

IN THE SECOND SESSION OF THE SEVENTH PARLIAMENT  
OF THE FOURTH REPUBLIC OF GHANA

REPORT OF THE COMMITTEE  
ON FOREIGN AFFAIRS

ON THE

**RATIFICATION OF THE PROTOCOL TO THE  
CONSTITUTIVE ACT OF THE AFRICAN UNION  
RELATING TO THE PAN-AFRICAN  
PARLIAMENT**

MARCH 2018



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**1.0 INTRODUCTION**

The Protocol on the Ratification of the Protocol to the Constitutive Act of the African Union Relating to the Pan-African Parliament was laid in Parliament on 23<sup>rd</sup> January 2018 in accordance with Article 75(2) of the Constitution. The Rt. Hon. Speaker referred the Protocol to the Committee on Foreign Affairs for consideration and report in accordance with Order 183 of the Standing Orders of the House.

**2.0 DELIBERATIONS**

The Committee met and deliberated on the Protocol with the Deputy Minister and Officials of the Legal Bureau of the Ministry of Foreign Affairs and Regional Integration. The Committee is grateful to the Deputy Minister and Officials for attending upon it.

**3.0 REFERENCE**

The Committee referred to the following documents at its deliberations

- I. The 1992 Constitution of the Republic of Ghana;
- II. The Standing Orders of the Parliament of Ghana; and
- III. The Constitutive Act of the African Union Relating to the Pan-African Parliament

**4.0 BACKGROUND**

The Pan African Parliament (PAP) was established pursuant to Article 17 of the Constitutive Act of the African Union (AU) as an organ in the Treaty establishing the African Economic Community. The Composition, Powers, Functions and Organization of the PAP are defined in the Protocol to the Treaty Establishing the African Economic Community relating to the Pan African Parliament.

The establishment of the PAP was informed by a vision to provide a common platform for African people and their grass-roots organisations to be more involved in discussions and decision-making on problems and challenges facing the Continent.

The Protocol entered into force on 14<sup>th</sup> December, 2003 and the PAP was inaugurated on 18<sup>th</sup> March, 2004 in Addis Ababa, Ethiopia. Under the current Protocol, the functions of the PAP are limited to consultative and advisory powers only, with the “ultimate aim to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage”.

The PAP forms part of the African Governance Architecture, which is the continental institutional framework, aimed at enhancing interactions and synergies between African Union organs and institutions with a formal mandate in governance and consolidating democracy in Africa.

As part of its core objective, the PAP together with the African Commission on Human and People's Rights, the African Court on Human and Peoples' Rights and the Department of Political Affairs of the African Union Commission, have been involved in promoting the ratification of the African Charter on Democracy, Elections and Governance and several other AU instruments.

Article 25 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament provides for a review, after five years of establishment and at further intervals of ten years, of the operation and effectiveness of the Protocol to ensure that its objectives and purposes as well as the vision underlying the Protocol were being realized and remained relevant to the evolving needs of the African continent.

Consequently, in 2009, the Assembly of the Heads of State requested the AU Commission to initiate the review process of the Protocol in consultation with the Permanent Representative Council. The Reviewed Protocol was formally adopted by the Assembly of Heads of State on June 27, in Malabo, Equatorial Guinea.

## **5.0 SUMMARY OF THE PROTOCOL**

The Protocol has 27 Articles. **ARTICLE 1** is the interpretation and contains definitions of key words and phrases in the Protocol

**ARTICLE 2** continued in existence, the PAP established by the Protocol to the Treaty establishing the African Economic Community Relating to the Establishment of the PAP. It further provides as organs of the PAP, the Plenary, the Bureau, the Secretariat, Committees and regional groups.

**ARTICLE 3** contained the objects of the PAP, which includes -

- giving voice to the African peoples and the Diaspora;

- facilitate the effective implementation of the policies and objectives of the AU;
- promote the principles of human and peoples' rights and democracy in Africa;
- encourage good governance, respect for the rule of law, transparency and accountability in Member States;
- promote peace, security and stability;
- facilitate cooperation among Regional Economic Communities in Africa and encourage National and Regional Parliaments to ratify and integrate Treaties adopted by the AU into their legal systems;
- co-operate with National and Regional Parliaments and similar bodies within and outside Africa as well as civil societies, community based organizations and grass-root organizations;
- Invite and encourage the full participation of the African Diaspora as an important part of the African peoples in the building of the African Union in accordance with modalities approved by the Assembly.

**ARTICLES 4 and 5** provides for the election of five (5) Members by each State Party two (2) of who shall be women, from outside the National Parliament. The Article revised the current composition of five (5) Members from each State Party one of who is a woman, and who are selected from amongst member Parliaments. The representation must reflect diversity of political opinions.

The provision emphasised that a delegation that does not satisfy the requirement of election and women representation should not be granted accreditation.

