

# **AFRICAN CONTINENTAL UNITY PARTY**

The Global Interim Constitution

ACUP [www.africanacup.org](http://www.africanacup.org)

The official global interim constitution of the African Continental Unity Party.

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## **THE OFFICIAL INTERIM GLOBAL CONSTITUTION OF THE AFRICAN CONTINENTAL UNITY PARTY**

African Continental Unity Party Interim Constitution as adopted at the 1<sup>st</sup> first national conference.

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## Preamble

The African Continental Unity Party was founded and presented by the league team for the first time on the 21 of November 2020, on virtual platform.

The primary objective of African Continental Unity Party (ACUP) is to produce a new class of African leadership in business and politics. The second objective is then to organize the skills and energy of the new leadership to create the African global powerbase, which is the essence of life, and no life is independent, meaningful or impactful without the power.

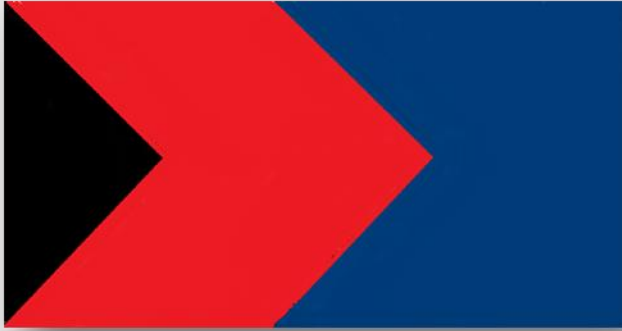
The purpose of this organization is to unite African potential around the struggle for the liberation of African mind, identity and dignity. The most ultimate vision we are carrying is to build the African Global Powerbase, through a new leadership with a new system, by regaining control of our political institutions through general elections. Furthermore, our activities will be based at raising an awareness, cultivating the African minds and promoting the African values system.

In the struggle for freedom, justice and self-determination for the African people, this political party (ACUP) is created.

## Article 1 Name

Name of the party: African Continental Unity Party (abbreviated as ACUP)

## The flag of the ACUP:



## The ACUP flag and its meanings:

The flag is composed of three colors: black, red and blue, the black and red colors end with an arrow shape pointing in one direction as to reflect our historical development. The blue color ends with a square shape to symbolize a continuation of life that reflects our future.

The black color is a symbol of purity that reflects the period from our origin until we met aliens. Before Arabs and Europeans interfered with our history we were distinctive people pure in our culture, and living under our philosophical principal of Ubuntu.

The red color symbolizes blood and revolution, a period that started with aliens in Africa and still continues today. It started from the moment we welcomed foreigners into our homes while they had an oppressive agenda, the blood of Africans through the Trans-Atlantic Slave Trade, colonialism, invasions and other oppressive actions we have suffered from are reflected in this symbol. Also, the same symbol stands for revolution, this reflects our revolutionary movement of liberation that was started by our forefathers around the world, and we are still working on their footsteps to reverse the order. We believe that freedom cannot be given, it cannot be even negotiated, freedom must be fought for and we are aiming to do that by all means necessary. Our purpose is not to catchup with other civilizations, but it is to trace our own pathway to a period symbolized by the blue color.

Finally, the blue color is a symbol of the period of peace and strength, which has no a narrow end but goes infinitely, and that is our common destiny. Africans are originally peaceful people, we are not in struggle to bring oppression to other people, we are just in struggle against the systemic injustices done against Africa. Our aim is to emerge and embark on a peaceful journey of our prosperity and self-determination.

## **Article 2 Profile of the party**

The African Continental Unity Party is an Afrocentric and Pan-African political party.

## **Article 3 Vision and Mission**

Our vision is, "To establish the African global power-base, through a continental government built on a new leadership inspired by our common interest." The leadership built on the idea of Pan-Africanism, trained for, and by Africans, and subsidized by Africans.

Our mission is to create the new African leaders in politics and business. To seize our political institutions through general elections and lead Africa toward new path in a new system.

## **Article 4 Character of the ACUP**

1) The ACUP acknowledges the diversity of linguistic, cultural, and belief systems of its members and the greater African population. The Party is therefore committed to respect these diversities.

2) The ACUP shall, in its composition and functioning, be against any form of: tribal or ethnic exclusivism; gender biasness; and racial discrimination. The Party shall at all times seek to promote and protect the collective interests of all Africans in unity.

3) The ACUP shall respect the different views and ideas all its members and from the larger African community. The party shall promote the principles of freedom of speech and free circulation of ideas.

## **Article 5 Membership**

Any person willing to become a member of African Continental Unity Party has to understand and accept that as Africans we are one and no African is a foreigner in an African soil, even if he carries a different passport.

Any person willing to become a member of African Continental Unity Party has to understand and agree that, this is not a protestation based or violent movement, but it's an intellectual work of reforming and rebuilding the African society.

The new member has to understand that the main focus is to join our efforts, knowledges, skills and talents together in planning about where we must be and what we must be in the next decades.

