

# Discussion on the AU Human Rights Observers and Military Experts to the Republic of Burundi

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Tomorrow (27 April) the African Union (AU) Peace and Security Council (PSC) will convene its 994th session to consider the report of the Chairperson of the AU Commission on the Human Rights Observers (HROs) and Military Experts (MEs) mission deployed to the Republic of Burundi and decide on the future of AU's HROs and MEs in Burundi.

The PSC Chairperson of the month, Djibouti's Permanent Representative, Mohammed Idriss Farah, is expected to make opening remark. The report of the Chairperson is expected to be introduced by AU Commissioner for Political Affairs, Peace and Security (PAPS), Bankole Adeoye or his representative. The representative of Burundi will also make statement as the country concerned, pursuant to the PSC practice.

Since 2018, the PSC noted 'the relative peace and stability in Burundi'. The communiqué of the 794th session of the PSC signaled the drawdown of AU's operation involving Human Rights Observers and Military Experts when deciding to reduce the number of HROs and MEs and extend their mandate 'bearing in mind the relative peace and stability prevailing in the country'. It is also worth recalling that the AU Assembly, at its 31st Ordinary session held from 1 to 2 July 2018 in Nouakchott, Mauritania, requested the Commission to 'accompany Burundi during this phase' as the country nears its 2020 national elections and contribute its part in strengthening of democracy and respect for human rights in the country.

Last time the Council discussed the situation in Burundi was during its 808th session convened on 19 November 2018. In that session, while recognizing the 'relative stability' that reigned in the country, the Council also requested the AU Commission to continue its engagement with the government with the view to support AU initiatives, notably its mission involving HROs and MEs.

Since then, one of the major milestones for Burundi, the 2020 elections, was concluded. The country held its elections in a context in which the incumbent, President Nkurinziza, honored the commitment not to run during the 2020 presidential elections. It is against this backdrop that tomorrow's session of the PSC will consider the AUC Chairperson's report on the HROs and MEs deployed in Burundi and decide on their future.

The HROs and MEs were deployed in July 2015 in line with PSC decision, at its 515th session held on 13 June 2015 at the level of Heads of State and Government. This was the first time that the PSC used the deployment of such kind of instruments as part of its efforts to prevent escalation of violence and facilitate the resolution of unfolding crisis in the country. As set out in the PSC decision, the HROs were mandated to monitor the human rights situation on the ground and report on the possible violations of human rights and international humanitarian law, whereas the mandate of the MEs was to support and verify the disarmament of militias and other armed groups.

The first deployment of the mission took place in July 2015 with the dispatch of an advance team consisting of only two HROs. Several HROs and MEs were then deployed in different batch, reaching its maximum strength in July 2016 with the dispatch of the final batch that brought the total number of the HROs to 45 and the MEs to 26. This was despite the initial plan to deploy 100 HROs and 100 MEs, with police component, by March 2017. A combination of lack of funds and recognition of the relative improvement of the situation in the country meant

that the number of the HROs and MEs has continued to decrease starting in 2017, with only ten HROs left by the end of 2018. Currently, the number of HROs and MEs stands at eight and two, respectively.

As highlighted in the Report, the deployment was managed in two phases. In the first Phase (July 2015- August 2018), the activities of the mission focused on Human Rights monitoring, awareness creation and sensitization and advocacy. During this phase, 867 violations and infringements on the right to life; 882 violations and infringements on the right to physical integrity; 294 cases of torture and mistreatment; 230 rapes; 888 arbitrary arrests; 1243 illegal detentions; 169 violations of the right to freedom of expression and association; and 209 violations of the right to freedom of movement were reported. Beyond its contribution in limiting the escalation of the situation in Burundi, the engagement of the HROs registered some gains such as the release of 258 arbitrarily detained persons and supporting efforts at monitoring and reporting human rights violations as part of improving the human rights situation.

