

**SPECIAL RESEARCH REPORT**

**BEYOND SUBSIDIARITY:  
UNDERSTANDING THE ROLES  
OF THE AU AND RECs/RMs  
IN PEACE AND SECURITY IN AFRICA**

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## I INTRODUCTION

Over the years and most recently, various conflict/crisis situations including those in Chad, Democratic Republic of Congo (DRC) and Niger have become flashpoints in the exercise of the respective roles entrusted to the African Union (AU) Peace and Security Council and Regional Economic Communities/Regional Mechanisms (RECs/RMs) for peace and security in their respective legal and policy instruments. While subsidiarity is the principle most invoked as the formula for governing the relationship between the PSC and RECs/RMs, not only what subsidiarity entails in terms of who does what and when remains unclear and contested leading to confusion and even policy paralysis in dealing with specific conflict situations but also such overuse of the term has obscured the fact that it is one among many principles and frameworks for governing the relationship between the AU and RECs/RMs.

With the establishment and operationalization of the PSC,<sup>1</sup> Africa has come to possess a standing mechanism for peace and security decision-making that has, over the years, become the leading peace and security actor on the continent.<sup>2</sup> PSC's rise to prominence in continental peace and security decision-making has been accompanied by a similar increase in the role, particularly of some RECs/RMs.<sup>3</sup> While the expansion of the profile of the PSC and RECs/RMs in peace and security policy

<sup>1</sup> African Union (2002), *The Protocol to the AU Constitutive Act Establishing the Peace and Security Council (PSC Protocol)*, adopted by the first Ordinary Session of the Assembly of the African Union, Durban, 9 July 2002.

<sup>2</sup> See Amani Africa (2020), *African Union Peace and Security Council Handbook: Guide on its Procedure, Practice and Traditions, Part I*.

<sup>3</sup> It is worth noting that the experience of some of the RECs in developing and implementing norms on the maintenance of peace and security precedes the AU, although their engagement on the matter also witnessed growth in the years since the establishment of the AU at the turn of the century. See Paragraph 26 of the Solemn Declaration on a Common African Defence and Security Policy, adopted by the Heads of State and Government of Member States of the African Union at the second Extra Ordinary Session, Sirte, Libya, 2004 (*Common African Defence and Security Policy*).

making in Africa is reflective of the assumption of increasing responsibility by African actors for the peace and security of the continent, it has also given rise to important questions of policy coherence and operational coordination for mobilizing an effective response to the challenges of peace and security on the continent.

It is against the background of the foregoing that the issue of division of labour between the AU and RECs/RMs has been identified as one of the areas of the institutional reform of the AU that has been underway since 2016/17. As a follow-up to the Report of President Paul Kagame on the institutional reform of the AU,<sup>4</sup> the AU Assembly in January 2017 took the decision [[Assembly Dec 635 \(XXVIII\)](#)] that there should be a clear division of labour and effective collaboration among the AU and RECs/RMs, the Member States, and other continental institutions.

Despite the fact that the AU and RECs/RMs signed a Memorandum of Understanding (MoU) in 2008 and the emergence of subsidiarity as the catchall term governing AU-RECs/RMs relationship as well as the subsequent identification of working modalities for facilitating policy complementarity and coordinated action, in practice not only that these arrangements are as yet to be fully operationalized but also a culture of active and regular policy exchange and consultative decision-making between the two levels has as yet to be entrenched. As a result, the relationship is increasingly characterised by turf battles and lack of coordination instead of collective and joint action that the peace and security situation on the continent warrants.