Anybody involved or willing to be involved at all levels in the activities whether in the global or local league of the African Continental Unity Party, has to be at first the member of African Continental Unity Party.

A member of African Continental Unity Party is every person who believes in the vision and the objectives and values of the party, and constantly committed himself/herself to the activities of the party directly or indirectly in all areas that may affect positively the party in its vision, objectives and the values.

A member of the African Continental Unity Party is any person to whom a membership ID Number has been granted, after his/her signing and submission of a membership application form.

No person shall be admitted to the ACUP league membership unless he/she is a confirmed general member of the ACUP with a membership ID number.

Only a league member (global or local) is entitled to engage the party at the level of his/her responsibility and duty as defined to him/her by the league.

A general member who is willing to become active within the party shall send his/her application form to the league administration.

Added to that application form will be all the necessary information requested by the administration.

A confirmed member of the ACUP shall be entitled to a training program provided by the Free-Minded Pan-African academy.

A member of the African Continental Unity Party may not be given any responsibility within the party without a formal training through the Free-Minded pan-African academy.

The application form of a new intendent league member shall be accompanied with the following attached declaration made in the language he/she knows.

“I..... solemnly declare that I will abide by the Vision and mission of the African Continental Unity Party as set out in the Constitution, the African Continental Unity Party Ideology and other duly adopted policy positions, that I am joining the ACUP voluntarily and without motives of material advantage or personal gain. That I will place my energies and skills at the disposal of the organization and carry out tasks given to me, I agree to respect the Constitution and the structures and to work as a loyal member of the ACUP, that I will work towards making the African Continental Unity Party an even more effective instrument of Unity in the hands of the African People. I will defend the unity and integrity of the organization and its principles, and combat any tendency towards disruption and factionalism.”

## **Article 6 Elections of the ACUP candidates for public functions.**

Any person in the general membership or the league may qualify to participate in the public elections on the behalf of the party, provided that he/she fulfils all the requirements established by the party through its guidelines.

The potential candidate who wants to participate in public elections shall first win the party elections after he/she has campaigned for the approval of his/her political project

If there are more candidates competing for the same public elections in their respective countries, all shall be allowed to campaign and promote their political projects for the party elections to determine the best project to represent the ACUP.

The party campaign period and methodology shall be determined in the ACUP guidelines.

The elected candidate/s for public elections in his/her respective country shall be confirmed by the ACUP General Council within 14 days after the internal election results.

The mandate terms of the ACUP candidates elected in their respective countries shall last according to the official mandate term in their respective countries, and it shall be renewed twice.

A single candidate may not be elected three times in the party election for the approval of his/her candidature in the public elections.

## **Article 7 General council**

The General Council of the ACUP is the only body with the highest authority to:

Establish the party goals and objectives according to the party vision and mission.

Making new policies and regulations that will support the achievement of the ACUP vision and mission.

Amending new policies and regulations submitted by the league and its various departments.

Providing the guidelines and processes of various operations and activities related to the ACUP goals and objectives to be executed by the league.

Appointing and revoking the heads of departments within the league according to the standards and the requirements of the ACUP for each function.

Control and monitoring the function of the league and its departments according to the goals and objectives of the ACUP.

Settling disputes within the party, among individuals and departments.



Interpreting the ACUP constitution whenever required, and making sure that the ACUP constitution does not conflict with the national or state constitutions.

Ensuring that there is a disciplined function of the league.

### **Article 8 Structure of the General Council of the ACUP**

The African Continental unity Party shall have a General Council at all levels of the league.

The Global General Council shall function in relation to the mandate of the global league.

The National General Council shall function in relation to the mandate of the national league.

The Provincial General Council shall function in relation to the mandate of the provincial league.

The branch General Council shall function in relation to the mandate of the branch league.

The Global General Council has the mandate to set time-bound global goals and design plans to achieve the goals, according to the vision of the ACUP.

The National General Council has the mandate to set time-bound national goals and plans in relation to the global goals and plans set by the Global General Council, According to the vision of the ACUP

The Provincial General Council has the duty to set time-bound provincial goals and plans in relation to the national goals and plans set by the National General Council, according to the vision of the ACUP.

The Branch General Council has the duty to set time-bound municipal and district goals and plans in relation to the provincial goals and plans set by the Provincial General Council, according to the vision of the ACUP.

The vision of the ACUP shall remain the establishment of the African Global Powerbase.

And therefore, no person or institution, moral or physical shall change the vision of the ACUP, until Africa has emerged and re-established herself as a global powerbase.

### **Article 9 Election of the general council members**

The Global General Council shall be composed with two members (male and female) from every country where the ACUP has established itself as a political party.

Also, the Global General Council shall be composed with 4 members (two males and two females) from the African diaspora in every continent where the ACUP has officially established itself.

The National General Council shall be composed with two members (male and female) per state of province.

The Provincial General Council shall be composed with four members (two males, and two females)

The Branch General Council shall be composed with two members (male and female)

All the members of the General Council of the ACUP shall be elected members, elected by the registered members of the ACUP.

