

PSC Session on the Situation in Sudan

Automatic Heading TextDate | 30 April, 2019

Tomorrow (30 April) the African Union (AU) Peace and Security Council (PSC) will convene a session on the follow up to the 840th meeting on the situation in Sudan. The session will be held in Tunis, Tunisia. It is to be recalled that the communiqué of the 840th session of the PSC requested the 'Chairperson of the Commission to report to Council by 30th April 2019, on the evolution of the situation and the implementation of the present Communiqué'. It is expected that the AU Commission Chairperson, Moussa Faki Mahamat, will present this report. Sudan's representative and that of IGAD are also expected to make statements.

In its communiqué that rejected the seizure of power by the military as unconstitutional and contrary to established AU norms, the PSC demanded the army to cede authority in favor of such civilian-led authority within 15 days from the date of adoption of the decision. In the language of the communiqué, in the event of the non-transfer of authority to a transitional civilian-led authority at the end of the set time, the provisions of Article 7 (g) of the PSC Protocol involving the suspension of Sudan from the AU would apply. The communiqué stipulated that this application of the measures under Article 7(g) suspension will be automatic.

In his report, Mahamat is expected to update the PSC on what steps he has taken to follow up on the implementation of the communiqué. His report is also expected to update the PSC on the situation in Sudan in general and the state of the transition in particular including most notably the process towards the establishment of a civilian-led transitional authority.

On 16 April Mahamat received a delegation of the Transitional Military Council (TMC). In a statement issued following the meeting, recalling the communiqué adopted by the PSC at its meeting held on 15 April and his own earlier communiqué, he reiterated the AU's commitment to work with all the Sudanese stakeholders towards a consensual and inclusive transition that meets the aspirations of the people and ensures the stability of the country. Following the meeting, he issued a statement. As a follow up to the PSC communiqué of 15 April, the AUC Chair also undertook a visit to Sudan on 21 April. After the consultations he held with various stakeholders, he issued a statement urging 'all concerned stakeholders to agree on earnest on a civilian-led and consensual transition'. In the statement, he also expressed his hope 'to a successful outcome of their ongoing consultations, as he prepares his report to the Peace and Security Council on the evolution of the situation in Sudan, to be submitted by the end of this month, as per the Council's communiqué of 15 April 2019.'

It is expected that Mahamat's report would inform the PSC on the views and expectations of the various stakeholders with whom he held consultations during his visit. With respect to the process for the establishment of the civilian-led transitional authority required by the AU norm banning unconstitutional changes of government as provided for in Article 30 of the Constitutive Act and Article 7 of the PSC Protocol, Mahamat is also expected to update the PSC on the state of the negotiations for transferring authority from the army to a civilian-led authority. PSC member states would also be interested to hear Mahamat's assessment of the challenges and the prospects for the establishment of a civilian-led authority.

Also to feature in Mahamat's report to the PSC is the consultative summit on the situation in Sudan that was held in Cairo, Egypt. On 23 April, the AU Assembly Chairperson, President Abdel Fatah Al-Sisi, convened a consultative summit

of the regional partners of Sudan, which brought together the neighbors of Sudan and the members of the AU Troika, namely Rwanda (outgoing Chair of the AU) and South Africa (the designated chair of the AU for 2020). The consultative meeting having no decision-making power, it did not take a decision, it however made a key recommendation pertaining to the 15 April decision of the PSC. Following the briefing from the representative of the Sudan and AUC Chair following his visit of 21 April, the Consultative meeting recommended that the PSC extends the timeline provided for the Sudanese authorities by three month.

While negotiations between the coalition of protesters and opposition forces, under the umbrella of the Freedom and Change Forces, and the TMC have been underway with intermittent suspension by the Freedom and Change Forces, it has been reported that the negotiations held on 27 April culminated in agreement for joint establishment of a transitional authority. However, major differences have emerged over the composition and form of the transitional authority and the duration of the transitional period. In terms of the composition of the transitional authority to be established consensually, the Freedom and Change Forces demand an authority whose majority members would be composed of civilians while the military sought to have dominant role with limited civilian participation.

In the light of the clear terms of the AU norm banning unconstitutional changes of government, it is expected that the PSC would ensure that this norm and its established practice of upholding this norm are unequivocally respected. Also given the declared unconstitutionality of the military's seizure of power and AU's democratic norms demand to limit the role of the army in politics as the PSC made clear in its intervention in the army's seizure of power in Burkina Faso in November 2014. One of the issues for Mahamat to advice and for the PSC

to clarify is how to define the scope of the role of the military and limit its influence on transitional politics in Sudan as part of the process of the restoration of constitutional order.

As to the duration of the transitional period, the military council proposes two years while the Freedom and Change Forces called for a four years transitional period. The negotiating parties have also to agree on the role or scope of authority of the transitional authority being negotiated. Another, perhaps more important aspect of the issue for PSC decision relates to the proposed extension of the 15 days timeline. According to the terms of the PSC communiqué quoted above, if, at the expiry of the 15 days period, the TMC fails to transfer power to a civilian-led transitional authority, the PSC would apply provisions of Article 7(g) of the PSC Protocol particularly the suspension of Sudan from the AU. This would be automatic. Given

the recommendations of the Consultative Summit held in Cairo to extend the timeline for a period of three months, it is expected that Mahamat would propose extension.

In making a determination on the recommendation of the Consultative Summit for extension of the timeline, there are few issues for the PSC to consider. The first is in the light of the progress being made for the formation of a consensual transitional authority whether it is necessary for the PSC to extend the timeline for as long as the three month period that the Consultative Summit proposed. There is a risk that such prolongation may create conditions that militate against civilian-led transition and lead instead to consolidation by the military of its transitional authority. The other issue is the parameters that the PSC may need to set, when extending the timeline, in terms of the form that the civilian-led transitional authority should take to meet 'the aspirations of the people of Sudan, as well as to the relevant AU instruments', in the words of its 15 April communiqué.

Finally, the PSC may also need to consider the tasking of the AU High level Panel on Sudan, otherwise known as the Mbeki Panel, or a new envoy of the AUC Chair, to ensure that the negotiations between the Sudanese parties produce the expected outcome before the end of the extended period and help them bridge their differences on such other issues as the duration of the transitional period and the scope of authority/mandate of the transitional authority.

The expected outcome of the session is a communiqué that would outline the period of extension and the conditions to be met for effecting transfer of authority to a civilian-led authority consistent with the applicable norms of the AU.