This special report aims to offer an analysis of the modalities of the close working relationship between the PSC and RECs/RMs and how to consolidate existing best practices and enhance a more functional and dynamic coordination in peace and security decision-making. In this context, the special report seeks to offer analysis of the

<sup>4</sup> Amani Africa, *Seizing Africa's new moment for the reform of the African Union*, Special Research Report 1 (July 2017) available on <https://amani-africa-et.org/seizing-africas-new-moment-for-the-reform-of-the-african-union/>

historical and legal background to the relationship between the PSC and RECs/RMs, the principles that seek to govern the relationship as laid down in the applicable legal and policy instruments and the modalities for policy and operational coordination. It also highlights the gaps in coordinated policy making and existing and emerging issues affecting coordination between the PSC and RECs/RMs.

## II THE NORMATIVE AND INSTITUTIONAL BASIS FOR THE RELATIONSHIP BETWEEN THE PSC AND THE PEACE AND SECURITY ORGANS OF RECs/RMs

### 2.1 Historical Antecedent

The very first reference to the role of RECs/RMs as the building blocks for regional integration was specified in the 1980 Lagos Plan of Action for the Development of Africa.<sup>5</sup> This was premised on the recognition of the existence of the social, infrastructural and economic factors that facilitate integration at the sub-regional level. Subsequently, the 1991 Treaty Establishing the African Economic Community (the Abuja Treaty) institutionalized the role of RECs/RMs as the foundation for Africa's integration. It is worth noting that the Abuja Treaty identified the need for coordination and harmonization of the activities of RECs/RMs in all fields, including peace and security. Thus, Articles 28 and 88 enjoin States Parties to the treaty 'to take all necessary measures aimed at progressively promoting closer cooperation among the RECs.'

<sup>5</sup> *Lagos Plan of Action for the Economic Development of Africa, 1980 – 2000, adopted by the Second Extraordinary Session of the Assembly of Heads of State and Government of the OAU, Lagos, Nigeria, 29 April 1980.*

### 2.2 AU Constitutive Act

The role of RECs/RMs as anticipated in the Abuja treaty and their relationship with the AU in pursuit of the development and regional integration agenda have been entrenched into the founding treaty of the AU. The Constitutive Act of the AU, which underscores in its preamble the need to accelerate the implementation of the Abuja Treaty, has among its key objectives the coordination and harmonization of policies with RECs/RMs toward realizing the objectives of the Union.<sup>6</sup>

### 2.3 PSC Protocol and Common African Defence and Security Policy

With specific reference to peace and security, details are provided in the PSC Protocol and the Common African Defence and Security Policy. The Preamble to the PSC Protocol states that AU's peace and security order is premised on the recognition of both 'the contribution of African Regional Mechanisms for Conflict Prevention, Management and Resolution in the maintenance and promotion of peace, security and stability on the continent' and 'the need to develop formal coordination and cooperation arrangements between these regional mechanisms and the African Union'.<sup>7</sup> Article 7(1) (e) of the Protocol enjoins the PSC to 'promote close harmonization, co-ordination and co-operation between Regional Mechanisms and the Union in the promotion and maintenance of peace, security and stability in Africa'.

The Common African Defence and Security Policy (CADSP) of 2004 stipulates that at the regional level, the organs for the implementation of the policy are 'the conflict prevention, management, and resolution mechanisms existing in the various regional economic organizations'.<sup>8</sup> The CADSP went on to list the regional economic organizations recognized by the AU, namely 'ECOWAS, ECCAS, IGAD, SADC, the East African Community, CEN-SAD, the Arab Maghreb Union and COMESA.'

<sup>6</sup> *See Article 3(1) of the Constitutive Act of the AU, adopted by the thirty-six Ordinary Session of the Assembly of Heads of State and Government, 11 July 2000, Lomé Togo.*

<sup>7</sup> *Paragraph, preamble of PSC Protocol.*

<sup>8</sup> *Paragraph 26, Common African Defence and Security Policy.*

Along with the **primacy** of the AU envisioned in the PSC Protocol, another key term used in framing the relationship with RECs/RMs is **partnership**. The meaning of this partnership is stipulated in general terms in Article 16 of the PSC Protocol. Article 16 of the Protocol articulates the place of RECs/RMs in the African Peace and Security Architecture (APSA) and outlines in broad terms the details of how the PSC together with the Chairperson of the AU Commission should go about developing coordination and close working relationship with RECs/RMs. It affirms that RECs/RMs 'are part of the overall Security Architecture of the Union'.