The members of the Global General Council, and of the National General Council shall be elected by the Global General Members of the ACUP.

The members of the Provincial General Council, and the Branch General Council shall be elected by the National General Members.

Every decision taken by the General Council at all level in relation to policy change or amendment shall be approved by the ACUP General Members through voting.

A general member of the ACUP or a league member can initiate a motion against a member of the General Council or the whole General Council for misconduct or deviation from the vision of the ACUP.

Such a motion shall be submitted to the legal department of the league team for evaluation and adjudication.

If the motion is judged and declared factual by the legal department, the electoral department shall organize a voting session in the next 60 days for the General Members to decide for the destitution or continuation of the member/s's functions.

If the whole team of the Global General Council is dismissed, the legal department shall ensure that there is a continuation of the party activities, and the electoral department shall organize the election of the new members in the following 90 days.

If the whole team of the National General Council is dismissed, the Global General Council shall ensure that there is a continuation of the party's activities, and the electoral department of the National League shall organize the election in the following 90 days.

If the Provincial or the Branch General Council is dismissed, the National General Council shall ensure the continuation of the party's activities and the national electoral department shall organize the election in the following 60 days.

## **Article 10 Decision making within the General Council**

The decision making within the G.G. Council shall be adopted by the voting of members of the G.G. Council after the general meeting.

And the resolution adopted in the meeting shall be submitted for the approval by the Global General Membership.

The decision making within the N.G Council shall be adopted by the voting of the members of the National General Council after the national meeting.

And the resolution adopted in the meeting shall be submitted for the approval by the National General Membership.

The decision making within the Provincial and the Branch General Council shall be adopted by the voting of the members of the Provincial or Branch General Council after the provincial or the branch meeting.

And the resolution adopted in the meeting shall be submitted for the approval by the National General Membership.

## **Article 11 Global General Council**

Will have to ensure that continental structures, regions, national, branches and all other ACUP structures, such as parliamentary caucuses, carry out the decisions of the ACUP.

Full-time functionality of Global Working committee members will be determined by the ACUP Global league Committee.

Carry out decisions and instructions of the ACUP Global league Committee and Submit a report to each ACUP Global league Committee meeting.

The general council shall be composed by league members each elected from every functioning department within the party.

The appointment of the general council candidates shall be conducted through vote of members of the department from which the member is coming from. After, the candidates shall be approved through voting by the ACUP base.

## **Article 12 Rights and Duties of Members**

### **Rights**

At African Continental Unity Party, everyone is a member. And everyone is a leader, can elect and can be elected to lead any structure, commission, delegation or committee;

Be involved in all the social activities of the party, attending events or taking part on social media in case of a distant events.

A confirmed membership of the African Continental Unity Party is entitled to the ACUP educational program through the Free-Minded academy;

Offer constructive criticism within the ACUP structures of any member, official, policy programme or activity/s of the ACUP and take full active part in the formulation and implementation of ideas and policies.

### **Duties**

All ACUP members shall ensure that they are registered as voters in the constituency where they live;

Every ACUP member must be part of as a local branch;

To read and understand all the necessary documents and be able to explain the ACUP vision, mission, ideology, policy and programmes to the African people;

Deepen his or her understanding of the social, cultural, political and economic problems across the globe;

Refrain from publishing and/or distributing any media without authorisation which purports to be the view of any organised grouping, faction or tendency within the ACUP;

Defend the policy, aims and programme of the ACUP, combat propaganda detrimental to the interests of the ACUP and;

Observe discipline, behave honestly and carry out loyally decisions of the majority and decisions of higher bodies.

### **Article 13 Gender**

The ACUP acknowledge the current patriarchal system which was never an African value system it's foreign to the African principle of UBUNTU. The ACUP recognises the contributions of both women and man as of equally value. Women must constitute a numerically and effective working force on all ACUP elected structures to enable an effective participation within the party.

### **Article 14 Conditions for exclusion**

Any active member with responsibility willing to leave the party definitely or temporarily will write a letter to the league explaining his situation.

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A prolonged absence of an active member without justification for 6 meetings will be considered as an exclusion, and the process for reinsertion will require a letter of motivation from the excluded member to the general council department.

The letter shall be addressed to the global general council for a member of the global league, and to the local general council for the member of the local league.

Every member shall be involved in all the social activities of the party, attending events or taking part on social media in case of a distant events.

All the members of the league team shall participate to all the meetings.

Continuous unjustified absence of a member will leads to his/her exclusion after deliberation by his/her department and the general council.

After exclusion of any member, the excluded member is given 30 days to appeal in a letter addressed to the general council to justify the reason for his readmission.

### **Article 15 Functions and Duties of Official departments**

The department of communications that shall: -

- a. Conduct all the activities related to mobilization, public relations, media, events planning, marketing and;
- b. Many others that shall be judged necessary to the party functioning.

