



مركز بحوث الرقابيين الأفارقة

African Ombudsman Research Centre

Centre de Recherche des Ombudsman Africains

Centro de Investigação da Provedoria de Justiça Africana

MINUTES OF THE 13th BOARD MEETING
24 Feb 2016
Maritime Conference Room/AORC
Howard College, University of KwaZulu-Natal
Durban, South Africa

- TIME:** 9am to 5pm
- PRESENT:**
- CHAIRPERSON:** Adv. Thulisile Madonsela, (Public Protector – South Africa)
- MEMBERS:** Mme Fozia Amin (Ombudsman – Ethiopia)
Prof Managay Reddi (Dean-School of Law-UKZN)
Dr Paulo Tjipilica (Provedor de Justica – Angola)
Mme Alima Traoré (Mediator du Faso)
- OBSERVERS:** Mr Momelezi Kula (CFO-Public Protector-South Africa)
Adv Kevin Malunga (Public Protector – South Africa)
Mr Myolisa Public Protector South Africa
Mr Franky Lwelela (AORC)
Dr Annie Devenish (AORC)
Ms Ouédraogo Sylvie (Mediateur du Faso)
Mr Leul Seyoum (Ombudsman, Ethiopia)
Mr Manuel da Costa (Provedor de Justica – Angola)
- APOLOGIES:** Prof John Mubangizi (DVC – UKZN)
Judge Edmond Cowan (Ombudsman Sierra Leone)

1. Opening by the AORC Chair

AORC Chair Thuli Madonsela began the meeting by extending a welcome to all those present, especially the current President of AOMA, Madam Fozia Amin, former President, Dr Tjipilica, and Deputy President Madam Traoré. Especial thanks were also extended to the host Prof Reddi and Deputy Public Protector, Kevin Malunga. The Chair stated that as most of the meeting knew she would be leaving by the end of the year and therefore felt it was a good idea to get the Deputy Protector to attend for continuity. She next welcomed the new acting Director of the Centre, Annie Devenish, and thanked the University for the ongoing work it had been doing in consultation with Mr Momelezi, which had kept the Centre functioning. She thanked the Communications and Advocacy Officer, Franky Lwelela, in that regard. It had been a difficult time for the Centre, she said; being without an Executive Director for some time now had meant that AORC had been unable to meet some of its targets which might affect its business case for additional funding from DIRCO. However, she stressed there was not much that could be done about past, but there was a lot that the Centre could do about today and even more about tomorrow.

The Chair continued by outlining the agenda for the meeting, which included the University reporting on progress made towards employing a Director, as well as efforts towards the Arabic training. Collectively the Board would then look at the minutes from the previous meeting, and the plans on projects that needed to be finalised. These included finalising the Strategic plan for the year starting 2016 (as AORC is required by Treasury to review its Strategic plans). Regarding this, the Chair said the vision of the Plan would remain the same but the timelines were likely to change.

The second thing that urgently needed to be done was the extension of the Comparative Analysis of Legal Systems research. This was almost finalised, but AORC needed to expand the research by adding a few countries. The reason for this was that the Chair and Board wanted this research to be a little more accurate, concerning the questions ‘what is the African Ombudsman?’ and ‘what are the various forms that it can take?’ For the Public Protector South Africa (PPSA) she stressed ‘we would say we have pretty much won the war up to this point but we are still awaiting the Constitutional Court to define our powers’. The Comparative Analysis of Legal Systems study was about the institution of the Ombudsman in Africa, and was therefore to be a very important study, because as Prof Ayeni had recently said, the institution of the Ombudsman in Africa was growing. In SA alone there are various government Departments creating their own Ombudsmen; the Treasury created a tax Ombudsman, Defence created a military Ombudsman, the Western Cape Government created a police Ombudsman and the City of Johannesburg created a Municipal Ombudsman. The Western Cape government already had one. In South Africa, she went on, we ourselves, having learnt from Burkina Faso have suggested the creation of Ombudsman like structures in government. The institution is growing and as it grows research that informs others of its powers and how it operates, and which provides guidance on how the institution can do its

work impactfully is critical. The extension of the Comparative Analysis of Legal Systems research needed therefore to be finalised so that everybody could move out of this meeting with some timelines, and allocation of resources, to make sure that it goes forward. She acknowledged that Prof Mubangizi had taken this research further with the publication of an article in a book on governance in Africa.

Continuing, the Chair stressed that the other area that AORC needed to move on was the African Ombudsman newsletter. This was something that could be done easily, by employing freelance editors to ensure that AORC got one publication out by the close this year.

The Chair went on to state that the final thing that needed to be discussed was the AOMA General Assembly (GA). A request had been presented to the PPSA to host the GA because Tanzania was unable to do so any longer due to financial constraints. The request was not for the PPSA, but rather for AORC to assist, as it was always in the terms of reference for AORC to assist with AOMA coordination, the Chair stressed. After receiving this request the Chair said that she had written back to say that the matter would be discussed at the next Board meeting. Addressing Prof Reddi and Dr Devenish the Chair emphasised that the importance of hosting the GA lay in the Conference. The Conference was an important research organ from which academic publications could be produced.

To illustrate this point the Chair told the meeting that she had been speaking to Ombudsman colleagues in other countries about how the PPSA reports to Parliament, and in the process had discovered that the way the PPSA reported could be termed unconstitutional. Angola reports to plenary and Ethiopia reports to Plenary. In the case of PPSA they reported to a committee (this reporting committee was historical because the office was a substructure of the Dept of justice when they were formed in 1979) When the constitution changed the PPSA were supposed to report to plenary, however at the moment they reported to a committee and then the minister reported on their behalf, unconstitutionally, to plenary. These differences in how Ombudsman offices work – and how their systems could be strengthened and improved from the experiences of other countries – is the kind of applied research the Centre could be doing to strengthen the Institution of the Ombudsman in Africa. ‘In the case of SA when they report to a committee and then their conversation only gets reported by heresy that might explain why Parliament and the PPSA could not find each other last year and are now going to have to be forced by the Constitution to find each other. If we had a situation similar to that of Ethiopia would that have happened?’ she emphasised.