Sub-article 1 of Article 16 provides for two key provisions: a) the alignment of the role of RECs/RMs with the objectives and principles of the Union and b) for RECs/RMs to work closely to ensure effective partnership between them and the PSC in the maintenance of peace and security. According to the PSC Protocol, this close partnership between the PSC and RECs/RMs is to be on the basis of 'the comparative advantage of each and the prevailing circumstances'. Simply put, the PSC Protocol envisages that the principles of comparative advantage and prevailing circumstances as the basis for organizing the coordination and partnership between the PSC and the RECs/RMs.

Instead of a rigid framework of coordination, it adopts a flexible one that is dictated by the conditions of the situation. Additionally, instead of complete deference to RECs/RMs on the basis of and through the exclusive application of subsidiarity, its reading together with the principle of primacy of the AU suggests that in cases where there is divergence between the RECs/RMs and the AU, the position of the AU takes precedence in legal terms over that of the REC/RM concerned.

As articulated in Article 16, the relationship with what the Protocol calls 'Regional Mechanisms on Conflict Prevention, Management and Resolution' is organized at two levels. The first is at the level of the policy making organs. The second is at the level of the secretariats of the AU and the Regional Mechanisms.

At the level of policy/decision making, Article 7(1)(j) provides that an important aspect of the mandate of the PSC is 'to promote close harmonization, coordination and co-operation between Regional Mechanisms and the Union in the promotion and maintenance of peace, security and stability in Africa.' Article 9 of the PSC Protocol also provides that in initiating action for prevention, management and resolution of conflicts, one of the avenues it can use to effect entry is 'in collaboration with the Regional Mechanisms'.

Within the framework of the foregoing, various instruments and policy decisions have been adopted to outline the specific arrangements to give effect to the provisions of the PSC Protocol as discussed below.

## 2.4 2008 MoU

In terms of the relationship between the AU Commission and the Secretariats/Commissions of RECs/RMs, steps have been taken to institutionalize coordination with the signing of the 2008 MoU. Within the framework of the provisions of Article 16 of the PSC Protocol, the AU Commission and the Secretaries/Commissions of seven RECs and two RMs, the North African Regional Capability (NARC) and the East African Standby Force (EASF), signed this MoU in 2008. In 2010, a separate MoU outside Article 16 of the PSC Protocol was signed with the International Conference of the Great Lakes Region (ICGLR). Arab Maghreb Union (UMA) also signed the MoU in 2018. Its objectives include contributing to the full operationalization and effective functioning of APSA and fostering closer partnership and coordination in the maintenance of peace, security and stability.

The 2008 MoU sets out a number of principles that include recognition of, and respect for,

- a) the primary responsibility of the AU in the maintenance of peace, security and stability;
- b) acknowledgement of the role and responsibilities of the RECs in their respective areas of jurisdiction; and
- c) adherence to the principles of subsidiarity,

complementarity and comparative advantage.

This is the instrument that **for the first time introduced the principle of subsidiarity**, a principle that was not mentioned in Article 16 of the PSC Protocol.

The designated areas of cooperation include the operationalization and functioning of APSA; the prevention, management and resolution of conflict; humanitarian action and disaster response; Post Conflict Reconstruction and Development (PCRD); arms control and disarmament; counter-terrorism and the prevention and combating of transnational organised crime; border management; capacity-building; and resource mobilization.