The department of finance that shall: -

- c. Conduct all the activities related to fundraisings, financial management, financial control, procurement, wages and;
- d. Other sub-departments that shall be judged necessary for the functioning of the party.

The department of research and development that shall: -

- e. Conduct all the activities related to education and training, community development, humanitarian assistance and;
- f. Many other sub-departments that shall be judged necessary for the functioning of the party.

The department of legal affairs that shall: -

- g. Conduct all the activities related to policy making and evaluation, human resources, legal representation, internal control and discipline, and;
- h. Other sub-departments that shall be judged necessary for the functioning of the party.

The project management department that shall: -

- i. Conduct all the activities related to planning and organizing electoral campaigns, internal elections, and;
- j. Other sub-department that shall be judged necessary for the functioning of the party.

The strategic department that shall: -

- k. strategically plan and organize the party's overall departments and objectives, it shall continually screen the internal as well as the external environment of the party, in order to find strategies that will allow the party to function in the most effective way.

The administrative, shall: -

- l. Be overseeing and coordinating and controlling the activities of all other departments, making sure that the activities of all the functioning departments are in conformity with the goals and objectives established. Solve internal issues in the league and between departments and make the final call in the league comity.

The HR department, shall:-

- m. Be the single entity within ACUP with the authority of hiring people to work in the league.
- n. It shall collaborate with all the functioning departments and supply the need workers required for a specific department.

### **Article 16 Financial control**

The party representative should submit to the transparency policy, requiring a regular financial reporting and auditing two times in a year.

The collected donation and membership fee from the National League shall be used 60% to cover the national budget, and the 40% should be used to cover the global budgets.

### **Article 17 Contractual liability**

ACUP Global League Committee is the only structure which may enter into or approve contracts.

ACUP Global League Committee will have to give a written authorization for the National League Committee, Provincial League Committee and Branch League Committee to create any legal relationship binding the ACUP to any contractual liability.

A written authorization from the ACUP Global League Committee must not be produced by any other person purporting to bind the ACUP.

### **Article 18 Borrowing powers**

The ACUP Global League Committee may from time to time borrow any amount of money which it may consider to see fit for any purpose which intend to grow the party.

The ACUP National League Committee, Provincial League Committee and Branch League Committee will have to produce a written authorisation from the ACUP Global League Committee authorizing that they borrow on behalf of the ACUP.

Assets, mortgage or pledge of the ACUP may be used to secure such borrowing or any other obligations.

### **Article 19 Amendment**

Any request for any purpose from any entity intended to address the ACUP league (global, national, provincial and branch) shall be sent to the office of secretary.

The ACUP shall hold continually a yearly global conference for the purpose of special amendment to the party structure and constitution whenever it will be possible.

The constitution of the ACUP may be amended only once a year after such a proposal has been submitted to the party before the global conference.

Notice of intent to propose any amendments to the Constitution should be introduced to the Office of the ACUP Global League Secretary according to the procedure established, at least six months before the Global Conference.

The proposition for the constitution amendment can be introduced by the Global General Members, the National or Global league members, or by a member of the Global or National General Council.

Such proposition shall be examined and judged valid or non-valid by the Global General Council before the adoption process takes place.

The proposed amendment shall be voted for by a two-thirds majority of the members of the Global General Council for the amendment to be approved.

The approved amendment by the Global General Council shall be validated by the Global General Members through a positive vote.

### **Article 20 Dissolution**

African Continental Unity Party organization cannot be dissolved because of conflict between its members.

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Only by resolution of a majority in voting of the Global General Members with the majority of 61% passing a resolution to dissolve the ACUP.

The same resolution shall be first approved within the party by the Global General Council and all the National General Council all along with their leagues in a special election.

All transfer of the assets and liabilities will be determined by the Global General Council in a special Conference.

### **Article 21 Affiliation**

ACUP will continuously affiliate with any Pan-Africanist organization, movement, political party, business, organized labour, organized community, or Pan-Africanist person etc...

The ACUP seeks to unite all Africans with Africa and all Africans across the diaspora, in a one common goal establishing an African global powerbase.

### **Article 22 Jurisdiction**

ACUP is a cross border organization which transcend beyond the boundaries of border within the continent of Africa and also across the African population in the diaspora.



## **Schedule A: - Disciplinary measures**

### **DISCIPLINARY MEASURES FOR THE AFRICAN CONTINENTAL UNITY PARTY**

#### **INTEGRITY COMMISSION AND DISPUTE RESOLUTION COMMITTEE**

##### **Appointment of the integrity commission and the dispute commission**

The general council shall appoint an Integrity Commission and the global dispute commission with terms of reference to be approved by the global league

The Officials may refer to the Integrity Commission any unethical or immoral conduct by a member which brings or could bring or has the potential to bring or as a consequence thereof brings the ACUP into disrepute.

