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## Towards a People-Driven African Union

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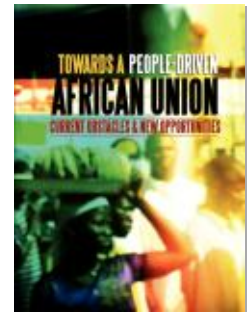
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# 10. UPDATE: JANUARY–NOVEMBER 2007

## Introduction

The main focus of the African Union (AU) in 2007 related to institutional reform and the creation of the Union Government. There was much activity in expediting the elections process for the General Assembly of ECOSOCC and making the African Court on Human and Peoples' Rights functional. This section provides new information on these issues since the publication of the report in January 2007, up to early November 2007.

## The creation of the Union Government

At the Addis summit in January 2007, the Assembly of Heads of State and Government decided that there would be one central theme and agenda item at the Accra summit in July, a 'Grand debate on the Union Government'.<sup>267</sup> This decision was based on a report prepared by a committee of seven heads of state on African political and economic integration<sup>268</sup> and presented to the July 2006 Banjul summit.<sup>269</sup>

Although the decision called on member states to carry out consultations at national level, in a majority of countries this did not happen. In several countries where there were public meetings to discuss the proposals, including Ethiopia, Ghana, Kenya, Nigeria, Senegal and South Africa,<sup>270</sup> civil society organisations took the initiative to organise these meetings and government officials were invited to participate. In some other countries, ministers did brief parliament, but there was no wider consultation.

In some sub-regions, notably the SADC, governments met to develop a common position on the Union Government.<sup>271</sup> The decision taken by heads of government stated that there should be an assessment of the AU Commission and the RECs and the extent to which the 1991 Abuja Treaty on the Establishment of an African Economic Community has been implemented. The decision further stated that a timetable should be set to achieve the Union Government. In addition, the decision insisted on the need for adherence to the principle of 'subsidiarity', i.e. that member states of the AU are independent, sovereign states belonging to RECs. Civil society did not participate at this session, and there were no formal consultations with civil society groups.

Ahead of the Accra summit, members of the Permanent Representative Committee and Executive Council met in May for a retreat, culminating in an extraordinary session of the ministers of foreign affairs, in Durban, South Africa, where the Union Government and strengthening the AU Commission were discussed.<sup>272</sup> Consensus was not reached by state delegations on the Union Government.

The Assembly of Heads of State and Government discussed the Union Government at the Accra summit from 1–3 July. There were two prevailing views. A group largely led by Senegal and Libya were of the view that the

AU was ready to advance to the Union Government, and, as proposed in the report presented to the Banjul summit, should immediately strengthen the Commission with limited executive powers, expand the Executive Council of Ministers to include sectoral line ministers, and create national commissions for AU Affairs. Other states, led by Botswana and Uganda, proposed that an audit of the AU should be conducted first and an assessment should be made on readiness to advance to the Union Government. In particular, concerns were raised over the challenges facing the AU Commission – the implementing agent of the AU – in achieving this goal. The fact that some of the AU institutions provided for in the Constitutive Act were not in place, including the specialised technical committees and the financial institutions, required investigation.

On the margins of the Accra summit debates were parallel civil society discussions on the Union Government, notably the Roundtable on the Union Government, during the AU/CSO Forum organised by CIDO (20 June); the Continental Civil Society Conference on the African Union Government (22–23 June); the meeting of the Solidarity for African Women's Rights on the Protocol to the African Charter on the Rights of Women in Africa and the Union Government debate (26 June); and the week-long Pan African Youth Leadership Forum organised by Friends of Africa International (18–25 June). Other meetings included workshops with west African media and youth on Economic Partnerships Agreements; and three solidarity events with the peoples of Zimbabwe, Darfur-Sudan and Ethiopia.

Following a heated debate, the Assembly agreed in the form of a declaration to review the state of affairs of the AU with a view to determining its readiness towards a Union Government. In particular, the Assembly agreed (in summary) to:

- Accelerate the economic and political integration of the African continent, including the formation of a Union Government of Africa where the ultimate objective of the African Union is to create a United States of Africa;
- Conduct an audit of the institutions and organs of the AU;
- Review the relationship between the AU and the RECs;
- Find ways to strengthen the AU and elaborate a timeframe to establish a Union Government.<sup>273</sup>

The declaration lastly notes the 'importance of involving the African peoples, including Africans in the Diaspora, in the processes leading to the formation of the Union Government.'

Following this decision, a panel of eminent persons<sup>274</sup> was set up to conduct the 'audit review'. The review team began its work on 1 September. In the second week of October, civil society was invited to submit comments to the panel by 26 October, with an opportunity to make presentations before it on 24 October. Fahamu/AU Monitor, RADDHO, Equality Now/Solidarity for African Women's Rights and AFROFLAG-Ethiopia presented a submission on behalf of 20 organisations. The final text of the review was, according to the terms of reference, to be presented to the Assembly of Heads of State and Government at the January 2008 summit in Addis Ababa.

The terms of reference of the audit review panel include the following:

- Review the current state of affairs, with an in-depth analysis of the dynamics underlining the current situation and provide a factual description and assessment of the state of the Union, particularly as it relates to Africa's quest for economic and political integration taking into account the core values outlined in the Constitutive Act of the African Union;
- Review existing Union decisions and agreements with a view to identifying the challenges and constraints facing Member States with respect to the implementation of agreed decisions and agreements;
- Make an assessment of the degree and conditions of the involvement of civil society and the African population in the process of continental economic and political integration.<sup>275</sup>

Conducting a review of the African Union, its various organs and the regional economic communities, in four months is a rushed process, which limits the possibility for consultation on the proposals. Civil society received only ten days notice to make their submissions. The panel's call for citizens and civil society submissions was posted on the AU website and subsequently distributed via the AU Monitor website and email list (a civil society initiative), ten days before the due date.

