

# Discussion on AU Sanctions regime

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Tomorrow (24 October 2023), the African Union (AU) Peace and Security Council (PSC) will convene its 1181<sup>st</sup> session on the AU Sanctions regime, at the Ambassadorial level.

The Chairperson of the PSC, Daniel Owassa, Permanent Representative of the Republic of Congo to the AU will start the meeting with an opening statement, followed by remarks from Ambassador Bankole Adeoye, Commissioner for Political Affairs, Peace and Security (PAPS).

Following the waves of coups that swept across parts of the continent, there has been increasing policy discussion on the need for bolstering the response for containing the spread. Since 2020 alone, the AU has grappled with seven coups in Mali, Guinea, Burkina Faso, Sudan, Chad, Niger and most recently, Gabon. Of the seven coups, two countries have faced dual coups (i.e., Mali and Burkina Faso). As the sanction measures adopted by the AU and regional organizations such as the Economic Community of West African States (ECOWAS) fail to change the behavior of coup makers or to deter the occurrence of new coups, one of the issues that received increased attention in continental and regional policy processes is how to reinforce the sanctions measure.

The instruments guiding the AU on imposing sanctions on Member States include the PSC Protocol, Lomé Declaration, the African Charter on Democracy, Elections and Governance (ACDEG), the Constitutive Act of the African Union, and the Accra Declaration. While the AU ordinarily adopts suspension from participation in AU activities, the other sanctions are what the Lomé Declaration calls 'limited and targeted sanctions'.

The 'limited and targeted sanctions' listed in the Lomé Declaration travel bans, asset freezes, visa denials for the perpetrators of unconstitutional change of governments (UCG), restrictions of government-to-government contacts, and trade restrictions.

During the Reflection Forum on UCGs, convened in March 2022 in Accra, Ghana, one of the [recommendations](#) was to reactivate the PSC Sanctions Committee. This was echoed in the decision of the AU Extraordinary Summit held in May 2022. Subsequently, the PSC held a session on sanctions and enforcement capacities in the deterrence against UCGs and called for the full operationalization of the PSC Sub-Committee and the development of the requisite technical capacities to ensure its effectiveness. During this 1100<sup>th</sup> session, the PSC also instructed the Committee of Experts (CoE) to develop the ToRs for the PSC Sub-Committee on Sanctions. It is important to note that the sub-committee on sanctions was initially established in 2009 through the PSC's 178<sup>th</sup> [communiqué](#), but it has never been operational. During the CoE retreat in May, the CoE identified certain issues, such as the composition of the Sub-committee and the level of its chairship that require the guidance of the PSC with respect to the Sanctions Sub-Committee. During its 1170<sup>th</sup> session, the PSC received report from the CoE on the work accomplished during the CoE retreat for developing the sanctions regime and the terms of reference of the Sub-Committee on Sanctions.

It is expected that tomorrow's session will also cover the discrepancy in the application of sanctions as one of the critical challenges faced by the AU in imposing sanctions and deterring UCG. In this respect, it is vital that this PSC session aims to look at the divergence in policy implementation between the PSC and the relevant regional mechanisms and foster an environment where there is coordination and collaboration among these entities yielding a

more effective and consistent application of sanctions.

Unsurprisingly, tomorrow's meeting would also give an update on PSC's request to the AU Commission to establish a solid sanctions infrastructure using the available resources in the PAPS Department that will effectively support the work of the PSC Sub-Committee on Sanctions, as well as a monitoring and evaluation group, to assess the implementation of the sanctions imposed against the Member States. This is in accordance with the decision in communique PSC/PR/COMM.1100 (2022) adopted at PSC's 1100<sup>th</sup> session on 15 August 2022. Furthermore, it will be prudent for this meeting to consider the need for refining existing sanctions pronouncements into consistent frameworks that are aligned with the current evolution of the challenges they are meant to address. To put this into context, the PSC had requested the Commission, 'in collaboration with the UN stakeholders and relevant African research institutions and think tanks, including the African Members of the UN Security Council (A3) and UN Security Council Permanent Members, to explore and develop an effective collaborative mechanism to strengthen the AU sanctions regime and provide appropriate technical capacities to the PSC Committee of Experts and the Military Staff Committee'.

In addition to highlighting collaborative efforts towards the concretization of a sanctions infrastructure, the deliberation is also likely to give latest update on the operationalization of the PSC Sub-Committee on Sanctions. Moreover, it is imperative for the PSC to engage on the need for the establishment of an independent expert body on AU Response to UCGs. This is crucial for the provision of objective and in-depth technical advisory and support on a regular basis to the PSC and its subsidiary or affiliated bodies, including the Sub-Committee on Sanctions; the Committee of Experts (CoE); and the Military Staff Committee (MSC).

The other and critical issue that would be of interest to the

PSC in its consideration of sanctions is the need for ensuring that sanctions are targeted. There is also the related issue of crafting sanctions with the requisite carveouts for ensuring that they don't lead to collective punishment of the population of the target country. As noted above, the Lomé Declaration took care in specifying the need for targeted sanction. It thus speaks only of 'limited and targeted sanctions.' Accordingly, when adopting sanctions that go beyond suspension, there is a need for ensuring that they provide for humanitarian carveouts for facilitating humanitarian access and essential socio-economic activities vital for the wellbeing of populations. It may also interest the PSC to discuss how once fully reactivated, the Sub-Committee on Sanctions can ensure the establishment of clear benchmarks on the criteria and process for easing and lifting sanctions.

The anticipated outcome of tomorrow's session is a Communiqué. It is expected that the PSC will highlight the status of the recently suspended countries, namely Niger and Gabon, and emphasize the need to meet the timeframe of the transitional term limit of six months following military coups. The PSC may also underscore the need for enhanced coordination and synergy between the decisions taken by the PSC and that of RECs/RMs on sanctions. The PSC may also call for full and effective implementation of the step by step and graduated approach to sanctions envisaged in the Lomé Declaration and ACDEG as well as the 2009 Ezulwini framework on UCG. The PSC may also reiterate and refine its earlier call for the establishment of a multidisciplinary team of experts to operate as an independent expert body that works with the PSC Sub-Committee and provides independent technical analysis on the occurrence and nature of UCG, the appropriate response measures including proposals on diplomatic initiatives, and the mobilization of leverage and coordination for maximum and swift impact. The PSC may also affirm the primacy of diplomacy and political engagement for which suspension and sanction provides support

for securing agreement on the pathway for restoration of constitutional order. It may further underscore the importance of ensuring that sanctions are 'limited and targeted' to constrain those they intended to affect and spare the population of the country concerned from their impacts. The PSC may encourage finalization of the work for the operationalization of the Sub-Committee on Sanctions and call for the full operationalization of the PSC Sanction Committee. Lastly, the PSC may also call for respect for constitutionalism and rule of law as well as term limits set in Constitutions. It may also reiterate its earlier calls for the AU Commission to undertake a study on the root causes of UCG and on ways for reinforcing measures against manipulation of term limits as specified in the Accra Declaration and the Malabo Summit outcome documents. It may also call for a follow-up to the Accra Declaration in having a follow up convening considering developments since March 2022.