The integrity commission may refer the issue to the dispute commission

#### **MANAGEMENT OF ORGANISATIONAL DISCIPLIN**

##### **Duties of members, office bearers and public representatives**

The Secretary General shall communicate all Standing Orders, Rules, Regulations, Resolutions and policies adopted or made in terms of the Constitution to the structures of the ACUP

All members, office bearers and public representatives have a duty to familiarize themselves with the contents of this Constitution, Standing Orders, Rules, Regulations, Resolutions and policies adopted or made in terms of the Constitution.

Any member, office bearer or public representative who fails, refuses and/or neglects to abide by the provisions of the Constitution of the ACUP, its Standing Orders, Rules, Regulations, Resolutions and policies adopted or made in terms of the Constitution shall be liable to be disciplined in terms of this Constitution.

##### **Jurisdiction**

The ACUP shall have jurisdiction to discipline any member, office bearer or public representative for committing any act of misconduct which will be listed below as a member of the ACUP and/ or by virtue of his or her contract of deployment and/or by virtue of his or her membership of any of the structures of the ACUP

##### **Presumption of knowledge**

Notwithstanding a principle of this Constitution that a member is presumed innocent until proven guilty, the charged member, in disciplinary proceedings, shall be presumed

to have knowledge of the documents and information referred to in rules below and shall bear the onus of rebutting this presumption.

### **Disciplinary proceedings not to stifle debate or solve private problems**

Disciplinary proceedings against a member shall not:

Be used as a means of stifling debate or denying members their basic democratic rights; or

Be instituted as a means of solving private problems or as a means of interfering in the private lives of members where the norms of the Organization are not directly affected, unless such conduct itself constitutes a violation or an offence affecting the Organization.

The Presenter at any disciplinary proceedings shall do all in his or her power to ensure that disciplinary proceedings are not instituted for any of the purposes set out in Rule above

If the Presenter has information that disciplinary proceedings have been instituted for any ulterior motive, the Presenter shall disclose such information to the Chairperson of the relevant Disciplinary Committee who, in turn, shall have the discretion to investigate such information and, if necessary, refer the matter for further investigation to the relevant party which instituted the disciplinary proceedings, prior to the commencement of the disciplinary proceedings or to put an immediate stop to such disciplinary proceedings.

### **Institution of disciplinary proceedings**

The Officials or office bearers of any of these structures exercising its right to invoke disciplinary proceedings under this Constitution, may initiate and/or institute disciplinary proceedings against any member, office bearer or public representative of the Organization in respect of any act of misconduct referred to in Rule below.

If the integrity commission or the office bearers of these structures, as the case may be, is satisfied that the institution of disciplinary proceedings is warranted against a member or office bearer of an ACUP within its Region or Branch in respect of any misconduct referred to in Rule below, it, he or she shall first obtain the written approval of the national Secretary before commencing with the institution of such disciplinary proceedings.

### **One stage inquiry and onus**

Disciplinary proceedings in the ACUP shall be a one-stage inquiry and shall be conducted in terms of the procedure below.

All the evidence regarding the merits of the case and all evidence relating to an appropriate sanction shall be led by the parties before the Disciplinary Committee retires to adjudicate and make its finding.

The onus shall be on the Presenter in disciplinary proceedings to lead evidence, to prove the guilt of a charged member on a balance of probabilities and, if it chooses, in aggravation of a sanction.

A charged member shall have the right to lead evidence, call relevant witnesses, submit documentary evidence, interrogate all evidence submitted by the ACUP and cross-examine witnesses called by the Presenter in making or supporting his or her defence and in mitigation of a sanction.

After all the evidence has been led, the members of the Disciplinary Committee concerned shall deliberate in private and make a finding.

A Disciplinary Committee which has conducted a disciplinary hearing in terms of this Constitution may make a finding of guilt and impose an appropriate sanction only if it is satisfied that the evidence presented is of such a cogent nature as to prove the guilt of such member, office bearer or public representative on a balance of probabilities

Where the Disciplinary Committee concerned makes a finding of guilt, it shall take into consideration all information and evidence placed before it in aggravation and mitigation of sanction, before imposing an appropriate sanction.

### **Acts of misconduct**

The following conduct by a member, officer bearer or public representative shall constitute misconduct in respect of which disciplinary proceedings may be invoked and instituted against him or her:

Acting in breach of the membership oath;

Conviction in a court of law and being sentenced to a term of imprisonment without the option of a fine, for any offence;

Failing, refusing or neglecting to execute or comply with any ACUP Policy, Standing Order, Rule, Regulation or Resolution adopted or made in terms of this Constitution or breaching the provisions of this Constitution;

Engaging in any unethical or immoral conduct which detracts from the character, values and integrity of the ACUP, as may be determined by the Integrity Commission, which brings or could bring or has the potential to bring or as a consequence thereof brings the ACUP into disrepute;

Behaving in a manner or making any utterance which brings or could bring or has the potential to bring or as a consequence thereof brings the ACUP into disrepute;

Sowing racism, sexism, tribal chauvinism, religious and political intolerance, regionalism or any other form of discrimination;

Behaving in a manner which provokes or is likely to provoke or has the potential to provoke division or impact negatively on the unity of the ACUP

