



WORKING GROUP ON POLICY AND LEGAL HARMONIZATION (WGPL)

LEGAL EXPERTS TASK TEAM (LETT)

Online Meeting of 3rd February 2026

UPAP/ PAPU/AC/PRC/WGPL/LETT/06/2025- Doc No.5 & Annexes

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PROPOSED MEASURES APPLICABLE TO PAPU ON SUSPENSION OF MEMBER STATES FROM THE AFRICAN UNION

Agenda item No. 7

1. Subject Proposed measures applicable to PAPU on Suspension of Member States from the African Union	2. References/paragraphs <ul style="list-style-type: none">▪ Acts of the Union;▪ African Union (AU) Suspension Communiqués;▪ AU Legal Opinions.
3. Decision expected <ul style="list-style-type: none">▪ Consider the document▪ Make any relevant comments, or proposals.	

I. INTRODUCTION

The African Union, through the Peace and Security Council, suspended certain African countries who are PAPU Member States from its activities, namely, **Guinea, Burkina Faso, Mali, Niger, Sudan and Madagascar** following political developments in those countries which led to unconstitutional changes, (see copies of the Suspension Communiqués attached in **Annex 1**).

The PAPU General Secretariat has therefore undertaken extensive internal and external consultations with a view to better understanding the legal implications of such suspensions at PAPU, given its status as a specialized AU institution with separate legal persona and operational autonomy.

This discussion paper therefore aims to report on the results of these consultations and to propose measures for implementing the Suspension Communiqués in a manner appropriate to PAPU context.

II. SCOPE OF THE AUC MEMBER STATE SUSPENSIONS

The scope of Suspension Communiqués can be understood from both a material and an organizational perspective. In material terms, the suspension applies to all activities, including meetings, decision-making processes, and all other activities of AU bodies and institutions. From an organizational perspective, the suspension announcements by Burkina Faso and Sudan appear to limit the suspension of these states to AU activities only, stating: “... **to suspend, with immediate effect, participation... in all AU activities until normal constitutional order is restored in the country.**” Meanwhile, the other Suspension Communiqués specify that Mali, Niger, Guinea, and Madagascar are suspended not only from the activities of the African Union, but also from those of its organs and institutions.

In any case, the net effect is that the suspension of the aforementioned Member States concerns both the organs and institutions of the African Union like PAPU

However, the legal question faced by the General Secretariat before sound advice or recommendations could be made is whether the suspension of African states from the African Union applicable to PAPU? The answer to this pertinent question was sought by the PAPU General Secretariat through a formal letter and the response from the Office of the Legal Counsel at the African Union, was through a legal opinion which is attached as **Annex 2**.

III. KEY HIGHLIGHTS OF THE AFRICAN UNION LEGAL COUNSEL’S OPINION

Following a thorough reading of the opinion issued by the African Union (AU) Legal Counsel, the PAPU General Secretariat made the following deductions from it:

- (1) The activities of the African Union comprehensively encompass all actions undertaken by its organs, institutions and specialized institutions, reflecting a unified operational framework that advances the African Union’s objectives and principles.
- (2) The suspension of Member States is intended to safeguard the legitimacy and coherence of the AU’s activities by ensuring that they remain firmly grounded in democratic governance and the rule of law.
- (3) The suspension of Member States must not adversely affect the ordinary citizens of the Member States concerned.
- (4) The suspension of Member States from the African Union’s activities does not affect

their status as members of the Union.

- (5) Suspension does not exempt a Member State from fulfilling its obligations towards the Union, which retains the right to maintain diplomatic engagement with a view to restoring democracy.
- (6) The legal personality of the Pan African Postal Union (PAPU) defined in Article of the PAPU Convention indicates that PAPU possesses its own legal personality to enable operational, managerial, and financial autonomy, which aids effective execution of its specialised mandates.
- (7) The doctrine of separate legal personality, enables PAPU to have its own legal identity distinct from the individuals or bodies that created it.
- (8) This legal separation allows PAPU to act autonomously to the extent that it can enter into contracts, own property, sue and be sued, and carry out functions in its own capacity. However, this doctrinal separation does not imply that the PAPU is detached or independent from the AU in a substantive or organisational sense.
- (9) As the supreme decision-making authority of PAPU, the Plenipotentiary Conference is empowered to take decisions on the manner and conditions under which PAPU may engage with Member States that have been suspended from the AU. According the Legal Opinion, this decision must strike a balance between not legitimizing governments that came into power illegally and taking care of the welfare of the ordinary citizens of the suspended member state in question.
- (10) Ultimately, the AU Legal Counsel recommends that the PAPU General Secretariat presents the implications of Member State Suspension Communiqués to the Conference for consideration and decision, taking into account PAPU's objectives and the nuances outlined above.

IV. LEGAL VOID IN THE PAPU ACTS

Pursuant to the opinion of the African Union (AU) Legal Counsel, the issue of implications of the suspension of Member States from the African Union should be tabled before the Plenipotentiary Conference for a decision on the manner and conditions under which the Pan African Postal Union (PAPU) relates or cooperates with the Member States suspended by the African Union..

Ordinarily, in doing so, such a decision must be grounded in the PAPU Acts and its related legal instruments. However, currently the PAPU's legal framework does not address the implications of suspension of a Member State from the African Union. More specifically, the article that addresses the nature of suspensions from PAPU, that is Article 29 of the PAPU Convention, provides that ***“The Conference may decide by a two-thirds majority of Member States present and voting, to suspend a Member that:***

- 1.1 Practices a policy contrary to the objectives and principles of the Union;***
- 1.2 Does not, for three (3) consecutive years, honour its financial obligations to the Union;***
- 1.3 Does not respect decisions of the Conference which are binding on all Members.***

Accordingly, suspension from the African Union does not constitute one of the grounds for suspending a Member State from PAPU. Furthermore, the PAPU Acts do not contain any provision governing situations in which Member States are suspended from the African Union. This situation therefore gives rise to a legal vacuum, which has to be addressed by proposing measures applicable to PAPU's specific context, taking into account the expectation of the African Union as contained in the African Union Legal Opinion.

V. PROPOSED MEASURES APPLICABLE TO PAPU

In order to address the legal void and enable the Plenipotentiary Conference, pursuant to the opinion of the African Union (AU) Legal Counsel, to make a determination on the implications of Member States being suspended from the AU, the General Secretariat has identified two (02) possible options:

1) option 1: Amend article 29 of the PAPU Convention

This option would entail amending Article 29 of the PAPU Convention in order to include or add suspension from the African Union among the grounds for suspension from PAPU. This option would have the following implications:

- a)** Whenever a Member State is suspended from the African Union, it would automatically also be suspended from PAPU. Such an approach may undermine the effective functioning of PAPU organs, in view of the significant number of suspensions at the level of the AU (seven Member States suspended between 2021 and 2025) and the potential for further suspensions arising from emerging political and geopolitical trends.
- b)** Systematically suspending a Member State from PAPU on the grounds that the Member State has been suspended from AU could run counter to the missions and objectives assigned to PAPU. Hence the AU legal Opinion also advises caution that the “decision must strike a balance between not legitimizing governments that came into power illegally and taking care of the welfare of the ordinary citizens of the suspended member state in question”

ADVISORY NOTE 1:

The PAPU General Secretariat does not recommend this option as it could run counter to the missions and objectives of the Union. PAPU has not suspended any of its members notwithstanding that a number of countries have been due for suspension for being indebted to

the Union beyond three years which is sanctionable through suspension. PAPU has not suspended these members as the Union fully understands that some of the reasons for not paying mandatory contributions are externally driven by armed conflicts, wars, United Nations sanctions etc. Instead, the Union has chosen engagement as a strategy of keeping the Members working together thereby promoting African Unity and solidarity which assists the Union to achieve its objectives

2) Option 2: introduce specific measures applicable to member states suspended from the African Union.

