

Emergency session on the situation in Chad

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Tomorrow (22 April) afternoon the African Union (AU) Peace and Security Council (PSC) will convene an emergency session on the situation in Chad. It is expected that the PSC Chairperson for the Month, Djibouti's Permanent Representative to the AU and UNECA, Idriss Farah will make an opening remark. The AU Commissioner for Political Affairs, Peace and Security, Bankole Adeoye, who was passing through Chad from a visit to Libya, is also expected to brief the PSC based on information from the ground. The representative of Chad, as the concerned country and the current chairperson of the Economic Community of Central African States (ECCAS) are also expected to deliver statements.

The session was called following the announcement of the passing of President Idriss Deby and the political developments that followed this unexpected incident. It is to be recalled that Chadians went to the polls for the national elections on 11 April 2021 in which President Deby was seeking re-election for a sixth term. The death of President Deby came only a day after the electoral commission declared provisional results giving him victory with 79.32% of the votes.

While the details of the circumstances surrounding his death remains unknown, it was on 20 April that the spokesperson of the Chadian army announced on television that President Deby died of wounds he sustained after being shot during a visit of troops on the frontlines fighting armed rebel groups. On 17 April, the US issued a statement announcing that non-essential US government employees have been ordered to leave Chad. This came following the speedy march of armed non-governmental groups in North Chad towards the capital city N'Djamena.

Similarly, the UK, which also urged its nationals to leave Chad, reported that a group of Libya-based rebels, the Front for Change and Concord in Chad (FACT) was heading towards N'Djamena and a separate convoy was seen approaching a town 220 kilometers (137 miles) north of the capital. According to media reports, FACT grew out of rebel groups that were based in Darfur but established their base in the last few years in Libya in the Tibesti mountains, which straddle northern Chad and part of southern Libya.

According to the Constitution of Chad, in the event of the death of the President Article 81 stipulates that the President of the National Assembly takes over power. However, this constitutionally envisaged succession of power was not followed. Instead the military seized power. It closed Chad's borders and imposed overnight curfew.

The announcement of the death of Deby was followed by a decree declaring the formation of a military transitional council taking over power and designating Deby's son Mahamat Idriss Deby as head of the Council that seized power. The military spokesperson also announced the dissolution of the government and parliament and the suspension of the Constitution of Chad. According to the military spokesperson, the military council will lead the country on the basis of a transitional charter for 18 months until the organization of election.

The situation has raised alarms about the stability of Chad and its implications for the region. In a short period of time, a country that convened national elections has plunged into an armed conflict and a constitutional crisis that resulted in a major political and social volatility and uncertainty. It is reported that opposition politicians have rejected the military's move. One of the major opposition leaders Saleh Kebzabo, whose UNDR party boycotted the recent election, told reporters that 'we must follow the constitution, invite the AU and the UN to help solve our problem'. Another opposition figure proclaimed that this 'is a

coup d'état ...and is not acceptable to the people of Chad.' FACT rebels, who have been leading an offensive against the Chadian regime for nine days, on their part have promised to march on N'Djamena and "categorically" rejected this military council.

In this fast-moving situation, various countries with close ties with Chad have been making statements. In a statement that it issued on 20 April, the US State Department extending its condolences on Deby's death expressed support for 'peaceful transfer of power in accordance with the Chadian Constitution'. By contrast and in an announcement that ignores the Constitution of Chad and seems to be in support of the military council, French diplomatic chief Jean-Yves Le Drian called for a military transition of limited duration.

For the PSC, this situation in Chad raises both the need to avoid further deterioration of the security and political situation and the equally critical legal requirement for upholding constitutional rule in Chad. The dynamics in the PSC are such that there is no clarity whether PSC members would automatically apply Article 7(1)(g) of the PSC Protocol on instituting sanctions in the event of an unconstitutional change of government.

The AU legal instruments including the Lomé Declaration of 2000, the AU Constitutive Act, the PSC Protocol and the African Charter on Democracy, Elections, and Governance ban military coup d'état. Article 7 (1)(g) of the PSC Protocol requires the PSC to 'institute sanctions whenever an unconstitutional change of government takes place in a member state, as provided for in the Lomé Declaration.'

Over the years, the PSC has developed relatively consistent practice of enforcing this ban on unconstitutional changes of government. This has been particularly the case with respect to military coups. In a similar case that took place in Togo in which, after the death of Togo's then President Gnassingbé

Eyadéma, the country's military, supported by the ruling party, announced Faure Gnassingbé as the successor to the deceased president, in contravention of the clear provisions of the Constitution of the Togo, on succession to the presidency in the event of the death of the president, the PSC at its 25th session held on 25 February 2005, expressing AU's strong condemnation of the military coup and suspending the de facto authorities and their representatives from participation in all AU activities, called for return of the country to constitutional legality. In the most recent such incident, it is to be recalled that the PSC at its 941st session, condemning the military takeover of power in Mali and suspending the country from participating in the activities of the AU, called for the transfer of power by the military to a civilian authority. Similarly, in April 2019, at its 840th session, the PSC, rejecting the military seizure of power in Sudan after the incumbent president was overthrown by popular protest and deploring the suspension of the Constitution and dissolution of the National Assembly, which it deemed to constitute a military coup d'état, demanded the military to step aside and hand over power to a transitional civilian political authority within a maximum period of 15 days. This approach itself was based on the earlier decision of the PSC on the case of Burkina Faso in November 2014 when the PSC instead of suspending Burkina Faso immediately gave 15 days for the military to hand over power to a civilian transitional authority.

The expected outcome of tomorrow's session is a communique. The PSC is expected to pay tribute to President Deby for the contributions he made for peace and security in Africa and affirm its commitment for the territorial integrity, sovereignty and stability of Chad. The PSC is expected to express AU's condemnation and total rejection of any military seizure of power in accordance with the various AU instruments and the announcement of the suspension of the Constitution and the dissolution of the national assembly. It may further

underscore the need for a civilian based political authority and urge the military council to step aside and hand over power to such civilian based political authority. Depending on the information from the ground, the PSC, if it were not to opt for automatic application of the Lomé Declaration and Article 7(1)(g) of the PSC Protocol, may, following the examples of Sudan and Burkina Faso, give the military 15 days from the date of adoption of its decision for handing over power to civilian based political authority, failing which, PSC will automatically apply Article 7(1)(g) of its Protocol. The PSC may also call on ECCAS and the UN to work closely with the AU and initiate a process to facilitate the resolution of the situation in a way that does not endanger the stability and peace of Chad on the basis of AU principles and instruments.