**ARTICLE 6** provides a tenure of five (5) years for a Member and that Member shall be eligible for re-election for one (1) further term only whiles **ARTICLE 7** provides for voting by Members.

**ARTICLE 8** provides for the functions and powers of the PAP. The essence of this Article is perhaps the most important revision of the existing Protocol by providing for a transition of the PAP from a consultative institution to a legislative institution as was earlier envisioned by the Establishing Protocol. The PAP is established by the Article as legislative organ of the African Union.

**ARTICLES 9 and 10** provides for privileges and immunities and allowances for Members.

**ARTICLE 11** empowers the PAP to adopt and amend its own Rules of Procedure while **ARTICLE 12** established the Bureau which shall be responsible for the development of policies for the management and administration of the affairs and properties of the PAP.

**ARTICLE 13** deals with the appointment of the Secretary General, the two Deputies and other staff for the proper functioning of the PAP.

**ARTICLE 14** enjoins Members to take or make a solemn declaration upon assumption of office while **ARTICLE 15** relates to sessions and quorum.

**ARTICLE 16** is on the budget of the PAP while **ARTICLE 17** designates the Republic of South Africa as the seat of the PAP but the official and working language shall be those of the AU (**ARTICLE 18**).

**ARTICLES 19 and 20** provides for a close cooperation with other Regional and National Parliaments and other organs of the AU. **ARTICLE 21** provides that the Court shall have jurisdiction on all matters of interpretation of the Protocol.

**ARTICLE 22** provides for signature and ratification while **ARTICLE 23** deals with entry into force of the Protocol. **ARTICLE 24** provides that a Member State shall accede to the Protocol, after its entry into force, by depositing its instrument with the Chairperson of the Commission while **ARTICLES 25 and 26** relates to amendment and revision of the Protocol. **ARTICLE 27** contains the transitional provisions.

## **6.0 OBSERVATIONS**

The Committee made very pertinent observations during its deliberation. Some of these are outlined as follows:

### **6.1 Legal Implication**

The Committee observed that the Protocol provided that Pan African Parliamentarians, while exercising their functions, shall enjoy in their territory of each Member States the immunities and Privileges extended to the representatives of Member States under the General Convention on the Privileges and Immunities of the OAU (AU) and the Vienna Convention on Diplomatic Relations 1961.

The Committee further observed that, a Member of the PAP shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done, within or outside the Pan African Parliament in the

capacity as a Pan African Parliamentarian in the discharge of the Member's duties. The PAP, however, reserves the power to waive the immunity of a member in accordance with its Rules of Procedure. Ghana would therefore be expected to accord the requisite privileges and immunities to any Member of the PAP while in Ghana on official assignment.

## **6.2 Financial Implications**

The Committee observed that the annual budget of the PAP constitutes an integral part of the regular budget of the AU and Member States are not required to make any further contributions beyond the existing financial arrangement of the AU.

The committee noted however that, State Parties would be required to pay all allowances and travel expenses of their Members to the sessions of the PAP. Allowances for the President, Vice President and other officials of Committees shall be paid by their respective States. The rates and modalities for this arrangement are yet to be determined.

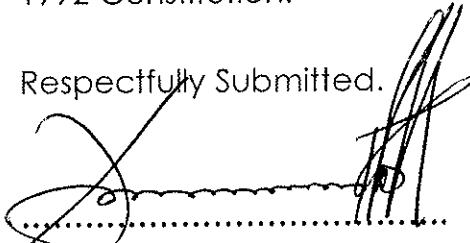
## **6.3 Representation**

The Committee further observed that Ghana has been represented at the Pan African Parliament by a delegation of five national Parliamentarians since its inauguration in 2004. The ratification of the Protocol is a necessary formality to regularize Ghana's continued membership within the enhanced framework of the Pan African Parliament.

## 7.0 CONCLUSION

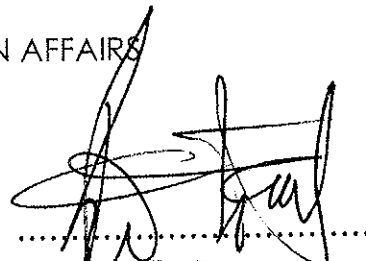
Ghana's ratification would signal a clear commitment to consolidating the gains of democracy and good governance in Africa. The Committee thus recommends to the House to adopt its Report and approve by resolution, the Ratification of the Protocol to the Constitutive Act of the African Union Relating to the Pan-African Parliament in accordance with Article 75 of the 1992 Constitution.

Respectfully Submitted.



**Hon. Frank Annoh Dompseh**

CHAIRMAN, COMMITTEE ON FOREIGN AFFAIRS



**Mr. Camillo Pwamang**

CLERK, COMMITTEE ON FOREIGN AFFAIRS

28<sup>th</sup> February 2018