This option entails creating a new Article to be made in the PAPU Convention under the heading “Specific Measures Applicable to Member States Suspended from the African Union” with the proposed text as follows:

(New Article) “Specific Measures Applicable to Member States Suspended from the African Union”

- 1. “Where a Member State is suspended from the African Union, because of the unconstitutional change of Government, shall be sanctioned by the Union in a manner that does not not legitimize the government that has come into power illegally and taking care of the welfare of the ordinary citizens of the member state in question. The Member state shall remain a Member of the Pan African Postal Union and shall continue to be bound by its obligations towards the Union and be entitled to its rights, excluding the right to:**
 - i) Host sessions of the Plenipotentiary Conference;**
 - ii) Be elected to the Bureau of the Plenipotentiary Conference;**
 - iii) Nominate candidates for the office of Secretary General or Assistant Secretary General.”**
- 2. The sanctions on the member states shall automatically apply from the date the African Union suspends the Member State and shall automatically reverse from the date the African Union announces the lifting of the suspension.**

ADVISORY NOTE 2:

The main advantage of this second option is that it offers greater flexibility and makes it possible to reconcile the effective functioning of PAPU with its role as a specialized institution of the African Union in the postal sector. The separation of the sanctioning due to violation of the PAPU Statutes

is separated from that of the sanctioning due to the African Union Suspension which is 'imported'. This allows PAPU full control of its activities without allowing its cohesion.

Administratively the imposition and lifting of sanctions on member States suspended by the African Union will not call for the convening of the Plenipotentiary Conference as this will be automatically. The General Secretariat will be instructed to communicate to the PAPU Membership on each position as it occurs

VI. DECISION EXPECTED

The Legal Experts Task Team is requested to examine the proposed amendments and to provide any relevant guidance, comments, observations or proposals.

Annex 1

AFRICAN UNION
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PEACE AND SECURITY COUNCIL
1062ND MEETING

ADDIS ABABA, ETHIOPIA
31 JANUARY 2022

PSC/PR/COMM.1/1062(2022)

COMMUNIQUÉ

COMMUNIQUE

Adopted by the Peace and Security Council (PSC) of the African Union (AU), at its 1062nd meeting held on 31 January 2022, on the Situation in Burkina Faso:

The Peace and Security Council,

Recalling its previous decisions on the situation in Burkina Faso, in particular Communiqués PSC/PR/COMM/3.(DXLIV) adopted at its 544th meeting held on 18 September 2015; PSC/PR/COMM (CDLXVIII), adopted at its 468th meeting held on 18 November 2014; and PSC/PR/COMM(CDLXV) adopted at its 465th meeting held on 3 November 2014;

Also recalling the Press Release of the Chairperson of the Commission issued on 24 January 2022, as well as the Communiqué of the Extraordinary Summit of the Economic Community of West Africa States (ECOWAS) Authority of Heads of State and Government on the political situation in Burkina Faso adopted on 28 January 2022;

Evoking the relevant provisions of the AU Constitutive Act, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, particularly Article 7 (g) and the African Charter on Democracy, Elections and Governance;

Mindful of the Decisions AHG/Dec.141(XXXV) and AHG/Dec.142(XXXV), adopted by the 35th Ordinary Session of the OAU Assembly of Heads of State and Government held in Algiers, Algeria, from 12 to 14 July 1999; the Declaration on the Framework for an OAU Response to Unconstitutional Change of Government, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government held in Lomé, Togo, from 10 to 12 July 2000 (the Lomé Declaration); and the Solemn Declaration of the 50th OAU/AU Anniversary adopted in Addis Ababa on 25 May 2013;

Takes note of the opening remarks by H.E. Ambassador Amma Adomaa Twum-Amoah, PSC Chairperson for January 2022 and Permanent Representative of the Republic of Ghana to the AU; the briefing by H.E. Ambassador Bankole Adeoye, the AU Commissioner for Political Affairs, Peace and Security; as well as the statements made by H.E. Ambassador Olivia Rouamba, Permanent Representative of Burkina Faso and the Representative of the Chair of the ECOWAS;

Reaffirms the unwavering commitment of the AU to respect the sovereignty, unity and territorial integrity of Burkina Faso, as well as the AU's solidarity with the people and Government of Burkina Faso; and

Acting under Article 7 of its Protocol, the Peace and Security Council,

1. ***Expresses deep concern*** over the resurgence of military coups d'état which undermines democracy, peace, security and stability in the Continent;

2. **Condemns in unequivocal terms**, the military coup d'état in Burkina Faso, which resulted in the ousting of a democratically elected President, H.E. Marc Roch Christian Kabore, by a faction of military officers; and **reiterates** its zero tolerance of unconstitutional changes of government in line with Article 4(p) of the AU Constitutive Act and **reaffirm** total adherence to the AU normative frameworks on illegal takeover of governments on the Continent;
3. **Endorses** the Communiqué of the Extraordinary Summit of the ECOWAS Authority of Heads of State and Government on the political situation in Burkina Faso adopted on 28 January 2022; and **expresses** strong support to the efforts of the ECOWAS in addressing peace and security challenges facing the region, including the resurgence of military coups;
4. **Demands** the immediate unconditional release of President Marc Rock Christian Kabore and all other detainees, and respect of human rights, including protection of their physical health and moral integrity and **warns** that in a situation of any abuse of human rights, Council will not hesitate to take necessary action, including punitive measures against those who will be found responsible;
5. **Decides**, in line with the relevant AU instruments, in particular, the AU Constitutive Act, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union and the African Charter on Democracy, Elections and Governance, to suspend, with immediate effect, the participation of Burkina Faso in all AU activities until the effective restoration of normal constitutional order in the country;
6. **Pledges** the resolute support of the AU to the people of Burkina Faso and **reaffirms** the unwavering commitment of the AU to continue to provide requisite technical and other necessary support in accompanying the country towards the return to a democratic and civilian-led government;
7. **Notes with concern** the deteriorating security situation and the surge in insurgency and violent extremism in Burkina Faso and the broader Sahel region, which has been further compounded by heightened population displacement, in particular, women and children amidst the precarious impact of drought and climate change;
8. In this context, **welcomes** the joint initiative by the Chairperson of the Commission and the United Nations Secretary-General on the AU-UN Joint Strategic Assessment on sustainable financing of G5 Sahel Joint Force, as a strategic milestone towards a comprehensive response to security challenges in the Sahel region;
9. **Requests** the Chairperson of the Commission through his High Representative and Head of AU Mission in Mali and the Sahel (MISAHEL) to continue to closely monitor the situation in close coordination with ECOWAS and to report to Council regularly;