Normative framework and milestones in the AU/PSC-RECs relations

## 2.5 AU Assembly decision on the institutional reform of the AU

The AU Assembly decided [[Assembly/AU/Dec.635\(XXVIII\)](#)] that '[t]here should be a clear division of labour and effective collaboration between the African Union, the Regional Economic Communities (RECs), the Regional Mechanisms (RMs), the Member States, and other continental institutions, in line with the principle of subsidiarity.<sup>9</sup> This manifests a further entrenchment of the principle of subsidiarity, underscoring the preference of member states for sub-regional bodies to serve as first responders. Yet and strangely enough, no reference is made to complementarity and comparative advantage, principles specifically mentioned in Article 16 of the PSC Protocol. This may have to do with the fact that political affairs and peace and security were not the main focus of the reform process given its focus on other functional areas. This can indeed be inferred from the fact that the protocol that was enunciated as part of the reform did not elaborate the part on peace and security and instead restated the relevant provisions of the PSC Protocol.

## 2.6 Protocol on the relationship between the AU and the RECs/RMs

On peace and security, the Protocol rightly states the member States 'agreement' 'on the need to maintain peace and security in conformity with the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the Memorandum of Understanding on Cooperation in the Area of Peace and Security between the African Union, the Regional Economic Communities and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern Africa and Northern Africa, and the African Peace and Security Architecture'. As such, in the substantive

<sup>9</sup> *It is to be recalled that the AU's Institutional reform report titled 'The Imperative to Strengthen our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union' was endorsed by the Assembly during its 28<sup>th</sup> Ordinary Session held in January 2017 including the recommendation for the clarification of the clarification of the division of labor between the AU, RECs, RMs, and member states based on the principle of subsidiarity.*

part, the Protocol contains only one paragraph in Article 26. This article simply reiterates the provisions in Article 16 of the PSC Protocol.

## 2.7 Conclusions of PSC Retreats

Beyond and above the above legal arrangements, the PSC in some of the conclusions of its retreats also elaborated further on how it coordinates and works closely with RECs/RMs. Perhaps, it is in the conclusions of the retreats of the PSC that the various mechanisms and arrangements for close working relationships and policy and operational coordination between the AU and RECs/RMs are elaborated in extensive detail.

The conclusions of the 2007 Dakar retreat outlined two mechanisms: an 'annual information sharing and experience exchange meeting with the Chairpersons of regional mechanisms' and 'regular exchange of information on their activities to facilitate coordinated efforts.' No indication was made in the Dakar Retreat Conclusions regarding how these frameworks are to be implemented. In the conclusions of the 2012 Yaoundé Retreat, provision is made for including the meeting with RECs/RMs in the annual indicative program of work of the PSC. This was reiterated in the conclusions of the Djibouti Retreat of 2013. While in subsequent years provision was made for the holding of the consultative meeting in the annual indicative program of work of the PSC, this became operational only since 2019.

The May 2015 conclusions of the **Swakopmund Retreat** provided for further details on some of the modalities for operationalizing the provisions of Article 16 of the PSC Protocol on close working relations and policy coordination with RECs/RMs. It thus established that the RECs/RMs will be invited to PSC meetings considering crisis and conflict situations. It also provided for a quarterly consultative meeting for achieving strategic coherence. Apart from the updates they provide on their activities and the input that they make in the preparations of the annual consultative meetings and the PSC report on its activities, the Swakopmund Retreat most significantly provided for the participation of RECs/RMs in the proceedings of the PSC including taking an active

role in the deliberations of the sessions and making substantive inputs.

The modalities for operationalizing Article 16 of the PSC Protocol are more comprehensively articulated in the Conclusions of the **Abuja Retreat** of September 2015. With respect to the participation of RECs/RMs in PSC meetings, it outlined the approach to be followed for the active participation of the RECs/RMs during the proceedings of its meetings along the lines of the Swakopmund Retreat conclusions. It reiterates the contribution of inputs by RECs/RMs to the report of the activities of the PSC, which has since been incorporated in the annual report of the PSC to the AU Assembly.

