


<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
الاتحاد الأفريقي		<b>UNIÃO AFRICANA</b>
<b>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</b> <b>COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</b> P.O Box 6274 Arusha, Tanzania- Telephone: +255 732 979506/9; Fax. +255 732 979503		

**Summary: Request for Advisory Opinion No. 002/2015 by the  
Centre for Human Rights (CHR) University of Pretoria, and the  
Coalition of African Lesbians (CAL)**

**I. FACT AT THE ORIGIN OF THE APPLICATION**

1. In January 2015, in its Decision on the 37th Activity Report of the African Commission on Human and Peoples' Rights, commonly known as the "Banjul Commission", the Executive Council of the African Union requested the latter to delete from its Activity Report, passages concerning two decisions against the State of Rwanda and to give the latter the opportunity to air its views in a Public Hearing on the two cases.
2. In July 2015, in its Decision on the 38th Activity Report of the Banjul Commission, the Executive Council requested the Commission to take into account the fundamental African values, identity and good traditions and to withdraw the observer status granted to NGOs who may attempt to impose values contrary to African values. In this regard, it requested the Commission to review its criteria for granting Observer Status to NGOs and to withdraw the observer status granted to the Coalition of African lesbians, in line with those African values the said African values.
3. Council recommended that the Assembly "should authorize the publication

of the 38th Activity Report only after its update and due incorporation of the proposals made by Member States and agreed upon, within that report, as reflected in its conclusions”,

4. Council further requested the Commission to “observe the , due process of law in making decisions on complaints received, consider reviewing its rules of procedure , in particular, provisions in relation to provisional measures and letters of urgent appeals, in consistence with the African Charter on Human and Peoples’ Rights and to take the measures to avoid interference by NGOs and other parties in its activities” <sup>1</sup>

## **II. SUBJECT OF THE APPLICATION**

5. Both organizations are seeking the opinion of the Court on how the term “considered ” in Article 59 (3) of the African Charter on Human and Peoples’ Rights should be interpreted. More precisely, the question on hand is whether, in the afore-cited decision taken in 2015, the Executive Council has not exceeded the reasonable limits of its power to “consider” the Activity Report of the Commission.
6. According to the Applicants, it is a source of concern that the interference in the decisions contained in the aforementioned Activity Reports does not seem to take into consideration the Commission’s autonomy in the interpretation of the African Charter, and apparently compromises the Commission’s independence as recognized in the Charter and in Executive Council resolutions.

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<sup>1</sup> Doc.EX.CL/921(XXVII), EX.CL/Dec.887(XXVII)