10. **Reiterates** its communique [PSC/PR/COMM.(1030(2021))] adopted at its 1030th meeting held on 30 September 2021 which called for a comprehensive and objective analysis of the root causes and impact of unconstitutional changes of government in the Continent and the recommendations of the 8th High Level Seminar on Peace and Security in Africa held in Oran, Algeria in December 2021, which called for the review of the African Governance Architecture (AGA) and the Lomé Declaration on unconstitutional changes of government; and in this regard, **underscores** the need for such analytical review to also examine existing AU instruments on democracy and good governance, with a view to factor in contemporary challenges to African peace and security and modalities to address the surge in unconstitutional changes of government in Africa, and report to the Council within two months, with practical recommendations on steps to be taken;
11. **Calls** on the international community to continue supporting Burkina Faso in order to enable it address the deteriorating security situation and prevailing socio-economic challenges facing the country, cognizant of the fact that only a sustained redress of the structural dynamics underlying the current challenges in the country can guarantee lasting stability and development; and
12. **Decides** to remain actively seized of the matter.

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PEACE AND SECURITY COUNCIL

1030TH MEETING

10 SEPTEMBER 2021

ADDIS ABABA

PSC/PR/COMM.(1030(2021))

COMMUNIQUE

COMMUNIQUE

Adopted by the Peace and Security Council at its 1030th meeting held on 10 September 2021, on the situation in the Republic of Guinea,

The Peace and Security Council,

Recalling the relevant provisions of the July 2000 AU Constitutive Act, the July 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union, in particular, Article 2 establishing the PSC as the standing decision-making organ for the prevention, management and resolution of conflict in Africa, and the January 2007 African Charter on Democracy, Elections and Governance;

Mindful of the provisions of all relevant AU normative instruments, in particular the Declaration on the Framework for an OAU Response to Unconstitutional Change of Government, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government held in Lomé, Togo, from 10 to 12 July 2000 (the Lomé Declaration);

Further recalling its previous communiqués on the situation in Guinea, including PSC/PR/COMM.(CLXV), PSC/PR/COMM.(CCIV) and PSC/AHG/COMM.2(CCVII), adopted by its 165th, 204th and 207th meetings held, respectively on 29 December 2008, 17 September 2009, and 29 October 2009; **also recalling** press statement PSC/PR/BR.1(CCXX) adopted at its 220th meeting held on 11 March 2010, and communique [PSC/PR/COMM.2 (CCLII)] adopted at its 252nd meeting, held on 9 December 2010;

Noting the joint statement issued by the Chairperson of the AU, H.E. Felix Tshisekedi, President of the Democratic Republic of Congo and Chairperson of the AU Commission, H.E. Moussa Faki Mahamat, the statement of the Chairperson of the Economic Community of West African States (ECOWAS), H.E. Nana Addo Dankwa Akufo-Addo, President of the Republic of Ghana, as well as the communique adopted by the Extraordinary Session of the ECOWAS Authority of Heads of State and Government, on 8 September 2021;

Further noting the statement by the Permanent Representative of the Republic of Chad to the African Union, H.E. Ambassador Mahamad Ali Hassan, Chairperson of the PSC for the month of September 2021, and the briefing by the Commissioner for Political Affairs, Peace and Security, H.E. Ambassador Bankole Adeoye; **also noting** the statements made by the Permanent Representative of the Republic of Guinea to the AU and the Representative of Ghana, in its capacity as Chairperson of the ECOWAS;

Reaffirming the unwavering commitment of the AU to respect the sovereignty, unity, and territorial integrity of Guinea and AU's continued solidarity with the people of Guinea in their aspirations for improved and sustainable democratic governance.

Acting under Article 7 of its Protocol, the Peace and Security Council:

1. **Expresses its deep concern** over the situation in Guinea following the coup d'état, on 5 September 2021, which resulted in the unconstitutional takeover of power, the suspension of the Constitution and the dissolution of Government and all state institutions, and its impact on the country, the region and the Continent;

2. Pursuant to Article 4(p) of the AU Constitutive Act, ***totally rejects and strongly condemns*** the unconstitutional change of government in Guinea, through military coup d'état of 5 September 2021;
3. ***Endorses*** the communique adopted by the Extraordinary Session of the ECOWAS Authority of Heads of State and Government, on 8 September 2021, in particular paragraph 11 and ***looks forward*** to the outcome of the ECOWAS high-level mission to Guinea;
4. ***Decides***, accordingly, in line with the relevant AU normative instruments, to immediately suspend the Republic of Guinea from participation in all activities of the African Union, its Organs and institutions, until normal constitutional order is restored in the country;
5. ***Calls on*** the Guinean military to immediately release President Alpha Conde, along with other officials arrested unconditionally, while ensuring their personal safety and health;
6. ***Demands*** the Guinean military to urgently and unconditionally return to the barracks, uphold the principle of constitutionalism, and to refrain from further interference in the political processes in Guinea, ***failing which*** the Council will institute further targeted sanctions including punitive measures against all the actors involved in the military takeover of power;
7. ***Urges*** the Guinean people to remain calm, ***while calling on*** the military actors to refrain from all acts that could lead to violence and to give primacy to the supreme interest of the country in the promotion of peace, security and stability;
8. ***Demands*** a swift and full return to constitutional order through a civilian-led government, and a rapid solution to the current crisis;
9. ***Appeals*** to all external actors to refrain from any interference in the internal affairs of Guinea, which could further complicate the situation in the country;
10. ***Calls on*** the United Nations Security Council to also endorse the decision of the ECOWAS Extraordinary Summit on the situation in Guinea, herein endorsed by the PSC and support its implementation, with a view to ensure restoration of constitutional order in Guinea;
11. ***Requests*** the Chairperson of the Commission to continue consultations with the relevant stakeholders in Guinea and ECOWAS, as the concerned regional economic community, on the evolving situation on the ground, and provide quarterly briefings to the PSC;
12. ***Also requests*** the Chairperson of the Commission to establish an inclusive monitoring mechanism, comprising the AU, ECOWAS, UN and all other relevant stakeholders, to closely follow up on the situation in Guinea and the implementation of the ECOWAS and PSC decisions in the country;
13. ***Also requests*** the AU Commission to undertake a comprehensive and objective analysis focusing on the root causes and impact of the unconstitutional change of government arising from non-consensual and/or politically manipulated democratic processes;

14. ***Decides*** to undertake an assessment mission to Guinea, to engage with all concerned stakeholders, in order to identify areas in which the AU could provide support to Guinea to address challenges facing the country;
15. ***Also decides*** to remain actively seized of the matter.