The Abuja Retreat also attempted to clarify, albeit partially, the application of the principles of subsidiarity, complementarity and comparative advantage. It in particular stated that the principle of subsidiarity **has to be applied on a case-by-case basis taking into account the peculiarities of each case.** It stipulated further that where the REC/RM concerned does not have a **common approach**, the peace making responsibility reverts to the PSC. While such stipulations clearly adopt a flexible rather than a rigid approach to and application of subsidiarity, they do not, unfortunately, answer the question of how and by whom a determination is made on the lack of a common approach at the level of a REC/RM and the elevation of the matter to the AU.

Addressing the other side of the equation in PSC-RECs/RMs relations involving the participation of the PSC in the decision-making meetings of the RECs/RMs, the **Abuja Retreat** established that RECs/RMs shall extend invitations to the AUC Chairperson and the Chairperson of the PSC in their statutory and other decision-making meetings on peace and security. There has not been active follow up at the level of the AU Commission towards operationalizing these stipulations and setting a practice for active and regular participation of the PSC, through its chairperson, in the policy meetings of RECs/RMs.

### III MODALITIES OF COORDINATION

As it can be gathered from the foregoing analysis, the various legal instruments and the subsidiary operational decisions have elaborated in fair detail the principles and various frameworks for maintaining close working relationships and facilitating policy coordination between the AU and RECs/RMs. As opposed to the reductionist and over-referenced dominance of subsidiarity, there is no doubt that a full reading of these principles and modalities lends itself for a more effective and dynamic coordination and consultative decision-making. Building on the foregoing analysis of the legal and policy instruments and the subsidiary operational guidelines, this section outlines the specific modalities identified in these instruments and guidelines. These are grouped into two: the first relates to modalities and arrangements for coordination at the policy and strategic levels and the second relates to those concerning the AU Commission and the Secretariats/Commissions of the RECs/RMs.

#### 3.1. At the level of the PSC and RECs/RMs policy making organs

##### • *Participation of the PSC and RECs/RMs in each other's meeting*

One of the modalities envisaged under the PSC protocol to ensure better coordination and consultation at the level of policy making organs is the participation of regional mechanisms in the PSC sessions on matters of interest to them.<sup>10</sup> While the PSC protocol remains silent on the types of PSC meetings that the RECs/RMs could take part, the intention, at least initially, seems for RECs/

RMs to participate in the open meetings. This can be gathered from PSC's Rules of Procedure, which invites any regional mechanism to PSC open meetings without a right to vote.<sup>11</sup>

The May 2015 Conclusions of the Swakopmund retreat and Abuja retreat of September 2015 however made important revision to the PSC proceedings with the view to allowing RECs/RMs to take an active role in the deliberations and make substantive inputs. RECs/RMs are often invited to the sessions of the Council to contribute to the thematic issues under consideration.

The participation of RECs/RMs in PSC sessions has been expanded to include closed PSC sessions over the years. Accordingly, the practice of inviting member states chairing the relevant REC/RM to participate in the PSC closed meetings to consider country/region-specific issues has taken hold. As highlighted above, the Swakopmund and Abuja Retreats have taken steps in revising PSC working methods in a manner that ensures a more substantive engagement of the concerned RECs/RMs. As such, the Abuja retreat envisages REC/RM's engagement to go beyond the delivery of statement and have the opportunity to 'interact on the item under consideration and share ideas on elements to constitute the outcome'.<sup>12</sup>

The question remains, though, whether the envisaged substantive engagements are practically happening and whether such engagements have any tangible impact in informing coordinated decision-making at the level of both the PSC and RECs/RMs. Instances of lack of policy coherence and cases in which RECs/RMs adopt measures with wider regional and continental consequences without any consultation and engagement with the PSC are indicative that these formats for consultative decision-making have as yet little, if any, practical application.