Engaging in sexual or physical abuse of women or children or abuse of office to obtain sexual or any other undue advantage from members or others;

Abuse of elected or employed office in the Organization or in the State to obtain any direct or indirect undue advantage or enrichment;

Participating in any organized factional activity that goes beyond the recognized norms of free debate inside the ACUP and which threatens its unity;

Publishing and/or distributing any media publication without authorization which purports to be the view of any organized grouping, faction or tendency within the ACUP

Undermining the respect for or impeding the functioning of any structure or committee of the ACUP

Joining or supporting a political organization or party, other than an organization in alliance

With the ACUP in a manner contrary to the aims, objectives and policy of the ACUP

Standing in an election for global, provincial or national government or acting as the elect

Misappropriating funds of the ACUP or destroying its property;

Fighting, assaulting another member or behaving in a disorderly or unruly manner at ACUP meetings, assemblies or gatherings and/or disrupting meetings and interfering with the orderly functioning of the ACUP

Prejudicing the integrity or repute of the Organization, its personnel or its operational capacity by:

Impeding the activities of the Organization;

Creating divisions within its ranks or membership;

Doing any other act which undermines the ACUP, s effectiveness as an organization; or

Acting on behalf of or in collaboration with:

Counter-revolutionary forces;

A political organization or party other than an organization or party in alliance with the ACUP in a manner contrary to the aims, policies and objectives of the ACUP

Intelligence or the security services of other countries; or

Any person or group who seriously interferes with the work of the Organization or prevents it from fulfilling its mission and objectives.

Being convicted in a court of law for the offence of fraud, theft of money, corruption, money-laundering, racketeering or any other act of financial impropriety;

Soliciting or accepting any bribe for performing or not performing any task pertaining to or in connection with the ACUP

In the case of a public representative, breaching his or her contract of deployment concluded with the ACUP

In the case of a member of an ACUP Caucus, failing, refusing or neglecting to carry out or execute an instruction or mandate of such caucus; and

In the case of a representative in disciplinary proceedings, charging or soliciting a fee for services rendered or levying a disbursement for associated costs when representing a charged member, appellant or review applicant, as the case may be.

### **Global Disciplinary Committee**

The quorum for any sitting of the NDC shall be 54 of the members appointed in terms of Rules above, one of whom shall chair the relevant disciplinary proceedings in the absence of the designated Chairperson of the NDC.

The NDC shall have jurisdiction to:

Hear and adjudicate upon any violation or act of misconduct contemplated in Rule above and referred to it by the relevant body.

Act as an appeal committee in respect of cases adjudicated upon by a NDC; and

Where the NDC acts as a disciplinary tribunal of first instance, it shall have the competence to impose the following sanctions:

A fine;

A reprimand;

Payment of compensation;

Performance of useful tasks;

Remedial action;

Suspension of membership;

Expulsion from the ACUP

In the case of an office bearer, removal or suspension from office;

In the case of a public representative, cancellation or suspension of his or her contract of deployment and/or removal from any list or instrument which entitles such person to represent the ACUP at any level of government; and

A combination of sanctions set out in above.

The PDC may suspend the operation of any of the sanctions imposed in terms of the Rule above, with or without conditions, for a period to be determined by the NDC.

**Where the NDC acts as an appeal or review tribunal**

Where the NDC acts as an appeal tribunal or reviews a decision of a PDC, it shall have the competence to impose the following verdicts:

Uphold the appeal and set aside the decision of the PDC;

Dismiss the appeal and confirm the sanction imposed by the PDC;

Dismiss the appeal and impose an appropriate sanction;

Uphold the application for review and refer the matter back to the PDC for re- hearing;

Uphold the application for review, consider the merits and impose an appropriate sanction, if necessary; and

Dismiss the application for review.

Where the NDC acts as a disciplinary tribunal of first instance, an appeal from or review of its decision shall be to the GDC.

**Global Disciplinary Committee of Appeal**

The quorum for any sitting of the GDCA shall be 54 of the members appointed in terms of Rule above, one of whom shall chair the relevant disciplinary proceedings in the absence of the designated Chairperson of the GDCA.

The GDCA shall have jurisdiction to:

Adjudicate upon appeals and review applications in matters determined by the NDC; and

Adjudicate upon applications brought before it in terms of this Constitution.

The GDCA shall have the competence to impose the following verdicts:

Uphold the appeal and set aside the decision of the NDC;

Dismiss the appeal and confirm the sanction imposed by the NDC

Dismiss the appeal and impose an appropriate sanction;

Uphold the application for review and refer the matter back to the NDC for rehearing or with an appropriate directive;

Uphold the application for review, consider the merits and impose an appropriate sanction, if necessary;

Dismiss the application; and

Impose such appropriate finding not covered above.

The decision of the GDCA shall be final.

### **Review by the League**

The League may, in its discretion, review any decision taken by any of the disciplinary committees (if it was the final arbiter) to ensure that procedural fairness has been afforded to the charged member, appellant or applicant for review, as the case may be.

