

PSC emergency VTC meeting on the situation in Mali

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Today (19 August), the African Union (AU) Peace and Security Council is expected to convene an emergency meeting on the situation in Mali. The Commissioner for Peace and Security Smail Chergui is expected to brief the PSC. It is also expected the meeting will benefit from update received from the AU Mission for Mali and Sahel (MISAHEL) through the AU High Representative for Mali and the Sahel and the Head of MISAHEL, former Burundian President Pierre Buyoya. This emergency meeting comes after the day long dramatic acts of mutinous Malian army on 18 August led to the arrest of Mali's President Ibrahim Boubacar Keita and the country's Prime Minister. Soon after the arrest, President Keita declared his resignation and the situation culminated in a full-fledged coup. In his televised address, the President also announced the dissolution of the national Assembly and the government. Members of the army involved in the coup announced in a televised address announced their plan to set up a transitional government that will pave the way for fresh elections in the shortest time possible.

The coup in Mali comes after nearly two months of political instability. A coalition of opposition and civil society groups known as the June 5 Movement-Rally of Patriotic Forces (M5-RFP) under the leadership of Imam Mahmoud Dicko organised several mass protests since 5 June. Prompted by complaints about the election outcome and the abduction of leading opposition leader Soumaila Cisse while campaigning ahead of the parliamentary election in March, protesters campaigned for the resignation of President Ibrahim Boubacar Keita because of continued insecurity, the struggling economy, corruption, and the Constitutional Court's decision that annulled 5.2 % of the

disputed parliamentary votes cast, increasing the President's party representation by ten additional seats.

During the protests held on 11 and 12 June, 11 protesters lost their life and 150 others were injured. This came after security forces fired live ammunition at protesters as some of them looted the parliament and others besieged the national broadcaster's office, and attacked the offices of the ruling party. The sociopolitical crisis in Mali has been a source of concern for regional, continental and international actors. In a joint statement issued on 12 June that encouraged the government to release arrested protest leaders, the AU, ECOWAS, MINUSMA and the EU expressed their condemnation of acts of violence by protesters and 'the use of lethal force' by security forces.

Despite conciliatory measures on the part of President Keita including his announcement to dissolve the Constitutional Council on 12 June, the protest movement continued to gain further momentum prompting the regional group the Economic Community of West African States (ECOWAS) to initiate mediation efforts. From 18 to 20 June, a high-level delegation of ECOWAS including the Nigérien Foreign Minister, Kalla Ankourao, and his Nigerian counterpart, Geoffrey Onyeama, and the President of the ECOWAS Commission, Jean-Claude Kassi Brou that travelled to Mali to mediate the dispute called for the formation of a unity government and rerunning the elections for the disputed legislative seats. Notwithstanding these proposals, further protests involving large group of people took place on 19 June. Former Nigerian President Goodluck Jonathan, who became the ECOWAS mediator, led a second ECOWAS mission to Mali. After meeting with the delegation, the protest movement rejected the ECOWAS reform proposals for not including the resignation of the president. On its part the ECOWAS mission rejected the call for Keita's resignation, stating that it would 'not tolerate' any unconstitutional ascension to power.

On 22 June, AU Commission Chairperson, Moussa Faki Mahamat, issued a statement expressing 'deep concern' about 'the serious crisis that has plagued Mali since the popular protest on June 5, 2020'. Heightening its efforts, on 23 June ECOWAS leaders involving the presidents of Côte d'Ivoire, Ghana, Niger, Nigeria, and Senegal went to Bamako to meet with President Keita and Dicko. In the extraordinary summit that ECOWAS held on 27 June, it reiterated the earlier proposals for rerun of the parliamentary elections and the formation of a unity government.

