

## BRIEFING

# The Pan-African Parliament: getting ready for the 2017 AU-EU Summit

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### ABSTRACT

Nearly three years have passed since the adoption of a revised protocol that will grant the Pan-African Parliament (PAP) legislative powers and considerably strengthen the institution within the overall African governance system. While very few countries have ratified the protocol so far, the acceleration of its ratification procedures is a priority for the recently elected PAP president. The EP and the PAP enjoy a long-standing partnership and both of them have an important role to play in monitoring the Joint Africa EU Strategy (JAES) and its roadmap for 2014-2017. The fifth EU-Africa Summit, which will be held in Côte d'Ivoire in November 2017, will assess the implementation of the road map and identify new priorities for the future. Thematic priorities for the upcoming summit include youth, peace and security and migration, which are now at the heart of the relationship between the two continents.

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# 1 The Pan-African Parliament (PAP)

## 1.1 History, legal basis, mandate and organisation

The origins of the Pan-African Parliament (PAP) date back to the 1991 Abuja Treaty.

However the protocol establishing the PAP was only approved in 2001 and entered into force in 2003.

The PAP currently has only advisory and consultative functions.

The PAP is composed of 235 members elected by the legislatures of 47 of the 54 African Union countries.

The PAP meets twice a year for its ordinary sessions.

The Pan-African Parliament (PAP)'s origins date back to the 1991 Abuja Treaty on the African Economic Community, which envisioned a continental parliament elected by 'continental universal suffrage' and involved in the 'economic development and integration of the Continent'. The Abuja Treaty provided for the PAP to become a reality after a 34-year transition period, but the political changes in Africa after the Cold War gave a new impetus to regional integration, including its parliamentary dimension.

Subsequent to the Abuja Treaty, the Constitutive Act of the African Union (AU), which entered into force in 2001, maintained the PAP as one of the nine organs of the Union as a means of ensuring the full participation of the African people in the development and economic integration of the continent. The Constitutive Act of the AU also stated that 'the composition, powers, functions and organisation of the Pan-African Parliament' should be defined in a specific protocol, which was approved in March 2001 and entered into force in November 2003.

The protocol provides the legal basis for the PAP and outlines its objectives, in Article 3, namely to: promote 'human rights and democracy in Africa'; encourage 'good governance, transparency and accountability in Member States'; promote 'peace, security and stability'; and contribute to a 'more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery'.

The protocol extended the PAP's mandate to political matters but granted the institution only 'advisory and consultative' functions, although it envisioned that the PAP should 'evolve into an institution with full legislative powers'. The PAP can currently 'examine, discuss or express an opinion on any matter [...] and make any recommendations it may deem fit'. It can 'request officials of the OAU/AEC to attend its sessions, produce documents or assist in the discharge of its duties.' The PAP has, however, no power to appoint or censure the AU Commission (AUC) or its officials and has no budgetary powers, although it may 'discuss its budget and that of the AUC prior to its approval'.

The PAP was formally inaugurated on 18 March 2004 in Addis Ababa (Ethiopia), and four months later Midrand (South Africa) was chosen as its permanent seat. As the 2001 protocol has been ratified by 47 AU states (out of 54), the PAP is currently composed of 235 parliamentary representatives, elected by their respective legislatures<sup>1</sup>. Each Member State is equally represented 'by five (5) members, at least one of whom must be a woman', who are 'elected or designated by the respective National Parliaments or any other deliberative organs [...] from among their members' and 'must reflect the diversity of political options' (Articles 4 and 5). The PAP meets in

<sup>1</sup> Cote d'Ivoire, the Republic Democratic of Congo, Eritrea, Guinea, Somalia, Sao Tomé and South Sudan do not participate to the PAP work.

ordinary session at least twice a year (usually May and October), for up to one month each time.

Its bureau is composed of a president, currently Roger Nkodo Dang from Cameroon, and four vice-presidents.