## The election of commissioners

The four-year terms of the eight commissioners and the chair and deputy chair of the AU Commission came to an end in August 2006. However, the Executive Council decided at the Banjul summit that the method of election of the commissioners be reviewed and the elections be moved to July.<sup>276</sup>

The events leading up to Accra summit and debates over the Union Government and role of the AU Commission postponed the election of commissioners yet again. The retreat for foreign ministers and extraordinary session of the Executive Council of the AU in South Africa from 8–10 May decided to postpone the election of commissioners to 2008.<sup>277</sup> At the Accra summit, the Assembly of Heads of State and Government confirmed that the election of the chairperson and deputy chairperson of the AU Commission would take place in January 2008.<sup>278</sup> The closing date for submission of nominations was changed to 30 October.

Despite the clear framework established in the statutes of the African Union Commission adopted at the Durban summit of the AU in 2002,<sup>279</sup> there have been divisions among member states on the role of the AU Commission in the work of the AU both currently and in future. In some quarters, it is argued that the AU Commission should be a simple implementing agent for decisions of the Assembly and Executive Council. Others believe that in addition to implementation, there should be space to develop policies that will advance integration. As such, the role of the person charged with leading the institution becomes important. Some advocate for a high-profile leader at the level of a former president who will be able to engage with leaders in order to move an ambitious AU agenda forward. Others believe that the AU requires a technocrat who will focus more on implementation of policy. Furthermore, member states are yet to reach consensus on the region the next chairperson of the AU Commission should come from. A further contentious issue is whether the chairperson of the AU Commission should appoint the commissioners – a departure from the current practice where all commissioners are individually elected by the member states.

## Developments on the Economic, Social and Cultural Council (ECOSOCC)

Following a meeting of the Interim Standing Committee of ECOSOCC in Cairo in February 2007, processes to expedite the elections process of the ECOSOCC General Assembly began. Included in the mandate of the Standing Committee was the need to raise awareness on the elections process and to ensure the elections took place between June and December 2007.<sup>280</sup>

A Credentials Committee, established under the ECOSOCC Statutes and comprising civil society representatives from Africa's regions,<sup>281</sup> was responsible for reviewing the list of nominations for membership of the General Assembly to ensure it complied with the criteria set out in the ECOSOCC Statutes. The Interim Standing Committee was to consider appeals arising from the nominations and elections process. Qualified CSOs could submit nominations to participate as candidates for election to the General Assembly or to serve on the Electoral College which would oversee the elections.

The Credentials Committee met in Accra from 17–20 June to review the list of nominations submitted and also report to the AU/CSO pre-summit forum from 19–21 June on progress made in finalising the

nominations list.<sup>282</sup> The chairperson of the Credentials Committee reported that of the applications received, the pool did not represent all member states. No nominations were received from 33 countries, and as a result the deadline was extended to 15 August.<sup>283</sup>

Ultimately, 218 applications were received from 35 states.<sup>284</sup> No nominations were received from 18 states. From these nominations, as decided by the Interim Standing Committee, the Electoral College consisted of those civil society organisations that did not qualify under the Statutes of ECOSOCC.<sup>285</sup> The elections were scheduled to take place at continental, regional and national level from September to December 2007. The Electoral College and a competent national authority, which the Interim Standing Committee identified as national bodies that register CSOs with the support of the foreign ministry, managed the elections. The monitoring of the elections was done by a designated member of the Interim Standing Committee, a representative of the AU Commission or ECOSOCC secretariat, and a member of the Interim General Assembly. This structure was to be replicated at regional and continental level. The continental elections took place in Addis Ababa on 31 October and eight organisations were chosen as ECOSOCC members.<sup>286</sup>

The elections process has been heavily criticised for lack of transparency by members of the Interim Standing Committee themselves: in particular, it is charged that the process of choosing the Credentials Committee was not clear and in itself problematic; that insufficient efforts were made to popularise the process at national level; and that CIDO exercised too much control over the process, acting as gate-keeper rather than facilitator.<sup>287</sup> It is also clear that the eligibility criteria for ECOSOCC, particularly the requirement that CSOs should have at least 50 per cent of their budgets drawn from within Africa, locks out over 80 per cent of the NGOs that have been working on the African Union.<sup>288</sup> It was significant that many organisations within the Interim General Assembly were considered ineligible from standing for leadership positions at the continental level. In many countries there was no publicity about the elections and it was not clear if in fact elections had taken place as planned, even to organisations that had been involved in ECOSOCC discussions from the beginning. These criticisms reflect widespread concern from the outset at the role played by CIDO in acting as a secretariat for ECOSOCC as well as a focal point for civil society within the AU Commission.

### **Civil society participation at the Accra summit**

The accreditation process for civil society organisations at the Accra summit in July 2007 was once again not clear. Only five CSOs were accredited through the Commission. A larger number of civil society representatives gained access to the summit following protracted shuttling between the Ghana foreign ministry and Commission's Protocol Division and the offices responsible for issuing cards to ascertain whether they had received accreditation. By contrast, media professionals appeared to have a less cumbersome experience. As a result some members of civil society were unable to attend the open sessions of the summit.