ECOWAS has also been quick in its response to the acts of the military on 18 August. In a statement it issued, it expressed its deep concern regarding the acts of the army and urged the military to return to their barracks without delay. It also reiterated its firm opposition to any unconstitutional change of power. Following the announcement of the resignation of the President, ECOWAS announced suspension of Mali from participation in its decision-making processes and suspended trade links with Mali. Similarly, the AU Commission Chairperson Faki in a statement he issued before the resignation of President Keita expressed his strong condemnation of 'the forced detention of the President...the Prime Minister and other members of the Malian Government' and called for 'their immediate release.' Faki further stated strong rejection of 'any attempt at the unconstitutional changes of government in Mali' and called for unity of voice of ECOWAS, the UN and the entire international community in opposing 'any use of force as a means to end the political crisis in Mali'. In a statement issued on behalf of the UN Secretary-General Antonio Guterres on the same day, the UN expressed condemnation of the actions of mutineers and called for 'the immediate restoration of constitutional order and rule of law in Mali' with 'the immediate and unconditional release of President Ibrahim Boubacar Keita and members of his cabinet.'

While the situation appears to be chaotic, the mood of the public in Bamako seems to be in contrast to the reaction of regional and international actors. People in Mali's capital have been seen cheering the army and celebrating the resignation of President Keita, which was core demand of the 5 June movement that has been leading the protests against the government. It is possible that once again this sentiment of the public could give rise to the debate about the relationship between popular uprisings and unconstitutional changes of government.

In today's session, it is expected that the PSC will make a determination on whether the actions of the army in the context of the announcement by President Keita of his resignation and the dissolution of parliament constitutes a military coup warranting the application of the measures envisaged under the Lome Declaration on Unconstitutional Changes of Government of 2000, the AU Constitutive Act and the African Charter on Democracy, Elections and Governance. While the acts of mutiny including the arrest of the President and members of his cabinet, the announcement by members of the army on a plan to establish a transitional authority for preparing elections are all the constituent elements of a military coup, the President's announcement of his resignation, which resonates with the announcement by President Mugabe in 2017 of his resignation, makes it different from the March 2012 coup. Yet, given the level of consensus in the initial response of the AU, ECOWAS and the UN and the decision of ECOWAS suspending Mali, it is expected that the PSC will designate the situation in Mali as an unconstitutional change of government.

What is not clear is whether the PSC will proceed, following the lead of ECOWAS, to institute the consequences that flow from the occurrence in a member state of an unconstitutional changes of government. While the reading of the Lome

Declaration on Unconstitutional Changes of Government of 2000 and other relevant instruments of the AU including the AU Constitutive Act and the dominant practice of the AU suggests that the application of suspension of the country in which unconstitutional change happened to be automatic, there have been instances in which the PSC opted for holding back the automatic application of these legal consequences. Such was the case in respect to the situation in Burkina Faso in November 2014 and that of Sudan in April 2019. In both of these cases, the PSC instead of imposing the immediate suspension of the two countries used the threat of suspension as a leverage for quick transfer of power by the military to a transitional civilian authority. Accordingly, the PSC gave Burkina Faso's army a period of two weeks for handing over power to such civilian authority. Similarly, the PSC followed the Burkina Faso model for Sudan giving a period of two weeks for the military to transfer power followed by a suspension of Sudan after the 3 June massacre of civilians by the army before the expiry of the additional two months of time for transfer of power to civilian transitional authority.

Unlike the situations in Burkina Faso or Sudan, President Keita has been reelected last year and his term would only have come to an end in 2023. At the same time, given the announcement by President Keita of his resignation and the dissolution of parliament and his government, it is also not clear if the PSC will reiterate the call of Faki and Guterres for the reinstatement of President Keita. It is however sure that this meeting will set the tone for the meeting of the UN Security Council expected to take place on 19 August as well.

The expected outcome of the session is a communique. It is expected that the PSC would condemn the acts of the mutinous members of the army. It may also urge the army to restrain from any acts that further endanger the peace and stability of the country and to safe guard the safety and security of government leaders in its custody. The PSC would welcome the

decision of ECOWAS and consider the situation in Mali as military coup contrary to the Lome Declaration of 2000 and the African Charter on Elections, Democracy and Governance. It is also expected to invoke Article 7(1)(g) of the PSC Protocol and call for the restoration of constitutional order.