<sup>11</sup> See Rule 15(2)(b) of the Rules of Procedure of the PSC

<sup>12</sup> See paragraph 3 of the Conclusions of the Abuja Retreat

<sup>10</sup> See PSC protocol, Article 16(6)



Beyond the participation of the chair of the concerned REC/RM, it is also imperative to engage the specific organs of RECs dealing with peace and security issues.<sup>13</sup> There are instances, albeit limited, where such organs were part of the PSC deliberations. For instance, the Commissioner of the Political Affairs, Peace and Security of the Economic Community of West African States (ECOWAS) Commission participated in the PSC 939<sup>th</sup> session, which was convened to consider the security situation in the Sahel and the revised Draft Strategic Concept Note on Planning Guidance for the Deployment of 3000 troops.

On the PSC's participation in the substantive meetings of RECs/RMs, the PSC protocol stipulates that the 'chairperson of the Commission shall be invited to participate in meetings and deliberations of Regional Mechanisms'.<sup>14</sup> The Conclusions of Abuja retreat take a further step by extending the invitation to include the Chairperson of the PSC stating that 'RECs/RMs shall extend separate invitation to both the Chairperson of the AU Commission and the Chairperson of the PSC to participate in their statutory and other key meetings on peace and security issues'.<sup>15</sup>

Some of the RECs, notably ECOWAS, Southern African Development Community (SADC) and Intergovernmental Authority on Development (IGAD) have already taken steps in operationalizing the PSC Protocol's stipulation towards the invitation of the Chairperson of the Commission. As such, the Chairperson of the Commission has taken part in a number of ordinary and extraordinary sessions of the above RECs convened at the summit level. On the contrary, the envisaged engagement of the Chairperson of the Council in RECs meetings remains unheeded as of yet though

<sup>13</sup> It should be noted that not all RECs have created specific organs dealing with peace and security issues at the regional level.

<sup>14</sup> Article 16(7) of the PSC Protocol.

<sup>15</sup> See the Conclusion of the Retreat of the Peace and Security Council on Enhancement of Cooperation between the African Union Peace and Security Council and the Regional Economic Communities and Regional Mechanisms for Conflict Prevention, Management and Resolution in the Promotion of Peace, Security and Stability in Africa, Abuja, Nigeria, 14-16 September 2015, para.6.

such engagement could have played a pivotal role in aligning and coordinating decision-making at the PSC and RECs/RMs level.

### • Annual consultative meeting of the PSC and RECs/RMs policy organs

A joint consultative meeting between the PSC and policy organs of the RECs/RMs is the other modality devised to enhance coordination between the two within the framework of Article 16 of the PSC Protocol. The Conclusions of the Abuja retreat envisaged biannual consultative meetings to take place on a rotational basis between Addis Ababa and the respective RECs/RMs headquarters. The inaugural joint consultative meeting took place on 24 May 2019, in which they agreed to conduct the consultative meeting each year in May. The second consultative meeting was conducted on 26 August 2021, though this meeting was supposed to happen in May 2020 pursuant to the decision taken at the inaugural meeting.<sup>16</sup>

The PSC and the policy organs of the RECs/RMs sought to further articulate the modalities for their coordination in the inaugural consultative meeting held in May 2019. The Communiqué of this first consultative meeting committed the PSC and the RECs/RMs policy organs to specific modalities for coordinating policy initiatives by the PSC and the RECs/RMs. Thus, paragraph 18 stipulates that the PSC and the RECs/RMs policy organs agree to institutionalize their relationship, in particular through the following:

- i. holding of annual joint consultative meetings, between the PSC and the RECs/RMs policy organs on peace and security issues, alternately in Addis Ababa and in the headquarters of the RECs/RMs, in rotation. In this context, the joint consultative meeting should be convened ahead of the mid-year coordination summit between the AU and RECs/RMs;

ii. swiftly communicate decisions on

<sup>16</sup> The meeting did not take place in May 2020 purportedly because of the outbreak of COVID-19 pandemic

- peace and security issues to each other for enhancing subsidiarity and complementarity, while ensuring coherence in decision-making process;
- iii. regular interaction between the PSC and the RECs/RMs Chairpersons of the policy organs and/or equivalent relevant structures on peace and security matters, on issues of common concern, including through the use of the video-teleconferencing;
  - iv. joint field missions to assess situations of common concern and identify further joint action as may be needed;
  - v. holding of joint retreats/brainstorming sessions to reflect on priorities on peace and security issues of the PSC and the RECs/RMs and develop appropriate common response strategies; and
  - vi. organizing staff exchange visits.