Returning to the matter at hand the Chair stressed that the issue they were discussing here was financial and technical support for the GA, and that the matter would be put to the Board. She stressed that it was not her position as Chair to dictate what they should do, but that they should always have a look their mission - going back to the DIRCO funding template, to determine if these were projects that could align with this mission.

Regarding the Strategic Plan the Chair said that going forward this Plan had to have very specific timelines concerning what needed to be done. A short term action plan was also need for rest year up until 31 March to pick the 'low lying fruit or quick wins' in project management terms.

Ending off the Chair said that it had been a turbulent time, but that it was looking good - going forward - from what she'd heard from university. In the meantime whilst there had been a gap she was pleased that the Centre had Franky Lwelela making sure there was something going on, and maintain some administrative accountability, because AORC was serious structure funded by serious money from the African Renaissance fund. Furthermore, having become a Section 21 Company AORC was governed by corporate governance rules. Hopefully such a gap would not occur again in future.

Finally, regarding the Company Act, the Chair stressed that it required that AORC submit annual reports and financial reports. Currently the Centre had one outstanding, which she noted was being chased at present. This had to be followed up on otherwise AORC would find itself being pursued by the appropriate bodies. AORC also had to request an exemption from SARS for Taxpaying. These tasks needed to be incorporated into the action plan and timelines set for their completion.

The Chair thanked the administration of the PPSA in Pretoria for transferring the Centre to the University, and thanked the University for moving full speed ahead to start as soon as the cost centre was transferred. She then declared the meeting open, starting with apologies, quorum and adoption of minutes.

The Chair requested that the Quorum be confirmed in terms of the Company Act and the Memorandum of understanding. She then added; that on that note, she wanted to confirm that Momelezi Kula was sitting in for the CEO of the PPSA. At the last meeting the CEO Maria Du Toit had expressed the opinion that it was not appropriate to be member of the Board, so they had temporarily replaced her with Mr Kula, but they still needed to ask AOMA to resolve this, so that it was possible to have the Public Protector plus one, where the plus one could be the Deputy or anyone else.

Resolution 1: The PPSA has resolved that Mr Kula will temporary replace the CEO of the Public Protector South Africa as a Board Member until the requested is formally made to AOMA for the possibilities of the Public Protector South to be represented by the Public Protector plus one representative who is not necessarily the CEO. It was also resolved that the Acting Director would review and finalise the AORC Strategic Plan for adoption b7 31 March 2016.

Apologies, Additions to and Adoption of the Agenda, Confirmation of Quorum

Mr Franky Lwelela noted that apologies were received from Judge Cowan and Prof Mubangizi.

The AORC Chair then asked if the quorum could be confirmed.

Mr Franky Lwelela responded in the affirmative as there were 4 out of 7 Board members present (This accounts for the quorum according to the Company's Act) According to the AOMA Constitution the quorum was also reached because, In addition to the Public Protector South Africa, the President of AOMA was present, as well as a representative from the University.

The AORC Chair asked the AORC Secretariat to ensure that its record management remained intact even though the faces kept on changing. This would ensure that information and materials could be located and were not dependant on a specific person.

The Chair then turned to the Agenda (document A) in the board pack and asked the meeting if any additions needed to be added?

None were added. In the absence of additions, she asked if the Agenda could be adopted.

Prof Reddi - Yes

Resolution 2: The Agenda was then adopted without any additions.

Following this the Chair handed the floor over to the President of AOMA, Madam Fozia Amin, for her remarks.

2. Remarks by Mme Fozia Amin the president of AOMA

Madam Fozia Amin began her address by thanking the Chair, her Excellency Advocate Thuli Madonsela, his Excellency Dr Tjipilica, former President of AOMA and her Excellency Madam Traoré, former vice President of AOMA; as well as Prof Reddi, Dean of the Law School, the new AORC acting Director, and all members of the board.

She continued, stating that it gave her great pleasure to be at the 13th AORC Board meeting and to be able to deliver her remarks on behalf of AOMA. Africa was affected by lack of good governance, human rights violations, conflict and war. Successes in a particular country had a positive effect on neighbouring countries. Africa was rising but still needed strong institutions to bring about peace, democracy and development. Under the AOMA umbrella, this was the objective they were working towards: to create better institutions in Africa.

Madam Amin said that the aim of AORC was to become a focal point in Africa for the coordination, provision of information, training, and liaison of Ombudsman offices. Over the past few years the Centre had worked to build the capacity of such Offices by providing training in English, French, Portuguese and in the near future Arabic. The Public Protector and chairperson of the Board of AORC had striven to develop the Centre. In the past few years the Centre has been registered, but it needed greater support to grow. The AORC Board had realised the current challenges and incentives that would enable the Centre to advance to higher level. She hoped that in this AORC board meeting they would discuss and approve the

minutes from the 11 and 12th board meetings. It was also important that they decide on the provision of financial and technical support for the next General Assembly, as well as the proposal for AORC to finance AOMA regional meetings.

In this meeting, she continued, it was necessary to set a proper direction to the challenges they faced including the inability to conduct the next General Assembly. She expressed her hope that the handover of AORC to the University would enhance the efficiency of the Centre in many ways. At the same time the Centre needed great attention from School of Law. The University had a huge responsibility to build a centre of excellence and a hub for Ombudsman training and research.

Mme Amin stressed that as AOMA had 6 regional structures, there was a need to establish clusters in each of these regions, so that regional units could participate in training and research in a local context. Each Ombudsman Office in Africa had its own lessons to offer. She suggested that the Centre conduct a survey of experiences and best practices at a regional level and create a sharing forum as part of its activities. Recently the Ethiopian Ombudsman had visited South Africa, she noted, and shared experiences and knowledge around the public protector mandate, investigations and complaints. The delegation reported that this experience sharing was successful because they had got to witness how South Africa had built a strong and well structured system that could be adopted in Ethiopia as well as other countries. In closing Madam Amin thanked the PPSA and Chair of AORC for facilitating such an impressive experience sharing programme and expressed her hope that AORC would continue to enhance the capacity AOMA and its member institutions.