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PEACE AND SECURITY COUNCIL

1001ST MEETING

ADDIS ABABA, ETHIOPIA

1 JUNE 2021

PSC/PR/COMM.(1001(2021))

COMMUNIQUE

COMMUNIQUE

Adopted by the Peace and Security Council (PSC) of the African Union (AU), at its 1001st meeting held on 1 June 2021, on the situation in Mali.

The Peace and Security Council,

Recalling its previous communiques and press statements on the situation in Mali and in the Sahel region, in particular Communiqué [PSC/PR/COMM. (M)] adopted at its 1000th meeting held on 25 May 2021 and Communiqué [PSC/PR/COMM.(CMXLI)] adopted at its 941st meeting held on 19 August 2020;

Taking note of the opening remarks by the PSC Chairperson for June 2021 and Permanent Representative of the Republic of Burundi to the AU, H.E. Ambassador Joel Nkurabagaya and the statements by the AU Commissioner for Political Affairs, Peace and Security, Ambassador Bankole Adeoye; H.E. Ambassador Amma Adomaa Twum-Amoah, Permanent Representative of Ghana to the AU, as the representative of ECOWAS Chair and Ambassador Fafre Camara, Permanent Representative of Mali to the AU, as well as the briefing by the Special Representative of the Chairperson of the AU Commission and Head of the AU Mission for the Sahel (MISAHEL), H.E. Ambassador Maman Sidikou;

Deeply concerned about the evolving situation in Mali and its negative impact on the gains made thus far in the transition process in the country;

Also recalling the Communiqué of the Extraordinary Summit of the Economic Community of West African States (ECOWAS) Authority of Heads of State and Government, held on 30 May 2021, in Accra, Ghana;

Mindful of the provisions of all relevant AU normative instruments, including the AU Constitutive Act; the Protocol Relating to the Establishment of the Peace and Security Council of the African Union; the African Charter on Democracy, Elections and Governance; and the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government, held in Lomé, Togo, July 2000 (the Lomé Declaration);

Reaffirming the unwavering commitment of the AU to respect the sovereignty, unity and the territorial integrity of Mali, as well as the AU's solidarity with the people and Government of Mali;

Acting under Article 7 of its Protocol, the Peace and Security Council,

1. ***Endorses*** the decisions adopted by the Authority of Heads of State and Government of ECOWAS, as outlined in paragraph 8 of its Communiqué issued on 30 May 2021, in Accra, Ghana;
2. ***Condemns in the strongest terms possible*** and ***totally rejects*** coups d'état and unconstitutional changes of government in the Continent, consistent with the provisions of Article 4(p) of the AU Constitutive Act;
3. ***Decides, accordingly,*** in line with the relevant AU normative instruments, to immediately suspend the Republic of Mali from participation in all activities of the African

Union, its Organs and institutions, until normal constitutional order has been restored in the country;

4. **Strongly urges** the Malian military to urgently and unconditionally return to the barracks, and to refrain from further interference in the political processes in Mali, **while calling** for the creation of conducive conditions for an unimpeded, transparent and swift return to the civilian-led transition, based on the agreed transition roadmap for Mali, failing which, the Council will not hesitate to impose targeted sanctions and other punitive measures against any spoilers of the current transition;

5. **Calls on** the Malian defence and security forces to immediately lift all restrictions on all political actors, including the house arrest of H.E. Bah N'Daw and H.E. Moctar Ouane ;

6. **Calls upon** the transitional authorities to respect and abide by the originally stipulated 18 months transitional period and, therefore, **appeals once again** to the Malian people to place the supreme interests of the country and its people above all else, to remain calm and to continue to work together within the framework of the 2015 Peace and Reconciliation Agreement for Mali, which emanated from the Algiers process, with the effective participation of women, the youth and Malians in the Diaspora, to resolve the current crisis, and organize free, fair and credible democratic elections on 27 February 2022;

7. **Requests** the Chairperson of the Commission through his Special Representative and Head of AU Mission in Mali and the Sahel (MISAHEL) to continue to closely coordinate with the ECOWAS Special Envoy and Mediator to Mali, H.E. Goodluck Ebele Jonathan, former President of the Federal Republic of Nigeria;

8. **Expresses** support for the United Nations Multidimensional Stabilization Mission in Mali (MINUSMA), and **commends** its efforts in Mali, **while reiterating** AU's readiness to actively collaborate with the UN in maintaining peace, stability and security in Mali;

9. **Demands unambiguously** that the current leadership of the transition process, including the Head of the Transition, Vice-President and Prime Minister, should not, under any circumstances, be candidates for the forthcoming presidential election in Mali;

10. **Calls on** the military leadership and all political stakeholders to fully and unconditionally respect the transition charter **while urging** for the immediate appointment of a civilian Prime Minister to lead the conclusion of the transition process and to coordinate a genuinely inclusive national reconciliation and dialogue process for the stability of Mali;

11. **Further decides** to constitute a PSC evaluation mission to Mali, to engage with all concerned stakeholders and the ECOWAS Special Envoy and Mediator, in order to identify areas in which the AU could provide support to Mali, particularly as this relates to the implementation of the transition programme and the holding of elections;

12. **Appeals** to the international community to extend financial support to Mali in order to enable it to address the grave macroeconomic challenges facing the country and ensure that the transition plan is not derailed;

13. **Also requests** the Chairperson of the Commission to monitor the situation in Mali closely and to provide regular updates to Council, at least once every quarter and as necessary; and

14. ***Decides*** to remain actively seized of the matter.

AFRICAN UNION

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PEACE AND SECURITY COUNCIL
1168TH MEETING

14 AUGUST 2023
ADDIS-ABABA, ETHIOPIA

PSC/PR/COMM.1168 (2023)

COMMUNIQUÉ



COMMUNIQUE

Adopted by the Peace and Security Council (PSC) of the African Union (AU) at its 1168th meeting held on 14 August 2023, on Updated Briefing on the Situation in Niger.

The Peace and Security Council,

Recalling Declaration [Ext/Assembly/AU/Decl.(XVI)] on Terrorism and Unconstitutional Changes of Government, adopted by the 16th Extraordinary Session of the AU Assembly of Heads of State and Government held in Malabo, Equatorial Guinea, from 27 to 28 May 2022; Decision AHG/Dec.141(XXXV) and AHG/Dec.142(XXXV), adopted by the 35th Ordinary Session of the OAU Assembly of Heads of State and Government held in Algiers, Algeria, from 12 to 14 July 1999; the Declaration on the Framework for an OAU Response to Unconstitutional Change of Government, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government held in Lomé, Togo, from 10 to 12 July 2000 (the Lomé Declaration); and the Solemn Declaration of the 50th OAU/AU Anniversary adopted in Addis Ababa on 25 May 2013;

Also recalling its decisions and pronouncements on the situation in Niger, in particular, Communiqué [PSC/PR/COMM.1164 (2023)] adopted at its 1164th meeting held on 28 July 2023; the Press Release of the Chairperson of the AU Commission, H.E. Moussa Faki Mahamat, issued on 26 July 2023;

Upholding the AU Constitutive Act, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, particularly Article 7 (g) and the African Charter on Democracy, Elections and Governance; **while reiterating** the AU zero tolerance of unconstitutional changes of government, in line with Article 4(p) of the AU Constitutive Act;