The policy organs of the two levels further agreed to establish a team of focal points from all RECs/RMs and the PSC Secretariat on peace and security issues with the view to facilitating a well-coordinated network for regular interaction. As part of the efforts to operationalize the above decisions, the PSC, at its 870<sup>th</sup> session held on 20 August 2019, further decided to convene a meeting of the Technical Working Group of Experts that would develop a 'matrix outlining concrete and practical steps to be undertaken, assign responsibilities with specific timelines, as well as a roadmap with clearly defined modalities and timeframes for the consideration by the Council' by October 2019.

### • *Mid-year coordination meeting*

One of the outcomes of the institutional reform of the AU has been the establishment of a mechanism for coordination between the AU and RECs/RMs as an important means for enhancing the implementation of continental policies and decisions. Accordingly, the AU Assembly decision

[[Assembly/AU/Dec.635\(XXVIII\)](#)] proposed that an AU Assembly meeting is reduced from two to one and the mid-year summit is changed into the coordination meeting. The AU Assembly thus set up a Mid-Year Coordination Meeting as the principal forum for the AU and RECs to harmonize their work and coordinate the implementation of the continental integration agenda.

The AU convened the first coordination meeting provided for in the AU Assembly decision [[Assembly/AU/Dec.635\(XXVIII\)](#)] in July 2019 in Niamey, Niger. This brought together the Bureau of the AU Assembly and the Heads of the eight RECs/RMs. Following a presentation by the AU Commission of an initial proposal on the division of labour, the Coordination meeting in its declaration [[MYCM/Decl/1\(I\)](#)] requested 'the Commission, RECs and Member States to prepare a more detailed proposal on division of labour for consideration and adoption by the upcoming Ordinary Session of the AU Assembly in February 2020 after due consideration by the 36<sup>th</sup> Ordinary Session of the Executive Council in February 2020'. The coordination meeting also considered the draft revised protocol on relations between the AU and RECs/RMs while authorizing the Chairperson of the Commission to sign the final draft after due consideration by the Executive Council and subsequent adoption by the Assembly. Another important aspect of this meeting was its call on AU, RECs and RMs to 'rapidly establish practical modalities to facilitate timely and coordinated responses to continental crises'.

Reference can also be made to the various steps taken as a follow-up to the Niamey mid-year coordination meeting. These included the revision of the Protocol on the relationship between the AU and RECs/RMs and the elaboration of a detailed matrix on the division of labour. The Specialized Technical Committee (STC) on Justice and Legal Affairs has also considered the legal frameworks on the division of labour between AU and RECs/RMs. The revised Protocol on relations between the AU and RECs came into effect following its adoption at the 33<sup>rd</sup> Ordinary Session of the Assembly held in February 2020 and its signing by the Chairperson of the Commission.

While the establishment of the coordination meeting is clearly a major evolution in the relationship between the AU and RECs/RMs, there remain some key issues. First, the status of the mid-year coordination meeting remains unclear. This is particularly the case vis-à-vis the authority of decisions adopted in the coordination meeting. The type of authority given to the mid-year coordination meeting will determine the level of influence of RECs/RMs. Second and related to the first is the relationship between the mid-year coordination meeting and the AU Assembly summit meeting. Third and most importantly, despite being the major calendar event for AU and RECs/RMs engagement, the mid-year coordination meeting does not include a dedicated meeting of the policy organs of RECs/RMs and the PSC. This is a missed opportunity that needs to be corrected.



