Terms of reference (ToR) for Senior Litigation Consultants (2)

PANAF/2020/419-773: Reinforcing the Role of ACHPR to Enhance the African Human Rights System

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## List of abbreviations

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<th>Full Form</th>
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<tr>
<td>ACHPR</td>
<td>African Commission on Human and Peoples’ Rights</td>
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<td>AfCHPR</td>
<td>African Court on Human and Peoples’ Rights</td>
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<tr>
<td>AGA</td>
<td>African Governance Architecture</td>
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<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>EOS</td>
<td>Extraordinary Session</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
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<td>OS</td>
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<td>PANAF</td>
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1. Context

The African Commission on Human and Peoples’ Rights (ACHPR) is an Organ of the African Union (AU) established by the African Charter on Human and Peoples’ Rights (the African Charter). The ACHPR’s Secretariat is in Banjul, The Gambia. It is the oldest and most accessible continental human rights treaty body in Africa. The ACHPR is mandated to promote and protect human and peoples’ rights in Africa, interpret the African Charter and to perform any other tasks which may be entrusted to it by the AU Assembly of Heads of State and Government. In this regard, the ACHPR carries out sensitization, public mobilization and information dissemination through seminars, symposia, conferences, workshops and missions in execution of its human rights promotion mandate. Within the framework of its protection mandate, the ACHPR ensures protection of human and peoples’ rights through its communication/human rights complaints handling procedure, amicable settlement of disputes, referral of cases to the African Court on Human and Peoples’ Rights, state reporting (including consideration of Non-Governmental Organizations’ shadow reports), provisional measures, urgent appeals and other activities of special rapporteurs and working groups and missions. With regards to the interpretation of the African Charter, the ACHPR is mandated to interpret the provisions of the Charter upon a request by a State Party, Organs of the AU or individuals.

The Commission consists of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples’ rights. Members of the Commission are elected for a six-year term and are eligible for re-election. The Commission elects a Bureau for a term of two years, which is responsible for coordinating the activities of ACHPR, including supervising and assessing the work of the ACHPR Secretariat.

Apart from the members of the ACHPR, the main actors involved in the work of the ACHPR in promoting and protecting human rights on the continent include: State Parties to the African Charter; AU organs; NGOs; National Human Rights Institutions; individuals (complainants); the general public, including those who consult the ACHPR as a mechanism for the promotion and protection of human rights in Africa; academic institutions, researchers and students; the media; international institutions, and the donor community.

Notwithstanding the efforts and achievements made since it was created, the ACHPR has been facing a number of challenges in the execution of its mandate, which to an extent resulted in its sub-optimal performance. One of the ways for the ACHPR to
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overcome such challenges is to build strategic partnership with AU and international institutions with a focus on human rights and good governance. Indeed, Article 45(1)(c) of the African Charter empowers the African Commission on Human Rights and Peoples’ Rights to co-operate with other African and international institutions concerned with the promotion and protection of human and peoples’ rights while Article 136 of the ACHPR’s Rules of Procedure (2020) provides that the ACHPR, in fulfilling its mandate, shall establish formal relations of cooperation as necessary with all African Union (AU) organs and institutions that have a human rights mandate. African Union organs and institutions with human rights mandates are gathered under the African Good Governance Architecture (AGA).

AGA members received funding from the EU under the Pan-African Programme (PANAF) to reinforce the AGA Platform’s role to enhance the African Human Rights System. One key component of the PANAF Grant is to boost the ACHPR’s staffing capacity, which over years has been a major area of concern and setback in the work of the Commission. Thus, the PANAF Grant aims to enable the ACHPR to recruit well-qualified consultants/ experts and professionals on the basis of short-term consultancies to support the work of the Commission.

2. Objective of this assignment:

It is against the background above, that the ACHPR, under the EU- AGA SP Project, seeks to recruit Two (2) Senior Litigation Consultants with the objectives to:
   i. Support drafting decisions on communications;
   ii. Follow up on implementation of decisions;
   iii. Provide technical support including preparation of referral briefs, drafting of submissions, and undertaking all the various tasks that come with the referral of cases to the African Court on Human and People’s Rights (AfCHPR).