The Chair thanked the AOMA President for her encouraging message, then went on to ask Prof Reddi to her give remarks, not just as a representative of the University but also as manager of Centre.

3. Remarks by Dean of the Law School Prof Managay Reddi, College of Law and Management Studies, UKZN

Prof Reddi commenced her address by greeting the AORC Chair and the honourable members of the Board on behalf of UKZN, and particularly on behalf of Prof Mubangizi who she stressed had broken his leg and was regrettably unable to attend the meeting, but who sent his greetings to everyone present. She stated that she was very pleased to present this report on behalf of the University and as a member of the Board, because she felt that much of what had already been said by Chair, and her Excellency Madam Amin, concerning what the vision of the Centre, was already very much within their sights.

She was pleased to announce that the transfer of AORC funding - from the office PPSA to the University - took effect towards October 2015 year. As result the University was able to advertise for the position of a Communications and Advocacy Officer. Four candidates were interviewed. Franky Lwelela was chosen as the successful applicant. The University also

adverted for the position of Director. Three candidates were shortlisted, however only was one found appointable. That candidate was the former Ombudsman of Bermuda, Advocate Arlene Brock, who was appointed. She was currently in process of obtaining a work permit and was anticipated to arrive in South Africa by the end of April.

In order to continue and accelerate the work of AORC, the chairperson of the Board had recommended the appointment of an acting Director for three months. Prof Reddi said that following this suggestion she was pleased to announce the appointment of Dr Annie Devenish as acting Director until Advocate Brock arrived. Dr Devenish would continue till the end of May. As soon as Advocate Brock arrived the Centre would then immediately advertise the position deputy Director, with the anticipation that this position should not take more three weeks to fill. A few additional administrative appointments had already been approved, and it was hoped that Advocate Brock would be able to be fill these promptly as well.

Prof Reddi said that the University anticipated that within next three months the Centre would be able to fill its staff quota, and that no problems were anticipated with regards to achieving its mandate and targets.

Talking about the AORC Arabic training programme Prof Reddi announced that it was going ahead as planned. Egypt had been chosen as the location for the training because it was the closest country to the other participating countries. The Second reason for the choice of Egypt, she stressed was that it would provide an opportunity to engage in discussions with the Ombudsman of Egypt about Egypt joining AOMA.

Prof Reddi stressed that the important issue raised by Madam Amin regarding regional units and co-operation was one that she had also identified, and agreed that the Centre should also be looking to link up with other regional research institutions. This would be included in AORC's action Plan, she noted.

In conclusion Prof Reddi stressed that the Centre was quite optimistic about future, and with the support of the members of the Board, she believed that they would be in a position to make everyone proud. She thanked everybody, especially the PP for the support received so far.

The Chair thanked Prof Reddi for a successful transfer, and for her encouraging report. The next item on the Agenda was the adoption of minutes, but first the Chair paused to ask if there were any questions or comments

[No questions were raised]

The Chair then asked the Board to move for the adoption of minutes (Document B in the Board pack)

4. Adoption of Minutes of the 11th Board Meeting held in Durban, South Africa, 2 July 2015 and 12th Board meeting held on the 29 July 2015 in Abidjan Cote d'Ivoire

The Chairperson then invited the Board members to indicate any changes that would need to be made to the minutes on a page by page basis. No changes were made to the content of the minutes, except for some grammatical corrections, listed as follows:

11th Board Meeting

- Mme Traoré drew the Board's attention to the spelling of the name Public Protector –pg 1
- The spelling of Addis Abba was also flagged correction - pg 3

12th Board meeting

- A typo –a missing 'd' was pointed out on pg 7, 2nd para 1st line

The chairperson requested Dr Devenish to assist with the proof reading of these minutes which could then be sent to the Public Protector for signing.

The Chairperson then asked if the minutes could be adopted.

Prof Reddi moved for the adoption of 11th set of minutes of the Board meeting. Mme Traoré supported this.

Next Madam Traoré moved for adoption of the 12th set of minutes and Madam Amin supported this.

Resolution 3: The minutes were thus approved without changing the content, subject to correction of grammar. This task was assigned to Dr Devenish.

The Chair thanked Mr Lwelela for doing an excellent job with the minutes.

7. Matters Arising from the Minutes

The attention of the Chair then turned to matters arising from the minutes.

The Chair thanked the Secretariat for raising some of the important issues that came out of the minutes. The first being the co-option of Board members, and the other one concerning AORC providing financial and technical support to the 50th Anniversary of the Ombudsman in Africa and the AOMA 5th General Assembly (GA). These events could no longer take place in Tanzania as initially planned. There was also the proposal of AORC to fund regional meetings. The Chair explained that regional meetings could be used by AORC as an opportunity to run workshops to discuss relevant regional issues and challenges, hence strengthening the regions through collective activities.

The Chair requested that the phrase the 'Office of the PP' be replaced with the phrase 'Public Protector South Africa' in future as this was the correct terminology.

Resolution 4: The Chair also asked Dr Devenish, that in future, when an issue needed to be discussed that a brief Board report on this issue be compiled and circulated to the Board in advance to ensure co-ordination.

Co-option of Board members

On the subject of the co-option of Board members the Chair raised the issue Mr Mthethwa. The Chair explained that Mr Mthethwa was not able to be co-opted because he felt he could not give adequate attention to the position. Under these circumstances the chair suggested that he not be considered for co-option.

The Chair then asked if there were other suggestions for people to co-opt. She explained that this was necessary in order to reconcile the regulations regarding the number of board members required, between the AOMA Constitution and Section 21 Company. 'In other words we wanted to record at this meeting now that we are cooperating, and that we are co-opting members of this Board who are members of the Section 21 Company's Registration but not in the AOMA Constitution'. The Chair suggested that it was possible to do so at this meeting.

The Chair asked Madam Fozia Amin if she had any objections to the co-option of Dr Tjipilica and Madame Traoré (who were members according to the Section 21 Company's Registration but not according the AOMA Constitution)

Madam Fozia Amin responded that she has no objections

The Chair asked Madam Fozia Amin if she moved for them to be co-opted.