If the League finds that procedural fairness has not been afforded to the charged member, appellant or applicant for review, as the case may be, the League shall refer the matter back to the appropriate disciplinary committee, for re-hearing.

The members of the league who were party to the institution of the disciplinary proceedings and members of the GDCA, or NDC, as the case may be, who are also members of the league and who presided over the hearing and appeal or review concerned, shall recuse themselves from the league meeting during the discussion of the case.

### **Provincial Disciplinary Committee**

The quorum for any sitting of the PDC shall be 3 (three) of the members appointed in terms of Rules above, one of whom shall chair the relevant disciplinary proceedings in the absence of the designated Chairperson of the PDC.

The PDC shall have jurisdiction to hear and adjudicate upon any violation or act of misconduct referred to it by the any competent body or the Provincial Secretary.

### **Rights of appeal and review and procedure**

A member, found guilty by a Disciplinary Committee of the ACUP shall have 1 (one) further opportunity to appeal or apply for the review of proceedings to the appropriate Disciplinary Committee.

Any member, found guilty by a Disciplinary Committee shall have the right within 21 (twenty one) days from the date of the public announcement of the ruling and sanction, to appeal against the finding or sanction or both to the next higher Disciplinary Committee.

The ACUP as the complainant, shall have the right to appeal against the decision and sanction imposed by a Disciplinary Committee within 21 (twenty one) days from the date of the public announcement of the ruling and sanction and to cross appeal in cases where an appellant has noted and lodged an appeal.

Any member, found guilty by a Disciplinary Committee shall have the right within 21 (twenty one) days from the date of the public announcement of the ruling and sanction, to apply to review the decision of the Disciplinary Committee concerned to the next higher Disciplinary Committee.

The grounds of such review shall be limited to procedural irregularities and shall not deal with the merits of the decision of the Disciplinary Committee concerned.

The ACUP, as the complainant, shall have the right to oppose any application for review.

The decision of the Disciplinary Committee adjudicating the appeal or review shall be final.

The procedure to be followed for the conduct of appeal and review proceedings before the PDC, NDC or GDC shall be determined by the league

### **Status of guilty member, office bearer or public representative**

If a member has appealed against or applied to review a decision of a PDC or the NDC, the sanction imposed by such Disciplinary Committee shall only come into operation after the finalization of the appeal or review, as the case may be.

Where a PDC or NDC has found a member guilty and imposed a sanction of suspension or expulsion the Secretary General or Provincial Secretary, acting on the authority of the league, or any competent authority as the case may be, may suspend the membership of such member and provide reasons therefor, until the finalization of any appeal or review application instituted by such member.

During the period of suspension, such member shall be precluded from exercising any right in terms of this Constitution, save to prosecute his or her appeal or review application and be present at any necessary attendance in connection therewith.

A member affected by such suspension may, within 14 (fourteen) days of being notified of such suspension, apply to the NDCA to set aside such suspension.

The NDCA may set aside such suspension on good cause shown.

### **Obligation to dispose of disciplinary proceedings expeditiously**

All disciplinary proceedings shall be disposed of expeditiously and within a reasonable time.

Notice of the charge shall be delivered to the charged member or his or her representative within 6 (six) months of the date when knowledge of a member's alleged act of misconduct or conviction in a court of law is brought to the attention of the ACUP

Disciplinary proceedings shall be finalized by the Disciplinary Committee concerned within 6 (six) months from the date that a notice of the charge was delivered to the charged member or his or her representative.

Where the league the PGC, or any other competent body as the case may be, fails or neglects to initiate disciplinary proceedings within the time limit in referred to in above, the charged member may apply to a Disciplinary Committee having jurisdiction for the withdrawal of the charge.



Where a PDC, NDC or GDC unduly delays the commencement of or finalization of disciplinary proceedings within the time limit in referred to in Rule above, the charged member may apply for the charge to be withdrawn or proceedings to be stopped, as the case may be.

Notwithstanding the provisions of Rules above, where disciplinary proceedings cannot commence or be finalized due to the unavailability or dilatoriness of a charged member and/or his or her representative, or due to the unavailability of one or more of the members of the Disciplinary Committee concerned, the Chairperson of the Disciplinary Committee may apply, in writing, to the NDCA for an extension of time.

The NDCA may grant such application on good cause shown.

Where a charged member has appealed against or applied to review a decision of a Disciplinary Committee, the NDC or GDC, as the case may be, shall do all in its power to finalize such appeal or review within 6 (six) months from the date the appeal was noted or the application for the review was lodged.

### **Temporary Suspension**

The league, GDC, NDC or PDC, as the case may be, may, at any stage prior to the commencement of disciplinary proceedings against a member summarily suspend the membership of that member in accordance with the provisions of this Rule.