Reaffirming the determination to silence the guns in Africa by the year 2030 and creating the conducive conditions for the realization of the AU Vision of an integrated, prosperous and peaceful Africa, driven by its people and representing a dynamic force in the global arena, as well as AU Agenda 2063;

Taking note of the opening remarks by H.E. Ambassador Willy Nyamitwe, Permanent Representative of the Republic of Burundi to the AU and Chairperson for the month of August 2023; the briefings by H.E. Moussa Faki Mahamat, Chairperson of the AU Commission and H.E. Ambassador Bankole Adeoye, the AU Commissioner for Political Affairs, Peace and Security; as well as the statements made by Ambassador Abdel-Fatau Musah, ECOWAS Commissioner for Political Affairs, Peace and Security; H.E. Ambassador Amadou Hassane Mai Dawa, Permanent Representative of the Republic of Niger to the AU; and H.E. Ambassador Nasir Aminu, the Representative of the Chair of the Economic Community of West Africa States (ECOWAS) Authority of Heads of State and Government; and

Acting under Article 7 of its Protocol, the Peace and Security Council,

1. **Reiterates its deep concern** over the resurgence of military coups d'état as it undermines democracy, peace, security and stability, as well as development in the Continent;
2. **Also reiterates its unequivocal condemnation** of the military coup d'état that took place on 26 July 2023 in Niger, which resulted in the ousting of a democratically elected President, H.E. Mohamed Bazoum, by a faction of military officers;

3. **Welcomes** the Final Communiqué of the Extraordinary Summit of the ECOWAS Authority of Heads of State and Government on the Political Situation in Niger, adopted on 30 July 2023, and the ECOWAS Final Communiqué of the 2nd Extraordinary Summit on the Political Situation in Niger, adopted on 10 August 2023;
4. **Takes note** of the ECOWAS' decision to deploy Standby Force and **requests** the AU Commission to undertake an assessment of the economic, social and security implications of deploying a Standby Force in Niger and report back to Council;
5. **Reaffirms** full solidarity with the efforts of ECOWAS in the latter's continued commitment to the restoration of constitutional order through diplomatic means;
6. **Highly commends and supports** the relentless efforts being deployed by ECOWAS towards peaceful restoration of constitutional order in the Republic of Niger; and **requests** the AU Commission to appoint and deploy High Representative(s) to foster the mediation efforts by the ECOWAS;
7. **Decides**, in line with the relevant AU instruments, in particular, the AU Constitutive Act, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union and the African Charter on Democracy, Elections and Governance, to immediately suspend the participation of the Republic of Niger from all activities of the AU and its Organs and institutions until the effective restoration of constitutional order in the country;
8. **In this regard, calls upon** all Member States of the AU and the international community including bilateral and multilateral partners, at large to reject this unconstitutional change of government and to refrain from any action likely to grant legitimacy to the illegal regime in Niger;
9. **Welcomes** the Communiqué of the Chairperson of the AU Commission released on 10 August 2023 regarding the reported poor condition and detention of President Mohamed Bazoum; in this regard, **reiterates its demand** for the immediate and unconditional release of H.E. President Mohamed Bazoum and all other detainees, and respect of their human rights, including protection of their physical health and moral integrity;
10. **Endorses** paragraph 10 (k) of the Final Communiqué of the ECOWAS Authority of Heads of State and Government on the Political Situation in Niger, adopted on 30 July 2023 regarding the imposition of punitive measures; **while ensuring** its gradual application and minimizing its disproportionate effect on the ordinary people of Niger;
11. **Requests** the AU Commission in close cooperation with the ECOWAS Commission to urgently compile and submit the list of members of the military junta and their military and civilian supporters of the coup d'état in Niger, including those involved in the violation of fundamental human rights of President Bazoum and other detainees for targeted sanctions, and the application of individual punitive measures;
12. **Commends** the efforts of ECOWAS under the leadership of H.E. Bola Ahmed Tinubu, President of the Federal Republic of Nigeria and **calls on** AU Member States to fully implement the sanctions imposed by ECOWAS and endorsed by the PSC and **requests** the Commission, in consultation with ECOWAS, to regularly inform the Council on the progress being made on the implementation of the imposed sanctions;

13. ***Calls on*** the military junta in Niger to cooperate with the efforts being deployed by ECOWAS and the AU towards a peaceful and speedy restoration of constitutional order and ***appeals*** to the people of Niger to remain calm, refrain from any action that may inflame the situation, and to fully embrace a peaceful approach towards the restoration of constitutional order in the country;
14. ***Strongly rejects*** any external interference by any actor or any country outside the Continent in the peace and security affairs in Africa including engagements by private military companies in the continent in line with the 1977 OAU Convention for the Elimination of Mercenarism in Africa;
15. ***Strongly urges*** the military to place the supreme interests of Niger and its people above all else and to immediately and unconditionally return to the barracks, and submit to civilian authorities consistent with the Constitution of Niger;
16. ***Decides*** to remain actively seized of the matter.

AFRICAN UNION

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PEACE AND SECURITY COUNCIL

1041ST MEETING

26 OCTOBER 2021

ADDIS ABABA, ETHIOPIA

PSC/PR/COMM.1041 (2021)

COMMUNIQUE

COMMUNIQUE

Adopted by the Peace and Security Council (PSC) of the African Union (AU) at its 1041st meeting held on 26 October 2021 on the Situation in Sudan.

The Peace and Security Council,

Recalling its previous decisions on the situation in Sudan, in particular, Communiqué [PSC/PR/COMM.(CMXC)] adopted at its 990th meeting held on 13 April 2021; and the statement of the Chairperson of the AU Commission of 25 October 2021;

Also recalling the relevant provisions of the AU Constitutive Act, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, particularly Article 7 (g) and the African Charter on Democracy, Elections and Governance;

Further recalling Decisions AHG/Dec.141(XXXV) and AHG/Dec.142(XXXV), adopted by the 35th Ordinary Session of the OAU Assembly of Heads of State and Government held in Algiers, Algeria, from 12 to 14 July 1999; the Declaration on the Framework for an OAU Response to Unconstitutional Change of Government, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government held in Lomé, Togo, from 10 to 12 July 2000 (the Lomé Declaration); and the Solemn Declaration of the 50th OAU/AU Anniversary adopted in Addis Ababa on 25 May 2013;

Taking note of the opening remarks of the Permanent Representative of the Republic of Mozambique to the AU and Chairperson of the PSC for October 2021, H.E. Ambassador Alfredo Nuvunga, the presentation by the AU Commissioner for Political Affairs, Peace and Security, H.E. Ambassador Bankole Adeoye; also taking note of the statements of the representatives of the Republic of Sudan and the Secretariat of the Intergovernmental Authority on Development (GAD);

Reaffirming the AU solidarity with the people of Sudan in their legitimate aspirations to deepen and consolidate democracy, as well as their efforts to overcome the challenges facing their country, and ***reiterating*** the continued commitment of the AU to support the Transitional Government of Sudan in implementing the priorities of the Transitional Government;

Also reiterating AU's continued respect of the sovereignty and territorial integrity of the Sudan.