Madam Fozia Amin responded in the affirmative.

Dr Tjipilica and Madame Traoré also responded that they had no objections and gave their support to being co-opted.

The Chair then asked Prof Reddi if she supported the co-option, and she responds in the affirmative.

Resolution 5: Following this the Chair asked that the record reflect that the directors that are already directors in terms of the law of the land/ Company Act are also directors in terms of the AOMA constitution.

She continued, stating that the opportunity was open to co-opt any new members in future but that representations would first need to be made about the value they could add to the Board.

Mr Lwelela mentioned that there was another issue in relation to the co-option of Board members, and that this related to their voting rights. Did co-opted Board members have voting rights? This issue had been discussed at the Board meeting in Abidjan.

The Chair responded by suggesting that the Board could co-opt them now and then at the next meeting they could have a document prepared in advance that outlined the Constitution's position on this matter. Continuing, she asked her colleagues if they were agreeable to not resolving the issue now but waiting until they had a properly thought-out document advising them on the legality of the issue from the Secretariat.

[This was agreed]

Resolution 6: Board agreed to co-opt Dr Tjipilica and Madame Traoré- as Directors according to the AORC constitution but to hold off on making a decision regarding their voting rights until a decision had been reached on this matter pending the circulation of a properly thought-out document advising them on the legality of the issue from the Secretariat.

The Chair requested that the Board members, who were Board members according to the Constitution, but not Directors in terms of the registered entity, should be then registered.

At this point Prof Reddi brought up another matter that had arisen from the minutes of the meeting of the 2nd of July 2015. This was Item 6 on page 5 whereby a discussion had arisen about whether it might be in AORC's best interests to be declassified as Section 21 Company and reclassified as international organisation. Prof Reddi wanted to know what had been decided with regards to this, as she was not at the follow up meeting where the matter was resolved.

The Chair responded saying that it was agreed that AORC would be declassified as Section 21 Company, and be reclassified as international organisation.

Prof Reddi then enquired as to the impact of this decision.

The Chair thanked Prof Reddi for reminding the meeting about this important issue. She continued, stating that what they had discovered was that there was never the intention to become a Section 21 Company in the first place, as there was no benefit to be gained from such a status. What AOMA wanted and still wants was the registration of the Centre and of AOMA as an international organisation in order to get the benefits that go with being a diplomatic organisation. Under such a status, Advocate Brock would be treated as a diplomat and would not have to pay SA tax. The decision to increase the salary of the Director to the level of a DG was because they couldn't deal with the diplomatic issues at the time, and so they wanted to ensure that even after tax the Director would still receive a decent amount.

The Chair continued to state that, from the side of the PP SA, they had experienced difficulty in getting the Secretariat to understand the history and legality of this issue. DIRCO was assisting in expediting this process (of registering AORC and AOMA as an international organisation) but it was at this stage unclear how much progress has been made.

Mr Kula responded to the Chair saying that a request was sent in July last year to DIRCO regarding this, and that they had acknowledged receipt but had not responded to it.

The Chair emphasised that it was now up to AORC to push DIRCO to take this process forward, while simultaneously expressing her gratitude for the action taken in July. The decision that had to be made by the Board in the meantime was whether they should proceed to deregister? That was the decision made in Cote d'Ivoire (that they should). She emphasised that they didn't have to wait till they became an international Organisation to de-register as Section 21. They could deregister now and register at Social Development as an NGO, because it was still necessary to ensure that they didn't pay tax. If they deregistered as a Section 21 and didn't register as an NGO they would have to pay tax.

The Chair then asked: do the Universities Pay tax?

Prof Reddi responded, saying that it depended on what form the income took.

The Chair stated that this was government income. She suggested that it might be possible to get someone to give the Centre a legal opinion on the matter, as how they should proceed.

Prof Reddi suggested that the Centre could do a little more investigation, and produce a short report on the issue. She stressed that they would also need to contact the University's finance division to ask for advice. In this way the AORC office could assist Mr Kula with the necessary research, and link up directly with DIRCO if needed.

The Chair requested approval from the Board to handle the matter in this way, and approval was given. A deadline of the 31st March was agreed upon for resolving the issue so that moving into the new financial year they would be clear on where they stood. Until then the Chair reminded the Board that they would remain liable to comply with all of the provisions of cooperate governance that are the responsibilities of Section 21 Companies.

Resolution 7: That the University will work together with Mr Kula to produce a report to guide the process of registering AOMA as an international organisation forward.

The Duty Public Protector then spoke, suggesting that Prof Reddi might be able to draw on her network of legal experts to enquire further about this matter.

The Chair reminded the Board of another related issue, brought to their attention at the meeting in Cote D'Ivoire, and that was that AOMA had never been registered as anything. AOMA was not a legal entity and AORC was asked to do something about this. The Chair initially asked Mr Kula to register AOMA with social development, but then withdrew this suggestion on the grounds that this was not the responsibility of AORC since they were no longer Secretariat of AOMA.

Dr Tjipilica then spoke detailing the progress to date that he had been involved in, during his time as President, with the accreditation of AOMA with the UN. He said that in Angola they had started this process already, and submitted a request to the National Assembly (of Angola) to register AOMA as an international organisation. Also, while he was still the President of AOMA, he had encouraged all his AOMA colleagues to do the same process in

their respective countries. In addition he had submitted an application to the UN in 2014 and had met with the Ombudsman and General Secretary of the UN. They were also in contact with the Vice General secretary of the UN (Dr. Ramagen), and with the Ombudsman of the UN in this regard. Dr Ramagen suggested that they follow the same procedure as they did to get their accreditation with the AU.

During the 4th General Assembly of AOMA he had reported on this process, as well as the accreditation of AOMA to the AU.

It is important for AOMA to have a seat in the UN, Dr Tjipilica stressed, so that they could participate in the UN. They should follow up on this process of accreditation he emphasised.