The second phase of the mission is characterized by the draw-down of the mission, accompanied by a shift of engagement focusing largely on capacity building, though its mandate remains unchanged. In this phase, several training programs were convened for key judicial and non-judicial actors, law enforcement agents and civil society organizations, with the primary aim of strengthening the technical capacity of those working in the human rights sector.

In respect of the Military Experts, the report of the Chairperson indicates that their activities have been much limited as they have not been given 'free access to exchange with local military personnel'. As highlighted in the report, the government has been less receptive of the military component of the mission, which constrained the MEs from discharging their mandate fully. Despite these challenges, the

Experts managed to conduct several visits of provinces over the course of 2019 and 2020. The Experts reported range of security related incidents in this period including armed invasion from neighboring border countries; homicide by unidentified gunmen targeting members of political parties and business individuals; grenade attacks; armed robberies; kidnappings; and violence between party militants.

According to the report of the Chairperson, 53 fact- finding missions were conducted; some 300 field trips were undertaken; and 623 advocacy activities were carried out resulting in the release of 623 detainees. The PSC is expected to take note of the achievements the mission registered under very difficult operating environment.

A major challenge for the operation of the HROs and MEs was the lack of Memorandum of Understanding (MoU) with the government of Burundi. Despite repeated calls and expectations from the AU, Burundi did not sign the MoU. In the absence of this key instrument that outlines rights and duties of respective parties, the mission was forced to operate under a shaky legal ground. Indeed, this is identified as one of the issues from which lessons should be learned for purposes of similar future missions.

Despite the severe limitations that the lack of MoU has put on the operation of the HROs and MEs, the Burundi government did not actively impede their presence and activities. To the contrary, it facilitated their operation including the issuance of visas, diplomatic plate numbers, as well as approval of their work plan and field missions, etc. This has enabled them to carry out various activities. Building relationships with local authorities and collaboration from international organisations such as the Office of the High Commissioner for Human Rights and the UN High Commissioner for Refugees have also been found valuable in helping the HROs and MEs navigate their constrained context.

Currently, the most pressing challenge remains the way forward, as captured in the report of the Chairperson. It is to be recalled that the PSC extended the mandate of the mission 'until further notice', at its 797th session held at ministerial level on 24 September 2018. The report does not see room for the continued presence of the mission with its current mandates as the conditions that led to the deployment of the mission 'are no longer prevailing.' Indeed, Burundi no longer experiences the level of insecurity and violence that was prevalent for during the first phase of the deployment of the HROs and MEs. While there remain important human rights issues, it is not at the scale that necessitated the deployment of the HROs. It is to be recalled that United Nations (UN) Security Council removed Burundi from its agenda in December 2020.

For tomorrow's session, the main issue in deciding the next steps rightly highlighted in the Chairperson's report is the role that the AU could play in supporting post conflict reconstruction and stabilization efforts in Burundi, including implementation of transitional justice processes. This includes additionally, as noted in the report, the need for supporting the establishment, through the National Human Rights Institutions and the Ministry of Justice, of centers for supporting victims of human rights violations.

The expected outcome is communique. The PSC may take note with appreciation the significant improvements that Burundi is able to achieve in consolidating peace and stability. The Council is also likely to commend the Human Rights Observers and Military Experts for their dedication and meaningful contribution. The Council is further expected to heed to the key recommendations made by the Chairperson of the Commission in its report. In this regard, the PSC is likely to end the mandate of the Human Rights Observers and Military Experts by 31 May 2021, taking a cue from the Report of the Chairperson and in light of the positive developments witnessed in the

country. As part of a transitional justice process to strengthen post-conflict stability, the PSC may also express support for the establishment of Human Rights Victims centers to redress some of the human rights violations and respond to the needs of victims. The PSC may also express its appreciation to the AU Commission for the initiative to incorporate in the planning similar future missions the lessons from the difficulties faced in the signing of the MoU and develop a manual for the management of its field missions with the view to properly plan, organize, coordinate and lead similar future AU Missions.