The PAP elects a bureau made up of a president and four vice-presidents (representing the five regions of Africa) for a three-year term. In May 2015, the PAP elected Roger Nkodo Dang (representing the Central Africa region) as its president. The other members of the Bureau are: Eduardo Joaquim Mulembwe (first vice-president, Southern Africa Region), Djibril Safia Elmi (second vice president, Eastern Africa region), Suilma Hay Emhamed Saleh (third vice-president, Northern Africa Region), Dr Bernadette Lahai (fourth vice-president, Western Africa Region).

The PAP organises its work around eleven Permanent Committees and one ad hoc committee.

**Figure 1:**  
List of PAP committees

|  |
|--|
| Rural Economy, Agriculture, Natural Resources and Environment      |
| Monetary and Financial Affairs                                     |
| Trade, Customs and Immigration matters                             |
| Cooperation, International Relations and Conflict Resolution       |
| Transport, Industry, Communication, Energy, Science and Technology |
| Health, Labour and Social Affairs                                  |
| Education, Culture, Tourism and Human Resources                    |
| Gender, Family, Youth and People with Disability                   |
| Justice and Human Rights   |
| Rules, Privileges and Discipline                                   |
| Audit and Public Accounts  |

## 1.2 The activities of the PAP

The PAP's priorities are detailed in its strategic plan and are aligned with those of the African Union. For the period 2014 to 2017, the PAP's priorities are focussed on six broad areas:

The PAP has a strategic plan for the 2014-2017 period. It focuses on six broad areas.

- Advancing the evolution of the Parliament as an overarching parliamentary body for the continent;
- Providing a platform for mainstreaming African voices and those in the diaspora into the AU policy-making process;
- Promoting human rights and democracy, good governance and development in Africa;
- Promoting peace, security and stability;
- Promoting continental integration through harmonisation of policies;
- Strengthening the institutional capacity of the PAP.

The PAP has followed all these different areas closely, including by holding important debates on peace and security matters, ways to promote intra-African trade, food security, water and sanitation and the post-2015

The PAP has been very active in promoting human rights, democracy, good governance, transparency and accountability.

The PAP has fostered links with national legislatures and advocated the ratification of AU legal instruments such as the African Charter on Democracy, Elections and Governance.

development agenda, but it has been particularly active in promoting human rights, democracy, good governance, transparency and accountability. The PAP participates in election observation missions within the framework of the African Union and also undertakes some conflict prevention activities.

The PAP has also consciously sought to foster links with national legislative bodies to raise awareness of continental debates and press for the harmonisation of legislative processes and the ratification of specific AU legal instruments and policies. A successful example of this was the PAP's campaign in support of the African Charter on Democracy, Elections and Governance' (the Charter), which entered into force in 2012.

Every year, the PAP organises the Pan-African Parliament Speakers' Conference, which also contributes to forging closer links with the national assemblies. The most recent [conference](#) was held in Midrand in August 2017 and focused on the ratification of Malabo Protocol (PAP Protocol adopted in 2014) and the strengthening of the role of Parliaments for effective youth empowerment.

## 2 The ambition of the Pan-African Parliament (PAP)

### 2.1 The revised protocol

The review process of the PAP protocol began in 2009. A first draft was submitted to the AU Assembly in July 2012 but the Assembly decided that further consultations were needed.

The Assembly approved the new protocol in June 2014. It needs to be ratified by 28 AU Member States before entering into force.

The PAP has been operating in its consultative and advisory capacity for a decade. In 2009 the AU Assembly requested a review process of the PAP protocol to be initiated by the AUC, in consultation with the Permanent Representatives' Committee and taking into account the views of the PAP. In July 2012, a new draft protocol was submitted to the AU Executive Council which decided to approve it 'except the provisions of Article 8.1(a) and 8.2 of the draft protocol relating to the legislative and oversight powers which should be deferred for consideration to a later stage taking into account the progress in the integration process'. Subsequently the AU Assembly decided 'that more in-depth consultations should be undertaken on the Draft Protocol'<sup>2</sup>. This was a major blow to the PAP, many of whose recent activities had been aimed at securing the approval of the protocol.

Two years later a revised new protocol was presented to the AU Assembly, which approved it at its 23rd session, held in Malabo on 26-27 June 2014<sup>3</sup>, alongside other continental legal instruments. The protocol now has to be signed and ratified by a majority (28) of AU Member States in order for it to enter into force.