The Chair thanked Dr Tjipilica for this important contribution and requested the Secretariat to add it to AORC's programme of action. She noted that they (PPSA) had started the communication with the UN about accreditation, but since they were no longer the Secretariat (of AOMA) this process had unfortunately not been followed up on.

The Chair noted that the South African Ambassador to the UN had expressed great interest in working with Angola and Namibia to help accredit AOMA. (At that time South Africa was even chairing the committee that dealt with consultancy status) She stressed that organisations such as AOMA could be accredited with consultancy status at UN. This was done through a form which had to be signed, and which listed the requirements for accreditation. AORC should work together with AOMA in this process; she said, with the current Board meeting agreeing on a timeline. By the following Board meeting AORC should have a report ready on this matter. The Chair acknowledged that they were putting many things on the table, and that they would have to push the ones that would make the greatest impact first.

The President of AOMA, Madam Fozia Amine then spoke, agreeing that the issue of UN accreditation was important for AORC and AOMA's development. The problem was that the UN accreditation procedure was far more complicated, than that of the AU, to which they were already accredited. This was therefore not an easy task, but was nevertheless very important. At the last AU meeting this issue of African institutions establishing proper positions in relation to the UN, especially in relation to the UN Security Council, had been repeatedly raised by different African leaders, she stressed.

The Chair thanked Madam Fozia Amin for this contribution, and then suggested they try to build on the work that had already been done towards this by the previous AOMA President. She suggested that they work with Dr Tjipilica on this process, as he had already made some inroads from his side, and we had made some inroads from ours too. The message from the President, she stressed, was that a report on this matter was needed now. Just a short document from our office detailing what had been done in this regard and where we ended up. E.g. what steps were taken by whom, and who was the last person spoken to.

She asked if secretary from Angola would be able to do this.

She went on to stress that what she felt was needed, going forward, was still to have a joint effort – with all the countries having an interest in AOMA and a presence in the UN working together to support our accreditation. Presently they had Angola, South Africa, Namibia, Kenya and Ethiopia - if those countries could coordinate to work together this would be possible. What would also be needed then would be one document, outlining a step by step approach that says what is going to be done and by what date. Currently we are the only Centre on the continent she stressed, that is offering research and training for Ombudsmen studies. The only other regional centre is in Pakistan for the Asia- Pacific region. Nobody has anything like AORC. We therefore have the opportunity to be a world first and world class Centre of Excellence on Ombudsman studies. The 'go to' place for anything on Ombudsmanship in Africa. This is the vision behind the African Renaissance Fund. This is part of the arsenal they need to make Agenda 23 happen, she emphasised

Resolution 8: In working toward the accreditation of AOMA and AORC with the UN the Board agreed that all African countries involved should participate in a joint effort, and that they should build on the work that had already taken place towards this end, by the previous AOMA President, Dr Tjipilica. As a starting point Mr Kula and Mr Da Costa would work together to produce a short report on the matter, detailing what had been done to date and what still needed to be done, going forward, and by whom. This was to be ready by the latest at the end of March. (The AORC Strategic Plan could then talk about when the process would be finalised). In the meantime the Board was to make sure AOMA and AORC invited the UN to all their big activities, as they had done with the AU, to demonstrate the value they could add.

The Chair then moved onto Item B on the Agenda, the proposal for the AORC to provide financial and technical support to the 50 Anniversary of Ombudsman in Africa celebrations and the AOMA 5th General Assembly. This was a good opportunity to position the Centre and Ombudsman studies, she stressed, by raising and discussing the following important questions; firstly what does the 50th Anniversary signify for good governance in Africa? Secondly, have we used the institution adequately, and what further opportunities exist?

Prof Reddi responded saying that there were concerns from the perspective of the University about this matter. If AORC was requested to provide support, how would it be decided whether that expenditure aligned with the mandate of the AORC? Unless there was a firm proposal of what form that assistance would take it would be difficult to justify. Clearly if that support was for the Conference part of the programme she stressed, then it would be a possibility, but in so far as the meeting of GA there would be issues about why the Centre should be funding such aspect of these activities. More clarification was therefore needed regarding the nature of the financial support required, before the matter could be further considered.

The Chair responded by thanking Prof Reddi for bringing to the fore this important concern. She went on to state that it did indeed boil down to the mandate of the Centre, and in her opinion the request it did fall within the mandate. This was because the Centre was created under the ICTAR (information, coordination, training, advocacy and research) model in the original strategic plan. This request would therefore fall under coordination, which included conferences and other related events. When the Centre was originally formed it was like the As AORC grew the coordination role split, but AORC was still assisting AOMA with coordination. If the Centre coordinated a Conference for a day or half day and if people were already there for the Conference, then the General Assembly could then follow on from this. Could this then justify expenditure the Chair asked? The Conference could be held at the beginning, and the GA right at the end, as this would enable thoughts and issues raised at the Conference to be brought to the GA for decision. The Conference could also then become a resource for AOMA.

Continuing, the Chair stated that the support called for would be the normal support provided when holding a conference. In the case of the 2014 summit at OR Tambo, it included air-fairs (one plus one for every member of AOMA attending) transport, accommodation, food, venue hire and the materials, including research documents. It would be like the colloquium in Kenya.

Prof Reddi responded that before committing, she would need to talk to Prof Mubangizi and the College finance manager because the University was quite specific about how funds - intended for research - were spent. If the primary purpose of the Assembly was the conference then it would be a possibility.

The Chair requested that this be confirmed soon, and that a timeline drawn up to take the matter forward. From the point of view of the sponsor of the event, DIRCO, she knew that they would look favourably upon AORC supporting this event because DIRCO was trying to make an impact on good governance in Africa so anything that they could do to impact positively on the institution would be appreciated.

On the other hand the Chair equally agreed with Prof Reddi that having institutionalised their activities into someone's house (the University) they had to comply with the institution's house rules. What could help them make this decision was the AORC Strategic Plan- this was the funding document from DIRCO that Mr Kula would send through to University.

The Chair then asked the Board – if in principle the Board of AORC were mandating the University to host the conference and as a side event the GA?