Acting under Article 7 of its Protocol, the Peace and Security Council:

1. ***Expresses deep concern*** over the military takeover in Sudan, as announced by the Chairman of the Sovereign Council, on 25 October 2021, resulting in the dissolution of the Transitional Government, headed by Prime Minister Abdallah Hamdock, which threatens to

derail the progress made in the Sudanese transitional process, thus far and plunging the country back into a cycle of violence;

2. Pursuant to Article 4(p) of the AU Constitutive Act, **strongly condemns** the seizure of power by the Sudanese military on 25 October 2021 and the dissolution of the Transitional Government, and **totally rejects** the unconstitutional change of government, as unacceptable and an affront to the shared values and democratic norms of the AU;

3. **Welcomes** the release of the Prime Minister, and **calls for** the immediate and unconditional full release of all detainees, including the ministers and other civilian officials, and **emphasizes** the need for the military to respect their human rights; in this regard, **warns** the military that they will be held responsible for the personal health, safety and security of the detained officials;

4. **Decides**, in line with the relevant AU instruments, in particular, the AU Constitutive Act, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union and the African Charter on Democracy, Elections and Governance, to suspend, with immediate effect, the participation of the Republic of Sudan in all AU activities until the effective restoration of the civilian-led Transitional Authority;

5. In this context, **decides** to undertake a mission to Sudan to engage with all stakeholders with a view to finding an amicable solution to the current political stalemate;

6. **Calls on** all stakeholders in Sudan to remain committed to the implementation of all the provisions of the Constitutional Declaration of August 2019 and the Juba Peace Agreement of October 2020, as well as to respect the timelines stipulated therein; **urges** the Sudanese military to respect their constitutional mandate and to contribute more positively to the creation of conducive conditions for the successful transition;

7. **Reaffirms** the imperative of a civilian-led and consensual transition in Sudan, in line with the Constitutional Declaration and Juba Peace Agreement, as well as the aspirations of the people of Sudan;

8. **Appeals** to all concerned Sudanese stakeholders to prioritize the supreme interests of the country and its people above all else, remain calm, refrain from inciting public violence and to immediately resume dialogue, within the framework of the Political Declaration and Constitutional Decree, as the only viable approach of saving the current democratic transition and for reaching a consensual and sustainable solution to the challenges in the Sudan;

9. **Requests** the Chairperson of the Commission to take necessary measures and intensify his engagement with the leaders of the Transitional Government and the Sovereign Council in order to facilitate the resumption of dialogue towards a successful transition in the Sudan; in this context, **also requests** the Chairperson of the Commission to immediately dispatch to Sudan his

emissary to engage with the Sudanese stakeholders on necessary steps needed to expedite the restoration of constitutional order in Sudan;

10. **Further requests** the AU Commission to provide monthly updates on the evolution of the situation in Sudan;

11. **Decides** to remain seized of the matter.

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PEACE AND SECURITY COUNCIL

1306TH MEETING (EMERGENCY SESSION AT AMBASSADORIAL LEVEL)

15 OCTOBER 2025

ADDIS ABABA, ETHIOPIA

PSC/PR/COMM.1306 (2025)

COMMUNIQUÉ



COMMUNIQUE

Adopted by the Peace and Security Council (PSC) of the African Union (AU) at its 1306th meeting (Emergency Session), held on 15 October 2025 on Updated Briefing on the Situation in the Republic of Madagascar.

The Peace and Security Council,

Recalling Declaration [Ext/Assembly/AU/Decl.(XVI)] on Terrorism and Unconstitutional Changes of Government, adopted by the 16th Extraordinary Session of the AU Assembly of Heads of State and Government held in Malabo, Equatorial Guinea, from 27 to 28 May 2022; Decision AHG/Dec.141(XXXV) and AHG/Dec.142(XXXV), adopted by the 35th Ordinary Session of the OAU Assembly of Heads of State and Government held in Algiers, Algeria, from 12 to 14 July 1999; the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government held in Lomé, Togo, from 10 to 12 July 2000 (the Lomé Declaration); as well as the Solemn Declaration of the 50th OAU/AU Anniversary adopted in Addis Ababa on 25 May 2013;

Also recalling Communiqué [PSC/PR/COMM.1305 (2025)] adopted at its 1305th meeting, (Emergency Session), held on 13 October 2025 on the situation in Madagascar;

Reiterating the AU zero tolerance of unconstitutional changes of government, in line with Article 4(p) of the AU Constitutive Act;

Reaffirming the AU respect for the independence, sovereignty, territorial integrity and unity of the Republic of Madagascar;

Also reaffirming the AU solidarity with the people of Madagascar in their legitimate aspirations to promote good governance, democracy, development and prosperity in their country;

Taking note of the Opening remarks by H.E. Ambassador Tebelelo Alfred Boang, Permanent Representative of the Republic of Botswana to the AU and Chairperson of the PSC for October 2025; the statement by H.E. Mahmoud Ali Youssouf, Chairperson of the AU Commission; the briefing by H.E. Ambassador Bankole Adeoye, Commissioner for Political Affairs, Peace and Security; as well as by the Special Representative of the Chairperson of the Commission for Madagascar; **and also taking note** of the statement by the representative of the Republic of Madagascar, as the concerned country and by the representative of the Republic of Malawi, in its capacity as Chair of the Southern African Development Community (SADC) Organ on politics, Defense and Security Cooperation; and

Acting under Article 7 of its Protocol, the Peace and Security Council:

1. **Notes with deep concern** and **strongly condemns**, the seizure of power by the military on 14 October 2025; and **totally rejects** the unconstitutional change of government in the Republic of Madagascar, which took place on 14 October 2025, in blatant violation of AU principles and normative instruments, particularly the African Charter on Governance, Elections and Democracy and the 2000 Lomé Declaration;

2. **Decides**, accordingly, in line with relevant AU instruments, particularly Article 7 (g) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, and Article 25 (1) of the African Charter on Democracy, Elections and Governance, to immediately suspend the Republic of Madagascar from participation in all activities of the Union, its Organs and Institutions, until constitutional order is restored in the country;
3. **Also demands** the Armed Forces of Madagascar to urgently and unconditionally uphold the principle of constitutionalism, and to refrain from further interference in the political processes in Madagascar, failing which the Council will institute targeted sanctions against all the actors involved in the military coup d'état;
4. **Demands** a swift and full return to constitutional order through a civilian-led transitional government, and the organization, as soon as possible, of free, fair, credible and transparent elections; in this regard, **directs** the AU Commission, in close cooperation with SADC, to provide the requisite support to Madagascar to ensure a swift return to constitutional order;
5. **Urges** the Malagasy people to remain calm, refraining from all acts that could fuel further violence and to prioritize the supreme interests of the country and its people above all else; in this regard, **calls** for national inclusive dialogue and national unity towards peaceful resolution of the crisis in the country;
6. **Appeals** to all external actors to refrain from any interference in the internal affairs of Madagascar to avoid further complicating the situation in the country;
7. **Reiterates its recommendation** to the Chairperson of the Union, with the support of the Chairperson of the AU Commission, to immediately dispatch a high-level delegation to Madagascar to engage with the stakeholders concerned with a view to address the challenges in the country; in this context, **welcomes** the decision of the Chairperson of SADC to dispatch a High-Level delegation of the Panel of Elders to Madagascar; and **emphasizes** the need for closer collaboration of the AU and SADC efforts;
8. **Requests** the AU Commission to fully implement the PSC Communiqué [PSC/PR/COMM.1305 (2025)] adopted at its 1305th meeting, held on 13 October 2025;
9. **Calls** for ensuring coordinated support towards the restoration of constitutional order in Madagascar under the auspices of the AU and SADC, to closely follow up on the situation in Madagascar and the implementation of the decisions of Council; and
10. **Decides** to remain actively seized of the matter.