Once ratified, the revised protocol will transform the PAP into a parliamentary organ of the AU with legislative responsibilities in the

<sup>2</sup> Decisions by the Executive Council of the African Union, 9- 13 July 2012, Addis Ababa, Ethiopia - EX.CL/Dec.696-725(XXI); Decisions by the African Union General Assembly, 15-17 July 2012, Addis Ababa, Ethiopia - Doc. Assembly/AU/13(XIX)b.

<sup>3</sup> Decisions by the African Union General Assembly, 26-27 June 2014, Malabo, Equatorial Guinea - Doc. Assembly/AU/Dec.517-545(XXIII).

The new protocol confers legislative powers on the PAP, allowing it to propose continental model laws (Article 8.1).

framework of AU governance. The [new protocol](#) designates the PAP as the legislative organ of the AU. The new Article 8 confers new scrutiny powers on the PAP ('receive and consider reports of other organs of the African Union') and gives it a greater role in the continental legislative process, including to 'receive, consider and submit opinions on draft legal instruments, treaties and other international agreements'. The most notable change concerns Article 8.1, which provides that the AU Assembly will determine the areas in which the PAP may propose draft model laws. It also foresees that the PAP 'may on its own initiative make proposals for subjects or areas on which it may submit or recommend draft Model Laws to the Assembly for its consideration and approval'. Article 8 also grants the PAP 'the power in accordance with the Financial Rules and regulations of the African Union, to engage in fund-raising activities'. This is however only a formal recognition of the current situation, since the PAP is already supported by the African Development Bank, the UN Development Programme, the International Monetary Fund, the World Bank and national governments from outside Africa.

The protocol also provides for important changes to the PAP's membership and the election of its members.

In addition to these new legislative functions, the new protocol also entails important changes in the membership (Article 4) and election (Article 5) of PAP members. Whilst the representation of each Member State remains five members, it is now foreseen that at least two of them must be women (previously it was only one) and that 'a delegation which does not reflect this requirement shall not have the right to be accredited for representation'. The most important difference however concerns the election of members. These will still be elected by national legislatures but from 'outside their membership'. Their election furthermore will not be concurrent with national legislative mandates, but will be conducted 'as far as possible in the same month throughout the Member States' (Article 5.1, see Annex). These are important changes which will allow PAP members to devote themselves full-time to the PAP's work (instead of having to fit it in around their work in national legislatures). They will also make the PAP's work more coherent as all its members will serve for the same term. However, the new provision for PAP members' allowances to be paid by their respective state parties (Article 10) creates the potential risk that the capacities of the national delegations will differ, which could adversely affect the poorest states.

PAP members will henceforth be elected at the same time but will no longer be selected from national legislatures.

## 2.2 Challenges of implementation

It will be some time before the new protocol can enter into force. The PAP's new structure and powers will have important legal and financial implications that should be carefully examined.

There is no question that the adoption of the new protocol is an important step forward for the future institutional strengthening of the PAP. This will also allow it to play a more important role in continental debates. However, the new provisions are not yet in place and it is likely to take some time before the new protocol can enter into force. There are also important questions regarding the political, legal and financial implications of the new protocol, which still need to be properly examined. AU Member States seem to have different positions on the revised protocol. Preliminary findings

The new protocol may pose new challenges, in addition to the ones the legislature already faces, including the PAP's limited capacities and financial constraints.

Given the big differences in population size between African countries, ensuring the equal representation of national delegations is problematic and this may undermine the body's legitimacy.

from a study undertaken by the African Centre for Parliamentary Affairs<sup>4</sup> indicate that the delay in ratification is partly related to fears on the part of Member States that the enhanced powers of the PAP could infringe their sovereignty. As of [September 2016](#), 13 countries had signed the new protocol but only five countries had completed the ratification process (Gambia, Mali, Sahrawi Arab Democratic Republic, Togo, Sierra Leone). President Nkodo Dang continues to take every opportunity to urge AU member states to accelerate the ratification process of the revised protocol.

