive Change – YOUNETPO, Liberia
- Galif Coordinators, Ghana