Madam Fozia Amin responded saying that she thought it was better to wait for Prof Reddi to follow up on this matter with the University first, before a decision was reached. If there was a big problem with providing such support, perhaps then Centre under these circumstances,

could fall back on assisting some of the other countries to get there. But first, they needed to check that they followed the correct processes.

The Chair responded, suggesting that what Madam Amin was saying was that in principle - as a Board member she supports this - but that she was raising a question that not only looked at the legality of the matter but also at the financials, if the Centre were to host this conference how much of its resources would be taken up and would there still be resources to run the Centre? Then if the resources were not adequate then the Centre could maybe be asked to take care of some of the countries that could not afford to come on their own - if they applied in good time for funding.

Prof Reddi stated that she supported this suggestion but she would only be in a position to give a definite response after she had reviewed the DIRCO document.

The Chair agreed that the Board would not be able to make a decision that day. She then asked Prof Reddi how soon a decision could be made.

Prof Reddi replied that the University would provide a response as soon as they received the founding proposal from DIRCO. She also said that she supported it subject to those who can afford to - paying their own way.

The Chair then asked Mme Traoré and Dr Tjipilica to give their thoughts on this matter.

Mme Traoré stated that they supported this idea and felt it would be good for AOMA. She suggested that perhaps the state could host the meeting?

Dr Tjipilica began by firstly congratulating the acting Director of AORC, the President and Deputy President of AOMA, as well as Prof Reddi for providing the flights and accommodation for Angola to attend this meeting. Angola was experiencing a complicated situation he stressed, and would like express their thanks to Adv. Madonsela. Returning to the issue of AORC support for organising the GA, he said he thought that all the member countries were experiencing similar difficulties. During the last GA Angola contributed \$50 000 towards costs, however they were not in a situation to do this today. Dr Tjipilica noted that even his own office was struggling to pay salaries. He said that he felt AORC had the capacity with GIZ to organise the 5th GA, and that this support would be very much welcomed. The question concerning which country should host the 5th GA was yet to be resolved. African countries would need to work together to decide on this. They owed it to Africa.

The Chair thanked Dr Tjipilica for his encouragement about working together for the greatest impact, and also for keeping the Centre informed about Angola's current struggles. She acknowledged that in better times Angola had provided support for many things, including the Centre itself.

The Chair went on to say that if she were to summarise the discussion so far - in principal, the Board believed that it was their job to host a conference where they celebrated the 50th

Anniversary of the Ombudsman, but that linked to this would be research work seeking to strengthen Ombudsman Institution. The GA would then be one of the side events towards a Conference of this nature. She noted that there might be more countries needing their support this time around, because of the economic difficulties experienced by the whole world.

Resolution 9: The Chair confirmed that the PPSA would give the founding document (signed between DIRCO and the PPSA) to the University the day of the Board meeting or the following day. Based on the mandate of AORC, as presented in this document, Prof Reddi and her colleagues would then make a decision as to whether AORC could provide financial and technical support to the 50th Anniversary of the Ombudsman in Africa and the 5th GA, and clarify the nature of such support. The University would then let the Board know of this decision by close of business Tuesday following the Board meeting.

Once the University has spoken its decision would have to be included in the Strategic Plan of the Centre in terms of specific activities. The Chair suggested that it might be a good idea to have both a research and a training component to the conference. This would enable us to hit 2 of our targets – research and training – but such a decision would need to be alignment with AORC’s needs assessment

Resolution 10: The Board agreed that Dr Devenish would check the Needs Assessment for a mandate (for a training component at the GA? (Whatever we do it has to be within our mandate and strategic plan and to add value)

While on the topic the Chair went on to say that there had not been a written report of the OR Tambo Conference as yet, and that this needed to done and properly published as an output. This was important for the sponsors and for AORC because it provided a more effective way to communicate to the world.

Continuing, she then mentioned that there was also the proposal of AORC to finance regional meetings. This decision had already been taken by the Board at the meeting in the Ivory Coast. The only thing now outstanding was to check to see if this complied with AORC’s mandate in the founding document, and the strategic plan, and confirm whether it would really add to our research and training goals. The Chair stressed that it had been agreed that such regional meetings should take the form of training workshops (or include a training component), such as the Arabic training due to take place shortly. These regional meetings/ workshops could then in turn provide a space to deal with regional matters, to recruit for AOMA, and to facilitate bridging and cooperation.

The Chair noted that she was very pleased that the Arabic training was going ahead, despite the difficulties in the region. It was very important to build a strong AOMA branch in the Arab region, especially as there was concern that Ombudsman Institution was dying in the region

since the Arabic spring. She suggested that AORC might want to invite one of the board members to come and address delegates at the training.

Returning to the issue of regional meetings/workshops, the Chair noted that in finding additional sponsorship to facilitate them – they had to be aware of the way in which their objectives were packaged. This lesson had in efforts to secure funding for the 5th GA and the 50th Anniversary celebrations. The PPSA had asked GIZ and USAID. They had said that they were willing to support AORC but not the GA - the issue here was around packaging. The Chair stressed that if they asked for funding for the purposes of a 'meeting' like the GA, they would be unlikely to get it, but if they did as Kenya did, and asked for funding for a colloquium to discuss pressing issues around the institution of the Ombudsman, funders were more likely to support the initiative. The GA sounded like a government meeting and that's why no one was interested in sponsoring it – it needed to be packaged in the right way to potential funders.

The Deputy Public Protector Kevin Malunga then stated that he wished to tease out some of the possibilities coming through in discussion. He wanted to know whether people were zooming into the SA option (holding the GA in South Africa) or whether other geographical possibilities were also being put on the table. If the latter was the case he suggested Kenya as an alternative venue?

Madam Amin stressed that they would accept any country willing to host the GA.

The Chair provided some additional context, stating that when they met at the last GA there were two options on the table, Tanzania and Zambia. Tanzania was no longer able to host and now Zambia has also had to say no. Kenya and South Africa were the Secretariats' fall back options, Kenya however had already written to the Secretariat declaring their inability to host.