The challenges associated with the new protocol are added to those already faced by the PAP at present: limited capacities, which are partly due to financial constraints and its role within Africa's collective agenda. Financial constraints are linked to high operational costs and to the limited financial autonomy enjoyed by the PAP, whose budget is approved by the AU Assembly as part of the AU's regular budget. The PAP's operational budget for 2017, financed by AU Member States, is USD 23.5 million, which represents 3 % of the overall AU budget.

An additional challenge to the PAP's legitimacy is to ensure the equal representation of each Member State. Given the large population differences between African states — Nigeria is 300 times more populous than Cape Verde — ensuring equal representation is problematic as it significantly departs from the ideal enshrined in the Abuja Treaty of a PAP 'elected by universal adult suffrage'. However, given the AU's emphasis on sovereignty and its traditional inter-governmental character, this equal representation principle is unlikely to be modified in the short or medium term.

### 3 The role of the EP and PAP in EU-Africa relations

The EP has collaborated closely with the PAP during the past decade, notably through the EP's permanent Delegation for Relations with the PAP.

President Nkodo Dang met President Schulz on 19 April in Brussels and discussed

The EP has closely collaborated with the PAP since its establishment in 2004. An *ad hoc* Delegation for Relations with the Pan-African Parliament (D-PAP) was created in 2006; this became a permanent inter-parliamentary delegation in 2009. D-PAP members have attended PAP meetings and have hosted visits from their counterparts.

The [most recent EP-PAP meeting](#) took place in Midrand in May 2017. The mission was composed of Chair of the Delegation, Michael Gahler and MEP Cécile Kashetu Kyenge. It took place in the margins of the ordinary session of the PAP. At the meeting, members reviewed the ongoing cooperation and discussed, among other things the implementation of the Joint Africa-EU Strategy (JAES), the post-Cotonou scenario and the EU migration policy.

In May 2013, President Schulz paid a visit to South Africa and addressed the PAP plenary session in Midrand. In turn, President Nkodo Dang paid a visit to the European Parliament and met President Schulz on 19 April 2016. During the meeting, President Schulz praised the work carried out by the newly elected president to improve the visibility and effectiveness of the

<sup>4</sup> ACEPA: 'Assessment of the implications of the revised protocol of the Pan-African Parliament', final report, December 2015.

topics including the electrification of Africa.

Support to PAP is also provided through the Comprehensive Democracy Support Approach.

organisation and reiterated the readiness of the European Parliament to support the PAP in its transformation towards a legislative and oversight body. As President Nkodo Dang was accompanied by Jean Louis Borloo, the discussions also focused on the 'Energy for Africa' project which seeks to grant full access to electricity on the continent within 10 years.

The visit of President Nkodo Dang in Brussels coincided with the working visit of a delegation (18-20 April) from high level officials from the Pan-African Parliament secretariat led by the Deputy Clerk to look at EP best working practices. The visit, which included meetings with MEPs and high level officials including the EP Secretary General, is part of the process of assisting the PAP in its transition from an advisory and consultative body into a parliamentary organ with legislative responsibilities in the African Union governance framework. This follows a decision on 27 November 2015 by the EP's Democracy Support and Election Coordination Group (DEG) to include the PAP as a priority regional parliament for DEG's democracy support activities within the framework of the Comprehensive Democracy Support Approach (CDSA).

To further consolidate the EP support for the PAP, the Chair of the EP Delegation to the PAP, Michael Gahler, signed a "Declaration on technical support by the EP to the PAP in view of facilitating the transition towards a legislative parliament" jointly with President Nkodo Dang on 6 May 2016. On the basis of this declaration and with the financial support of the EU project "Strengthening the African Human Rights System", the European Parliament is establishing a structured and comprehensive programme of parliamentary support and capacity-building with a view to assisting the PAP to further develop the skills and competences that are needed to enable it to function as a full legislative body. The programme, the implementation of which started in 2017 and will end in mid-2019, comprises a series of visits (both on parliamentary and staff level) from the PAP to the EP to exchange best practices on specific topics of interest, such as budget and budgetary control, legislative drafting, committee work and research facilities for members.