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المحكمة الأفريقية لحقوق الإنسان والشعوب

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE
DES DROITS DE L'HOMME ET DES PEUPLES TRIBUNAL AFRICAINO
DOS DIREITOS HUMANOS E DOS POVOS

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Legal Aid Policy From 2016
Original: English

LEGAL AID POLICY
FOR
THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
FROM 2016

A. Legal Bases for promulgation of the Legal Aid Policy

Article 10 (2) of the Protocol to The African Charter On Human And Peoples' Rights On The Establishment of an African Court On Human And Peoples' Rights provides that:

'Any party to a case shall be entitled to be represented by a legal representative of the party's choice. Free legal representation may be provided where the interests of justice so require.'

Rule 31 of the Rules of Court also provide for instances when legal assistance will be provided. It states that:

'Pursuant to article 10 (2) of the Protocol, the Court may, in the interest of justice and within the limits of the financial resources available, decide to provide free legal representation and/or legal assistance to any party.'

It is in this regard therefore that the Court has promulgated a legal aid policy in respect of the Court's legal aid scheme.

B. Policy guidelines for implementation of the scheme

1. Entities eligible to receiving legal aid

Only individuals and groups of individuals acting singly or jointly can qualify for legal assistance.

2. Criteria for determining eligibility for qualification for legal aid

- a) Indigence
- b) Equality of arms
- c) 'In the interest of justice'

The Applicant who wishes to access the' Legal Assistance Fund shall so inform the Court in the brief containing pleadings, motions, and evidence. He/she must indicate, by means of a sworn affidavit and other probative evidence that will satisfy the Court, that he/she lacks the economic resources necessary to cover the cost of litigation before the African Court, and state precisely the aspects of his/her participation in proceedings that require use of the resources of the' Legal Assistance Fund'.

3. Categories of expenses that will be supported

- a) Travel expenses
- b) Legal representation
- c) Witness expenses including expert witnesses
- d) Daily Subsistence Allowance (DSA)

These categories may be reviewed.

4. The scale of fees to be applied in paying counsel under the scheme will be in lump sum as follows:

- a) Preparing and filing of the application United States Dollars (USD) 2500-3000 (based on 30 hours of work)
- b) Reply to the Respondent's Response – USD 1250 (based on 15 hours of work)
- c) Additional pleadings filed with leave of the Court – no payment
- d) Additional information requested by the Court – no payment
- e) Public hearing, if any – USD 5000 (based on 15 hours of time spent in Court and additional work following the hearings)
- f) Delivery of judgment – USD 1000
- g) Review or interpretation of judgment –this will be discretionary

The scheme will cover travel expenses for one lawyer and DSA applicable under the AU Rules and Regulations. Travel by air shall be on economy class. The total amount for travel expenses and DSA for those travelling from East and Southern Africa should not exceed USD 3200 and for those travelling from Central, North and West Africa should not exceed USD 4200.

5. The stage of proceedings in an application for which legal aid can be provided

Legal aid may be provided once an application is filed. An Applicant can make a request for legal aid at the same time he or she files the Application or any time thereafter, by filling out the Application for Legal Aid Form.

6. Management of the scheme

The scheme shall be managed by the Registrar under supervision of the President.

- a) The Registry will run the scheme based on a List of Counsel drawn from legal professionals who are nationals of African Union Member States and entitled to practice in any African Union Member State or before international tribunals, and with professional experience of not less than 5 years.

- b) There will be a call for applications for those wishing to be registered on the Court's List of Counsel, which will be published on the Court's website and disseminated to regional and national bar associations, academic institutions and other relevant legal and human rights networks.
- c) The Court reserves the right to register and deregister Counsel on its list.
- d) The list will be reviewed on a regular basis.

7. Oversight of the scheme

The Registrar shall send monthly reports on the scheme to the President and quarterly reports thereon to the Court.

8. Funding of the scheme

The scheme will be funded through AU Member States' assessed contributions. Voluntary contributions from AU Member States and cooperating partners' voluntary contributions made to the scheme will be managed through a Trust Fund.

9. The Court may issue directives and regulations on the legal aid scheme as necessary.

10. The forms required to facilitate and regulate applications, and that are annexed to this policy include:

- a) Application for legal aid form
- b) Declaration of means form
- c) Application for legal representation form
- d) Reimbursement forms
- e) Statement of fees and/or expenses claims forms
- f) Confidentiality forms