Annex 2

AFRICAN UNION

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UNION AFRICAINE

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Website: www.au.int

Reference: BC/OLC/30.3/18052.25

Date: 1 October 2025

Dear Dr. Moyo,

Subject: APPLICABILITY OF THE AFRICAN UNION'S DECISIONS SUSPENDING SOME AU MEMBER STATES TO THE PAN AFRICAN POSTAL UNION (PAPU)

Reference is made to the letter CL/PAPU/GS/SG/01/25 dated 28 August 2025 in respect of the above subject. The Office of the Legal Counsel (OLC) wishes to provide the following legal opinion.

I. BACKGROUND

1. The Peace and Security Council of the African Union (AU) dealt with multiple security and governance challenges involving the suspension of the Republics of Mali, Guinea, Burkina Faso, Niger, and Sudan from participating in the AU's activities, organs, and institutions, as communicated in various official Communiqués.
2. Following the suspensions referred to above, the question has arisen as to whether the said suspensions and implications are legally enforceable on all AU specialised institutions, particularly the Pan-African Postal Union (PAPU).
3. The uncertainty as to the extent of the enforceability of the suspensions and their implications has gained increasing importance and resulted in differing interpretations.
4. The OLC has been requested to provide a legal opinion as to whether the implications of the suspension of AU Member States extend to PAPU.

II. LEGAL ISSUE

5. The legal issue for determination herein is whether the suspension of a Member State from the activities of the African Union also entails suspension from participation in the activities of PAPU.

III. APPLICABLE LAW

6. The applicable law is as follows:

- i. The Constitutive Act of the African Union;
- ii. Rules of Procedure of the Assembly;
- iii. The Protocol Relating to the Establishment of the Peace and Security Council of the African Union (the Protocol); and
- iv. The African Charter on Democracy, Elections and Governance (the Charter).
- v. Convention of the Pan African Postal Union (PAPU)

IV. ANALYSIS

Sanctions for Unconstitutional Change of Government

7. Article 7 (1) (g) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (the Protocol) provides as follows:

'In conjunction with the Chairperson of the Commission, the Peace and Security Council shall:

g Institute sanctions whenever an unconstitutional change of Government takes place in a Member State, as provided for in the Lome Declaration.'

8. A reading of the above-cited provision of the Protocol clearly demonstrates that whenever an unconstitutional change of government occurs, sanctions must be applied or enforced against the Member State within which the unconstitutional change of government occurs. It is worth noting that the obligation to institute such sanctions lies with the Chairperson of the Commission and the Peace and Security Council.

9. Section V of the Rules of Procedure of the Assembly provides for the various sanctions to be imposed on Member States by the Assembly depending on the violation committed. It is worth noting that Rule 36 of the Rules of Procedure provides for sanctions to be imposed on Member States for Arrears. Rule 37 provides for sanctions to be imposed on Member States for Non-compliance with Decisions and Policies.

10. Rule 38 of the Rules of Procedure of the Assembly provides for Sanctions to be imposed for an unconstitutional change of government. Of interest to this legal opinion are sanctions for unconstitutional change of government, which is the basis for the suspension of the Republic of

11. Mali, Gabon, Guinea, Burkina Faso, Niger and Sudan. Rule 38 (1) of the Rules of Procedure provides as follows:

'Pursuant to Article 30 of the Constitutive Act, Member States in which Governments accede to power by unconstitutional means shall be suspended and shall not participate in the activities of the Union.'

12. Article 30 of the Constitutive Act of the African Union provides as follows:

'Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.'

13. The provisions of the Rules of Procedure and the Constitutive Act cited above demonstrate that a change of government through unconstitutional means is gravely frowned upon by the African Union. To this effect, such an action attracts the harshest of sanctions, namely, suspension from the Union and exclusion from participating in activities of the Union.
14. Reference is made to communique PSC/PR/COMM (1001(2021)) adopted by the Peace and Security Council (PSC) of the African Union (AU), at its 1001st meeting held on 1 June 2021, on the situation in Mali, which provides, among other things, as follows:

PSC/PR/COMM (1001(2021))

Decides, accordingly, in line with the relevant AU normative instruments, to immediately suspend the Republic of Mali from participation in all activities of the African Union, its Organs and institutions, until normal constitutional order has been restored in the country;

15. The sanction imposed in response to an unconstitutional change of government expressly excludes the concerned Member State from participating in the activities of the union. It is generally worth noting that exclusion from participating in activities of the Union encompasses all activities that are a concern of the Union.
16. The OLC wishes to bring to your attention the communique of the Peace and Security Council, which lifted the suspension of Gabon. Communique PSC/PR/COMM.1277 (2025), adopted by the Peace and Security Council (PSC) at its 1277th meeting held on 30 April 2025 on the review of the political transition program of the Gabonese Republic, provides, among other things, as follows:

PSC/PR/COMM.1277 (2025)

Decides

- i. **To lift the suspension of the participation of Gabon in AU's activities, as contained in paragraph 3 of Communiqué PSC/PR/COMM.1172 (2023), adopted on 31 August 2023 and in line with Article 26 of the African Charter on Democracy, Elections and Governance, and invites Gabon to immediately resume its participation in the activities of the AU;**
17. Stemming from the above, the OLC wishes to advise that the Republic of Gabon is no longer under any sanctions relating to unconstitutional change of government and should be treated as such.

Scope of activities of the African Union and Purpose of sanctions for unconstitutional change of government

18. Activities of AU organs, institutions, and agencies are integrally covered as "activities of the Union" because they represent the operationalisation of the AU's mandates and principles laid out in the Constitutive Act. The exclusion of governments that come to power unconstitutionally is aimed at protecting these activities from being compromised politically, ensuring that the AU's agenda remains grounded in democratic legitimacy and the rule of law among its member states.
19. The activities of the Union encompass the full spectrum of the AU's institutional functions—including the legislative, executive, administrative, judicial, and technical roles carried out by its organs, specialised institutions, and specialised agencies—all forming a cohesive operational framework binding on its members to advance the Union's objectives and principles.
20. This holistic coverage ensures that the Union's activities remain legitimate, coherent, and reflective of its collective aspirations for Africa's unity and development. To the effect, one cannot separate the activities of the AU from those of its organs, institutions and specialised agencies.
21. The sanctions imposed on governments that come to power through unconstitutional means aim to prevent illegitimate governments from gaining political legitimacy or participating in AU processes, thereby upholding the principle of democratic change of government. It is worth noting that in applying these sanctions, a balance must be struck between considering the welfare of citizens of the concerned Member States and not giving political legitimacy to illegitimate governments.
22. The Declaration on the framework for an OAU response to unconstitutional changes of government provides, among other things, as follows:

'In implementing a sanctions regime, the OAU should enlist the cooperation of Member States, Regional Groupings and the wider International/Donor Communities. Careful attention should be exercised to ensure that the ordinary citizens of the concerned country do not suffer disproportionately on account of the enforcement of sanctions.'