Before making such a decision, the competent body as the case may be, shall:

Have due regard to the nature and seriousness of the alleged violation or act of misconduct;

Consider the likelihood of the member engaging in further acts of misconduct;

Consider the impact on the repute of the Organization of the alleged violation or act of misconduct and/or further acts of misconduct that the member could engage in;

Put the accusations to the member for comment;

Afford the member 48 (forty eight) hours to respond to the accusations.

Due to the circumstances and urgency of the matter, the Secretary General as the case may be, acting on the authority of the league, or other bodies may convey the decision of temporary suspension to the member telephonically.

If justifiable exceptional circumstances warrant an immediate decision of temporary suspension of a member without eliciting the comment or response of such member as contemplated above, the league as the case may be, may summarily suspend such member.

The member shall immediately be informed of such suspension either directly, by letter or telephonically or, if that is not possible, through a public announcement.

In the case of the suspension of a public representative, the league or other competent body as the case may be, must also provide for any terms and conditions which will regulate the member's participation and conduct as a public representative during the period of suspension.

The public representative concerned shall immediately be informed of such terms and conditions.

Where a temporary suspension is imposed, the league, or any other competent body through the office of the Secretary General as the case may be, shall immediately forward a report of such suspension and the reasons for it to the GDCA and the NDCA may, in its discretion, at any stage set aside such suspension.

The temporary suspension shall lapse if a notice of a charge relating to such suspension is not delivered to the member within 30 (thirty) days from the date of commencement of the temporary suspension.

The temporary suspension shall remain in force until the finalization of the disciplinary proceedings, including any appeals or reviews, provided that the NDCA may, upon application, or of its own accord if the circumstances so warrant, set aside such suspension at any stage.

During the temporary suspension the member shall not be entitled to exercise any of his or her rights in terms of the Constitution, save for attending the disciplinary proceedings and enforcing his or her right of appeal and/or review.

The member may, at any stage, apply to the NDCA to set aside the temporary suspension.

The league or any other competent body may at any stage set aside the temporary suspension if new facts warrant such setting aside and inform the member and the NDCA accordingly.

Where a public representative, office-bearer or member has been indicted to appear in a court of law on any charge, the Secretary General or Provincial Secretary, acting on the authority of the league or other competent executive bodies, if satisfied that the temporary suspension of such public representative, office-bearer or member would be in the best interest of the Organization, may suspend such public representative, elected office-bearer or member and impose terms and conditions to regulate their participation and conduct during the suspension.

### **Appearance of charged member at disciplinary proceedings**

A charged member shall appear at the venue and at the specified date and time to answer the charge against him or her.

Should the charged member fail or neglect to appear at the venue and at the time determined for such proceedings or if he or she does not remain in attendance when

required to do so by the Chairperson of the Disciplinary Committee, the Disciplinary Committee, if it is satisfied that the charged member was properly and timeously notified of such date, venue and time, may order that the proceedings continue in the absence of such member and make a finding in the absence of the charged member.

Should the chosen representative of the charged member fail or neglect to appear at the disciplinary hearing, the onus shall be upon the charged member to explain the absence of his or her representative and the Disciplinary Committee concerned shall, after deliberations, decide whether or not to proceed with the disciplinary proceedings.

### **Representation in disciplinary proceedings**

A charged member, or appellant or applicant for review, as the case may be, shall have the right to be represented in disciplinary proceedings by a member of the ACUP in good standing and who has been a member in good standing for a period of at least three (3) months prior to the date of the hearing.

The representative of a charged member or appellant or applicant for review, as the case may be, shall not be entitled to charge any fee for such representation or levy a disbursement for costs associated with such representation.

The onus shall be upon the charged member, appellant or applicant for review, as the case may be, to arrange his or her representation timeously.

The choice of dates, times and duration for sittings of a Disciplinary Committee shall be the prerogative of the Disciplinary Committee concerned.

Where a charged member or appellant or applicant for review, as the case may be, elects to choose a legal practitioner, who is a member in good standing of the ACUP, as his or her representative, such representative shall provide an undertaking at least 5 (five) days before the commencement of the disciplinary proceedings concerned that he or she has set aside sufficient time to ensure that the matter can be disposed of expeditiously.

If the representative cannot provide such undertaking as aforesaid, the onus shall be upon the charged member or appellant or applicant for review, as the case may be, to secure the services of another representative or failing that, to represent himself or herself at such disciplinary proceedings.

The ACUP shall be represented at disciplinary proceedings as provided for in the Constitution.

### **Principles of Fairness, Equity and Legal Precedent**

Disciplinary Committees of the ACUP shall make decisions and findings on the principles of fairness and equity.

If the GDCA or NDC (as the final arbiter) has adjudicated, made a finding and pronounced on:

The interpretation of any Rule in the Constitution, resolution or policy of the ACUP; or

The relationship between structures of the ACUP; or

The status of a structure of the ACUP; or

A point of law raised by any party in disciplinary proceedings such decision of the GDCA or NDC shall constitute a precedent and shall be binding on subsequent disciplinary proceedings in the NDC, the PDC, where the interpretation of the same Rule or relationship or status or point of law is raised by a charged member, office bearer or public representative.