3. Tasks to be performed by the Consultant

Under the overall supervision and guidance of the Secretary to the Commission, the Senior Litigation Consultant is expected to perform the following tasks:

- Assist the Legal Unit in drafting joinders admissibility and/or merit decisions on cases pending before the Commission;
- Work closely with Commissioners in drafting legal pleadings on communications for referral to the AfCHPR;
- Prepare reports on the status of cases assigned to him/her;
- Assist Commissioners in legal research and analysis of legislation and
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- jurisprudence;
  - Provide assistance to the Secretary to the Commission in her day-to-day work as may be required; and
  - Perform any other duties as required.

4. Timelines and Deliverables

The consultancy services shall be delivered up to 22 working days over a period of one month. The assignment is envisaged to begin on 20th of December 2021 and end on 18th January 2022.

<table>
<thead>
<tr>
<th>Description of Tasks</th>
<th>Timelines (Working Days)</th>
<th>Expected Deliverables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation in the inception meeting with ACHPR Secretariat</td>
<td>1 Day</td>
<td>Inception report covering the work program and time schedule</td>
</tr>
<tr>
<td>Reading through the case files and identification of cases for Joinder</td>
<td>6 Days</td>
<td>List of communication for Joinder</td>
</tr>
<tr>
<td>Working on the first drafts of Joinder decisions</td>
<td>10 Days</td>
<td>Draft Joinder decisions</td>
</tr>
<tr>
<td>Incorporate comments from Legal Unit</td>
<td>2 Days</td>
<td>Presentation of the second drafts Joinder decision</td>
</tr>
<tr>
<td>Settling final draft of Joinder decisions</td>
<td>3 Days</td>
<td>Submission of Final Drafts of Joinder decisions for consideration by the WGC</td>
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5. Technical Concept

In the bid, the Consultant is required to show how the objectives defined in (2) are to be achieved, if applicable under consideration of further specific method-related requirements (technical-methodological concept).
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6. Minimum Experience and Qualification/Consultant profile

The Consultant is required to provide an up to date CV and should satisfy the following:

- **Education/training**: Bachelor’s Degree in Law with a minimum of eight (8) years of postgraduate work experience or a Master’s Degree in Human Rights with five (5) years of postgraduate work experience. Admission to the Bar in an AU Member State and practicing as an Attorney or Advocate is an added advantage. Any other qualification in the area of human rights law would be an added advantage.

- **Language**: Fluency in at least one of the AU working languages (English, French, Arabic and/or Portuguese).

- **General professional experience**: At least 7 years of experience in drafting legal pleadings and in court litigation preferably before regional or international mechanisms; experience with the African commission, African Court or the African Committee of Experts on Rights and Welfare of the Child will be an added advantage.

- **Specific professional experience**: An in-depth understanding of the African human rights system and of comparative or international human rights law, good knowledge of the African Union policies and procedures; Excellent argumentative skills; Strong analytical skills and ability to prepare legal submissions and opinions.

- **Regional experience**: Demonstrable experience working with international or AU human rights organs is desired;

7. Duration of the Assignment

As indicated above, this consultancy is expected to be completed in 22 working days with flexible remuneration. The Consultant will be expected to physically assume tenure at the ACHPR Headquarters in Banjul, The Gambia. The Consultant will work under the supervision of the Acting Secretary of the ACHPR.

8. Payment schedule

The project fee will be of an all-encompassing amount of 6,200.00 €.

i. 20% of the total fee be paid upon signing of the contract
ii. 80% of the project fee will be paid up on successful delivery of the final deliverable.
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Should the consultant fail to deliver results in any of 5 (five) deliverables then ACHPR will be mandated to withhold payment.

9. Inputs of ACHPR or other actors

The ACHPR Secretariat will be responsible for and will endeavour to support the Consultant by:
- Enlisting the support of the concerned Secretariat Units;
- Facilitating access to all required information and documentation; and
- Committing to ensure the assignment is completed within the agreed timelines.

10. Requirements on the format of the bid

The structure of the financial offer must correspond to the structure of the ToR, submitted in English. Please calculate your price bid based exactly on the aforementioned costing requirements. In the contract, the contractor has no claim to fully exhaust the days budget. The number of days and the budget amount shall be agreed in the contract as ‘up to’ amounts.

11. Submission of the bid

Complete bids may be submitted to achpr.humanresources@africa-union.org with the subject line “Bid for Short- Time Senior Litigation Consultant”.