The Deputy Public protector then suggested that they 'widen the net' by considering other partners for funding, such as the German Konrad-Adenauer-Stiftung Foundation, and other similar organisations working in the area of good governance.

The Chair noted that AOMA had already decided that they were going to request SA to host, however she agreed that the Deputy Public Protector was making an excellent suggestion. She then requested Mr Kula write to everyone who had attended the PPSA's development partner dialogue and to ask them if they would be willing to provide financial support to 50th Anniversary Celebrations of the Ombudsman in Africa, whereby the celebration would be used as an opportunity to reflect on the contribution and impact of the Ombudsman Institution on the continent, and the different roles it has been assigned. Looking forward to Agenda 2063, the celebration could also be used as an opportunity to reflect on how the institution could be reimaged and packaged more neatly into an African government strengthening role. In addition the embassies should also be approached. Those addressed

could be asked if they want to play some part in this process. Not one of them has to then sponsor everything they could choose to sponsor one particular item.

The Chair concluded this conversation stating that the Board were at the moment exploring SA as an option for hosting the GA and 50th Anniversary but that they were also open to offers from anywhere in Africa. Kenya could be asked, perhaps, if they could host, if resources could be galvanised from elsewhere. At the moment it appeared that the Centre might be able to host, once again if the event was funded mainly from elsewhere.

Resolution 11: It was resolved that the PPSA's office would write a letter to everyone who had attended their development partner dialogue (plus Embassies) and ask them if they would be willing to provide financial support to 50th Anniversary Celebrations of the Ombudsman in Africa and the 5th GA, whereby the celebration would be used as an opportunity to reflect on the contribution and impact of the Ombudsman Institution on the continent. This letter would be written by the close of work day Tuesday after (1st March). The letter would also ask about sponsorship regional meetings.

Prof Reddi spoke next, stressing that she supported the Chair's idea of combining regional meetings/conferences and trainings. Especially in light of the current budget of the AORC, which was already partly committed to pay for the salaries of a number of appointments, intended to commence with the arrival of the new Director. Consequently, there would be limited funds left to fund all the activities discussed. If regional meetings however could form part of trainings, this would be helpful as AORC had a budget to cover trainings.

The Chair stressed that this had always been the idea of the Centre: to bring people in and then to organise various events and trainings around this confluence. This then gave Dr. Devenish a very clear mandate, she said. Training events could include one afternoon aside to discuss coordination/ administrative functions of the regions. The Centre could then justifiably claim that this was applied research. This could be put into practice with the Arabic training.

In addition the Chair suggests that AORC get someone from AOMA to open the Arabic training – to create some publicity around the institution of the Ombudsman.

Mme Amin responded to this request from the Chair confirming that was ready - if she was invited to opening the Arabic training in Egypt.

Resolution 13: The Board agrees that the President of AOMA is ready and willing to come and open the Arabic training in Cairo if she is invited and resourced by the Centre.

Prof Reddi then asked if the President would be prepared to take that further and agree to have discussions with Egypt about joining AOMA while in the country?

The Chair said that she supported this suggestion. Perhaps, the President could, in addition also arrange meetings with several other members of the government. She mentioned that

in her discussions with the Egyptian Ambassador he had been very happy about such an initiative.

Mr Kula then raised the issue of the AOMA Secretariat's request for AORC to support AOMA in the review of its constitution.

The Chair suggested that this matter could be discussed after the tea break based on whether this could be seen to fit within AORC's Strategic Plan.

[Tea break]

After the tea break the AORC progress report to DIRCO was presented. This report outlined the activities the Centre had been involved in to date.

The feedback from DIRCO was that they were happy with the work of the AORC however, they did have a few concerns, which included:

- The AORC Facebook page and website - which DIRCO felt could be more effectively used to generate impact. One way to do this, for example, would be by profiling stories like the one about the Ethiopian study visit to South Africa. For DIRCO the work of the Centre has to be seen to contribute to the broader African Renaissance and AU vision of Africa rising. The online media of the Centre must have an impact with regards to this vision and must also function to provide information and applied research on the institution of the Ombudsman to enhance the profile of the Centre.
- The fact that there was no training curriculum on the AORC website, nor any dates for training courses
- DIRCO also wanted to see evidence of the impact of the training.
- DIRCO wished to receive copies of all the research output the Centre produces

Discussion of the DIRCO report led on to further discussion about other areas where there was room for improvement. The first of these was the Centre's Annual Reports, which at the moment were weak. These needed to be professionally produced. The last one also needed to be edited. Going forward, the idea would be to produce a proper annual report that people could put on their coffee tables.

The second issue raised was the fact that the Centre needed to develop its capacity to become a resource and documentation centre for scholars and researchers.

The third issue was that of the Strategic Plan, which needed to be professionally bound.

At this stage Dr Tjipilica asked about the date of the launch of the Centre at UKZN. Was it March 2011? He noted that in the historic background to the AORC Report to DIRCO there was no reference to the date, and that this should be included.

The Chair noted that the AORC Progress Report to DIRCO had already been adopted but she stressed that this should be taken into account in the preparation of the next Annual Report which could provide more background about the Centre's beginnings.

The Chair then asked the Board if they were prepared to adopt the report that had been submitted to DIRCO.

[The Board Agreed]

5. AORC Development and Activities Report

The AORC activities and development report was briefly presented by Dr. Devenish. This Report covered the following areas:

- Preparations for the upcoming Arabic training in Cairo which was scheduled to take place in March 2016, and to which delegates from 3 Arab countries: Tunisia, Libya and Sudan had been invited
- Progress towards commencing with the extension of the Comparative Analysis of Legal systems study
- The regular updating of AORC's website and its social media accounts
- Progress towards publication of the 7th and 8th AORC newsletters

The Chair thanked Dr Devenish for the Report then opened the floor for discussion. The only thing missing was now, she stressed, was the financial report. It was not clear where the Centre's financial records were in the transfer from the PPSA to the University. The Chair noted that the Centre's financials should be available at every board meeting. These should include a summary how much has been spent since last meeting and expected expenditure in the following quarter. This should be completed by the end of this month. In the longer term, an integrated financial report would also be required.

