

**Geneva**

**20 March 2014**

### **Proposed Arab Court of Human Rights: Rewind the process and get it right**

Ahead of the Arab League's summit to be held in Kuwait on 25 and 26 March, national and global human rights organizations today called upon the Arab League's member States to suspend efforts to adopt a draft statute of the Arab Court of Human Rights (the Arab Court) until broad discussions and consultations have taken place with all interested stakeholders, who must be permitted to participate meaningfully in all stages of the process of establishing the Arab Court.

Our organizations have closely followed the initiatives of the League of Arab States (LAS) aimed at reforming the LAS system since popular uprisings erupted in several Middle East and North Africa countries in 2011. While our organizations welcome efforts to strengthen the LAS human rights system, including by establishing an Arab Court, we are concerned that the entire process of reform over the past three years has been conducted behind closed doors and through opaque procedures that contravene basic principles of inclusive participation and transparency. Consultations should include not only representatives from the LAS member States but also national and global civil society organizations, members of the bar and judiciary, academic and independent experts and other interested stakeholders.

Our organizations are concerned that establishing the Arab Court in a rushed and non-inclusive manner would be detrimental to the efficacy of the Court. We are further concerned that the draft statute, elaborated by the expert legal committee and expected to be submitted for approval at the LAS's summit, falls short of international, including regional, human rights standards. Areas of particular concern include the means of selection of judges, the independence of the Arab Court, the applicable law and jurisdiction of the Court, the admissibility of cases, and access to the Court.

Our organizations call on the on the member States of the LAS, LAS Summit, and Secretariat to amend the draft statute in order to:

- Ensure that the nomination of candidates and election of judges is based on transparent and non-discriminatory procedures that protect against undue, inappropriate and unwarranted interference, and that take full account of appropriate personal and legal qualifications, gender balance and a fair representation of different legal systems;
- Ensure that judges sit in their individual capacity, not as representatives of their national State, and serve for a single, lengthy term;
- Ensure that judges can only be suspended or removed from office for reasons of incapacity or behaviour that renders them unfit to discharge their duties, following an appropriate procedure, established in advance, that guarantees the rights of the concerned judge to a fair hearing incorporating all due process guarantees;
- Provide that the jurisdiction of the Arab Court extends to violations arising out of breaches of the Arab Charter and that the Court must interpret the Charter in a manner consistent with the State's other international human rights



- obligations;
- Ensure that the requirement of exhaustion of local remedies does not have the effect of preventing rights holders from accessing the Arab Court, and that only claims brought by the same applicant on the same subject matter before another regional human rights court are precluded from the Arab Court's jurisdiction;
  - Ensure that all individuals within the territory of a State party, or subject to its jurisdiction, can have access to the Arab Court when they claim to be a victim of a violation, by any of the State parties, that falls under the jurisdiction of the Court; and that States do not hinder access to the Court, in particular by providing for the effective protection of victims and other participants in the proceedings and by ensuring that they are not subjected to any form of pressure or reprisals as a result of their participation in proceedings before the court;
  - Remove any obstacles that may limit NGO access to the Arab Court, and ensure that any NGO, not only those accredited in a respondent State, can bring a complaint before the Court; accordingly, the statute should also provide for other avenues to access the Court, including for individuals or NGOs to join proceedings as interested parties or to submit information as *amicus curiae* or through expert opinions;
  - Provide for an independent and effective monitoring mechanism that supervises the execution of the Arab Court's judgments, and provide that the Court is competent to prescribe specific measures to be adopted by member States in order to execute the Court's judgements; and
  - Ensure that the Arab Court is competent to prescribe interim measures, which may be granted prior to the issuance of a final judgment, to enable the Arab Court to intervene in cases where the applicant might face an imminent risk of a serious, irreversible or irreparable harm.

This statement is supported by:

1. International Commission of Jurists
2. International Federation for Human Rights
3. Egyptian Initiative for Personal Rights
4. Al Haq
5. Human Rights Watch
6. Cairo Institute for Human Rights Studies
7. Human Rights Information Training Center
8. Gulf Center for Human Rights
9. Human Rights Organization for the Documentation of War Crimes in Libya
10. Damascus Center for Human Rights Studies
11. Mauritanian Association for Human Right
12. Open Society Foundations - Arab Regional Office
13. Arab Women Organization of Jordan
14. African Center for Justice and Peace Studies
15. Bahrain Center for Human Rights
16. The Yemeni Organization for Defending Rights and Democratic Freedoms - Aden
17. Legal Agenda

**Contact:**

Said Benarbia, Director, Middle East & North Africa Programme, t + 41 22 979 38 17, [said.benarbia@icj.org](mailto:said.benarbia@icj.org)