

# **Additional Agreement Relating to the Statute of the Extraordinary African Chambers for the Prosecution of International Crimes Committed in Chad 1982-1990**

## **Preamble**

*The African Union, on the one hand;*

*and*

*The Government of the Republic of Senegal on the other hand, hereinafter called «the Government»;*

*Considering* the initial Agreement between the Government of the Republic of Senegal and the African Union on the establishment of the Extraordinary African Chambers within the Senegalese judicial system signed on 22 August 2012, in Dakar, Senegal;

*Reaffirming* their commitment to the freedoms and human and peoples' rights contained in the declarations, conventions and other instruments adopted within the framework of the Organization of African Unity, the African Union and the United Nations, particularly the African Charter on Human and Peoples' Rights;

*Reaffirming also* that the right to a fair trial and respect for the presumption of innocence are fundamental principles contained in the African Charter on Human and Peoples' Rights and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa adopted in 2001;

*Fully convinced* of their duty to combat impunity in conformity with the provisions of Article 4 (o) of the Constitutive Act of the African Union;

*Have agreed as follows:*

## **Article 1 – Objective**

The present Additional Agreement amends the Statute of the Extraordinary African Chambers within the Senegalese judicial system with a view to establishing, within the said Chambers, a Defence Office and defining its functions.

## **Article 2 – Defence Office**

1. A Defence Office shall be established within the Extraordinary African Chambers.

2. The Administrator of the Extraordinary African Chambers shall ensure the logistical establishment of the Defence Office with the aim of enhancing the rights of suspects and accused persons, and any other person entitled to legal assistance.

3. The Defence Office shall be funded within the limits of the budget approved by the Steering Committee for financing the Extraordinary African Chambers.

4. The Defence Office, which may also include one or more duty counsel, shall act independently as a separate organ of the Chambers. It shall be responsible for the protection of the rights of the accused; of support and assistance to defence counsel and persons entitled to legal assistance who appear before the Chambers in respect of specific issues. The assistance shall be in the form of legal research, collection of evidence, the provision of legal advice or such representational services as the exigencies of a case or cases may determine.

5. The Defence Office in consultation with the Administrator and other organs of the Chambers shall ensure that adequate provisions are made for defence counsel and persons entitled to legal assistance in the preparation of briefs, and shall provide such additional assistance as may be requested by a suspect, an accused person, a Judge, or a Chamber.

6. The Defence Office shall be headed by a Principal Defender who shall be appointed by the Chairperson of the Commission of the African Union. The Principal Defender shall be a person of high moral character and shall possess a high level of professional competence as well as extensive experience in criminal defence. He/she must have license to practice law in a recognized jurisdiction and should have at least ten (10) years practical experience of criminal law before a national or an international court or tribunal.

7. In order to ensure that the rights to a fair trial of suspects and accused persons are protected, the Principal Defender in consultation with the Administrator and the Chambers shall prepare such directives, regulations and practice directions that are necessary for the effective discharge of the duties of the Defence Office. Such directives, regulations and practice directions shall be formally adopted by the Chambers.

8. The Principal Defender may be assisted by any other staff required to discharge the duties of the Defence Office effectively and efficiently. The staff of the Defence Office shall be appointed and supervised by the Principal Defender within the administrative rules of the Chambers.

9. The Principal Defender, for all purposes related to the trial and appeal proceedings, shall have the same status as a Prosecutor with regard to the rights of accused persons to representation and *inter partes* negotiations.

10. Upon the request of a Judge or a Chamber, the Administrator, the Defence or where the interests of justice so require, *proprio motu* (at his own initiative), the

Principal Defender or a person designated by him/her, shall have the right to represent a suspect or suspects or an accused person or accused persons on issues of common or general interest for the defence teams, the fairness of the proceedings, or the rights of a suspect or suspects or an accused person or accused persons.

### **Article 3 – Status of the present Additional Agreement**

This Additional Agreement supplements the Statute of the Extraordinary African Chambers and shall form an integral part of the Agreement between the Government of the Republic of Senegal and the African Union on the establishment of the Extraordinary African Chambers within the Senegalese judicial system.

### **Article 4 – Safeguard Clause**

1. No Party may use this Additional Agreement to contest the validity of proceedings initiated by the Extraordinary African Chambers, minutes or incriminating or exculpatory evidence established by the competent Chambers of the Extraordinary African Chambers, the Public Prosecutor, the Civil Parties and the Defence Counsels, before the signing of the said Protocol.

2. The purpose of this Additional Agreement is to enhance the rights of accused persons enshrined in Article 21 of the Statute of the Extraordinary African Chambers.

### **Article 5 – Entry into Force**

The present Additional Agreement shall be applied provisionally from the date of signature by the Parties. It shall enter into force after ratification by the Government in conformity with its constitutional procedures, and the deposit of the instrument of ratification with the Chairperson of the Commission of the African Union.

**In witness whereof, the Government and the African Union Government have signed in Dakar on July 24th 2014, the present Additional Agreement in two original copies in English and French, both texts being equally authentic.**

**For the Government of Republic of Senegal  
Mister Sidiki KABA**

**For the African Union  
Prof. Vincent O. Nmehielle, Minister of Justice**