Turning next to Strategic Plan the Chair suggested that the Board review the plan and identify what could be salvaged for completion by the end of the upcoming financial year (31st March), within what timelines, and how various Board members could assist in this process.

Resolution 10: Annie Devenish to go through the Strategic Plan and compile a list of quick wins to work towards fulfilling before the end of the financial year

The Chair then turned her attention to the upcoming Arabic Training. She asked why only three Arabic countries had been invited to attend the training. Why not Morocco?

Mr Lwelela explained that Morocco was not a member of AOMA. An invitation had been sent to all AOMA Arabic offices but only Tunisia, Libya and Sudan had responded. Furthermore some of the other Arabic countries had already participated in earlier in French and English trainings

The Chair then asked about South Sudan- had an invitation been sent to them.

Mr Lwelela explained that one had, but that they had not responded.

The Chair stressed here that South Sudan was one the countries that really needed our support. She went on to suggest that the letter of invitation for the Arabic training could be sent through the embassies of the various countries, like South Sudan, from which the AORC had received no response. The ones that are out of the fold are very important, she stressed.

Resolution 11: It was therefore resolved that the AORC would extend its invitation to attend the Arabic training to all Arabic countries, not only those that were members of AOMA, and that it would use this opportunity then to get them to join. It was also resolved that Kevin Malunga should meet with the DIRCO Africa Desk (working with the Embassies) to invite all of the additional African countries, including Egypt.

In line with this the Chair stressed that they had a dual responsibility to emerging African nations

The Deputy Public Protector agreed to contact Africa desk to get the ambassadors on Board.

Mr Lwelela then asked the Board's opinion on postponing the proposed date of the training (Scheduled for March) by one month to allow sufficient time for additional preparations and to enable the Libyans to obtain their visas. He also asked the Board to consider paying the costs of the additional countries that the Arabic training was being extended to?

The Deputy Public Protector agreed to set up meeting with the ambassadors. It was also agreed that the AORC Secretariat could assist him in this task by providing a draft letter that could be addressed to the DG. In meantime the AORC would proceed to send out invitations

The Chair then asked if the Board was willing to sponsor countries that were not members of AOMA to attend the training.

Mme Traoré responded in the affirmative.

Resolution 12: The AORC Board agrees to sponsor the non AOMA member Arabic countries attending the Arabic training.

The Chair also noted that with the training, from a stats point of view, the AORC needed to start setting targets – x number of officials trained per year. To get things rolling they would need to speak to the trainer immediately and set a very fixed date. The next step would be to confirm that Mme Fozia Amin would be available to open the training on the newly decided date. This would all need to be communicated in the next 48 hours. The Board would also need to see what the training pack looks like and ensure that it has been professionally done.

Mm Traoré then asked if, besides Arabic and French, any training had been conducted in Portuguese.

The Chair confirmed that training in Portuguese took place in Dec 2014.

Going forward the Chair stressed that training activities needed to be continuous and incorporate basic, intermediate and advanced levels. She reminded the Board that AORC was also supposed to train trainers. Consequently, there was a need to evaluate 'where we are in terms of progress' she said.

Referring to the Award in Ombudsman Practice course, the Chair stated that this was supposed to be a pilot for AORC. The University however refused to accredit it. There was a need to follow up on this. She stressed that training materials could not be accredited if the person providing the training was not officially a trainer. We have to be able to show what processes we are going to put in place to 'own' the training, she emphasised

The Chair went on to mention that the UCT School of Governance had started off like the AORC, but had now accredited their own courses. Perhaps the AORC team could meet with them and benchmark, she suggested. The Board might also wish to consider co-opting them onto the AORC Board where they could assist with the professionalization of our training. This was because it was very important for training participants to know that their training means something; that it's recognised, and will provided a building block for further professional development.

At this point the Chair suggested another thing quick win: for the AORC to advertise using the University rules for trainers. This would mean that the Centre would not have to get different trainers per course as they would have a regular pool to draw from. AORC could then advertise once, and people could apply to be accredited. The Centre would, however have to follow their own internal procedures and certify people according to these rules.

Finally the Chair noted that the Centre should also look to the PAI – Public Administration Institute for future funding opportunities for training.

Moving on to the issue of revising AORC Strategic Plan (ST), the Chair noted that AORC still had about 5 million in funds in their account, and was also due to receive the final tranche of 7 million from DIRCO soon. It was therefore necessary that by Aug this year AORC should have a 5 year Strategic plan in place to submit to the African Renaissance meeting. This Strategic Plan would need to talk to AORC's funding model. In terms of sustainability, with regards to the training, perhaps later on some countries may be able to pay for their own training, she suggested, and we could introduce some cost recovery models.

The Chair then called for the Board to adopt the report of the acting Director

Prof Reddi responded in the affirmative

Dr Tjipilica supported

[Report of the Acting Director is accepted]

7. Any Other Matters

Moving on, the Chair then asked if there were any other matters for discussion

Mr Kula then referred to the memorandum from the Ivory Coast meeting which called for the creation of a Standing Committee on curriculum design and training and the establishment of TORs

The Chair noted that there had, in the past, been a proposal for a standing Committee on Research to be established. Such a committee might be able to assist with the development of TORs

The Deputy Public Protector then made another suggestion in this regard – that perhaps AOMA/ AORC could approach the SA Qualifications Authority, in particular their training Standing committee in this regard.

With regards to the expanded comparative analysis study – it was requested/suggested that a draft report could be presented by July.

Chair: Any remarks that need to be attended to before close

[None were raised]

In closing the Chair thanked all Board members for their input, presence and continued interest and commitment to the work AOMA. She also thanks Franky for preparation of the meeting, as well Dr Devenish, and Prof Reddi for her background support and encouragement to the Centre, the PPSA team Mr Kula and others, the support team of Ombudsmen accompanying the Board members as well as the translators

[The Meeting is closed]

ADV. TN. MADONSELA
CHAIRPERSON: AORC BOARD
PUBLIC PROTECTOR, REPUBLIC OF SOUTH AFRICA

DATE