23. The declaration cited above clearly expresses the intention of striking a balance between preventing illegitimate governments from gaining political legitimacy through sanctions and consideration of the welfare of citizens of the concerned suspended Member State.
24. The spirit behind the AU's legal instruments is an emphasis on the fact that, much as sanctions may be applied to governments after unconstitutional changes in government, these actions should avoid causing excessive harm to ordinary citizens.

Separate Legal Personality and Structure of PAPU

25. Article 3 of the PAPU Convention, speaking on the 'Legal Status of the Union', provides as follows:

1. The Union shall be an Intergovernmental Organisation, which shall enjoy international legal status and capacity.

2. It shall enjoy all the powers necessary for the attainment of its objectives. Member States shall grant the Union privileges and immunities on their territories to enable it to fully achieve its objectives.

26. Article 3 cited above speaks to the doctrine of separate legal personality of PAPU. Stemming from the above, it is evident that PAPU possesses its own legal personality to enable operational, managerial, and financial autonomy, which aids effective execution of its specialised mandates.
27. The doctrine of separate legal personality, which is a fundamental principle in international law and corporate law, establishes that an entity—such as a specialised agency (PAPU) —has its own legal identity distinct from the individuals or bodies that created it.
28. This legal separation allows PAPU to act autonomously to the extent that it can enter into contracts, own property, sue and be sued, and carry out functions in its own capacity. However, this doctrinal separation does not imply that the PAPU is detached or independent from the AU in a substantive or organisational sense.
29. This separate legal personality is not intended to create an organisational barrier but rather to empower PAPU to act efficiently within the framework of its role. The agency remains linked to and part of the AU system in purpose, membership, and in facilitating the African Union objectives.
30. The agency's separate legal personality serves to enhance the AU's collective governance by providing specialised technical capacity and focused execution, while preserving the fundamental unity and coherence of the AU system.
31. Article 11 of the PAPU Convention provides, among other things, as follows:

'The Plenipotentiary Conference, hereinafter referred to as "the Conference", shall be the supreme organ of the Union, which shall ensure the attainment of the Union's objectives.

32. A reading of the above-cited article clearly demonstrates that the Conference is the paramount decision-making organ of PAPU. To this effect, the Conference has absolute authority to make decisions that dictate the manner in which the agency will operate, how it will be managed, how it will relate with the AU and other stakeholders and the manner in which the agency will execute its mandate. The Secretariat of PAPU, hence, should present the matter to the Conference's consideration.
33. To this effect, the Conference may pass a decision that spells out how PAPU will interact with suspended AU member states. This decision must strike a balance between not legitimising governments that came into power illegally and taking care of the welfare of the ordinary citizens of the suspended member state in question.

Suspended Member States' Continuing Obligations towards the AU

34. Rule 38 (4) (e) of the Rules of Procedure of the Assembly provides as follows:

4 Whenever an unconstitutional change of Government takes place, the Chairperson and the Chairperson of the Commission shall:

- d Immediately suspend the Member State from the Union and from participating in the Union, provided that exclusion from participating shall not affect that State's membership and its obligations towards the Union.***

35. Article 25 (1) (2) and (3) of the African Charter on Democracy, Elections and Governance provides as follows:

- (1) When the Peace and Security Council observes that there has been an unconstitutional change of government in a State Party, and that diplomatic initiatives have failed, it shall suspend the said State Party from the exercise of its right to participate in the activities of the Union in accordance with the provisions of articles 30 of the Constitutive Act and 7 (g) of the Protocol. The suspension shall take effect immediately.***
- (2) However, the suspended State Party shall continue to fulfil its obligations to the Union, in particular with regard to those relating to respect of human rights.***
- (3) Notwithstanding the suspension of the State Party, the Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party.***

36. The provisions of the Charter as cited above demonstrate that suspension from the Union and its activities does not exclude the suspended Member State from fulfilling obligations to the Union, such as upholding and respecting human rights. The Union may still engage the Member State in question for purposes of restoring democracy in the country and in a manner that seeks to protect the welfare of ordinary citizens of the suspended member states.

37. In continuing to fulfil its obligations, a suspended Member State is therefore required to comply with the sanction of keeping away from participating in any activities of the AU, which includes those of the AU organs, institutions and agencies.

V. CONCLUSION

38. The African Union's legal framework clearly mandates the imposition of sanctions on Member States that experience an unconstitutional change of government. These sanctions primarily include suspension from participation in all AU activities and institutions, reflecting the AU's firm stance against unconstitutional seizures of power.

39. Activities of the African Union comprehensively encompass all actions undertaken by its organs, institutions, and specialised agencies, reflecting a unified operational framework that advances the Union's objectives and principles. By excluding unconstitutional governments, the Union aims to safeguard the legitimacy and coherence of its activities, ensuring they remain firmly grounded in democratic governance and the rule of law. In excluding suspended member states from participating in the activities of the AU, consideration must be given to ensure that the ordinary citizens of the suspended member states are not negatively affected.

40. The doctrine of separate legal personality grants PAPU an independent legal identity distinct from the African Union, enabling it to operate autonomously in carrying out its specific mandates. This autonomy empowers PAPU to manage its functions, enter into contracts, and assume liabilities in its own name, thus enhancing operational efficiency.
41. The Conference, being the supreme decision-making authority of PAPU, has the capacity to make a decision regarding the manner and to what extent PAPU may engage with member states who have been suspended from the AU. In making this decision, PAPU ought to ensure that its engagements or interactions with suspended member states do not, in any way, seek to give legitimacy to governments that came into power using illegitimate means. PAPU must ensure that the welfare of citizens of the concerned member states must be the ultimate purpose of engaging suspended member states. The Secretariat of PAPU, hence, should present the matter to the Conference's consideration and decision-taking, taking into account the purpose of PAPU and the nuances outlined above in the various instruments of the AU.
42. Upon an unconstitutional change of government, a Member State shall be suspended from participating in the activities of the African Union, but remains a Member of the AU with continuing obligations toward the AU.
43. Suspension does not absolve the Member State from respecting its obligations, notably in human rights, and the Union retains the right to maintain diplomatic engagement to restore democracy. Thus, a suspended Member State must comply with the sanction by refraining from AU activities while simultaneously fulfilling its ongoing duties to the Union.



Yours sincerely,

Prof. Hajer Gueldich
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African Union

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