Diagram: avenues for AU/PSC-RECs/RMs engagement as elaborated in AU instruments and subsidiary guidelines

### 3.2 At the level of the AU Commission and Secretariats/ Commissions of RECs/RMs

As envisaged in the PSC Protocol, there are at least two modalities for establishing working relationship between the AU Commission and the Secretariats/Commissions of RECs/RMs.

- *Meeting between the AU Commission Chairperson and the Chief Executives of RECs/RMs*

The first of these is the meetings that the Chairperson of the Commission shall convene periodically, 'but at least once a year, with the Chief Executives and/or the officials in charge of peace and security within the Regional Mechanisms'<sup>17</sup>

**While some meetings were held within this framework, this has not been done as regularly as intended in the PSC Protocol.** For instance, during the 2<sup>nd</sup> meeting of the Chief Executives of the AU and RECs/RMs held in December 2009, the status of implementation of the MoU on Cooperation in the area of Peace and Security, the operationalization of the APSA, cooperation in the promotion of peace and security in Africa, and other related issues were discussed. In April 2019, they also convened a session in Addis Ababa to discuss the division of labor between AU and RECs/RMs in pursuing the implementation of Decision Ext/Assembly/AU/Dec.1-4 (XI).

In 2014, the Joint Task Force on Strengthening Relations between the AU and the RECs/RMs in the Area of Peace and Security was established to ensure the implementation of the existing legal and policy frameworks regarding AU-REC/RM collaboration and coordination in the area of peace and security. This can help in facilitating technical coordination that can enhance policy coherence but **there is no indication that this platform is as active as the need for its contribution.**

<sup>17</sup> See article 16(4) of the PSC Protocol and art. XVII (6) of the MoU between PSC and RECs/RMs

## • AU and RECs/RMs Liaison offices

The other and main mechanisms for institutional coordination between the PSC and the relevant decision-making forums of the RECs/RMs are the AU Liaison Offices in the RECs/RMs and the RECs/RMs Liaison Offices at the AU headquarters. The PSC Protocol requires the establishment of AU Liaison Offices in the RECs/RMs and the establishment of RECs/RMs Liaison Offices in the AU.

With initial support from the Capacity Building Programme of the African Peace Facility (APF) funded by the EU, nine REC/RMs including Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Economic Community of Central African States (ECCAS), ECOWAS, IGAD and SADC have fully established Liaison Offices located within the AU Commission headquarters in Addis Ababa. The AU also has Liaison Offices situated in the headquarters of **six** RECs. In theory, the Liaison Officers of the RECs/RMs are expected to attend meetings of the PSC, the Panel of the Wise and other AU forums as observers in order to provide the RECs/RMs with up-to-date information on matters of interest to them and to facilitate agreement on common positions and joint actions on conflict issues. Their mandate is generally to serve as the bridge between the RECs/RMs secretariats and the AU Commission on peace and security and any other regional integration issues.

One of the areas in which the Liaison Offices are currently playing an active role is ensuring RECs/RMs participation in the PSC session. The PSC Secretariat usually sends note verbale inviting RECs/RMs to the Liaison Offices, which they forward to headquarters both for input and for the latter to decide on the delegation who represents the sub-regional organization.<sup>18</sup> However, some of the Liaison Offices raise serious concern over the short notice of invitations which often makes

timely input extremely challenging. There are also instances where invitations are communicated directly to member states chairing the RECs/RMs without informing the Liaison Offices. This not only undermines the role of the Liaison Offices but also discourages the participation of RECs/RMs in PSC meetings as member states have to go through long communication channels to get input from the headquarters.<sup>19</sup>

## IV CONSULTATIVE MEETINGS BETWEEN THE PSC AND THE POLICY ORGANS OF THE RECs/RMs

While the holding of the consultative meeting between the PSC and policy organs of RECs/RMs was envisaged in the conclusions of various retreats of the PSC as noted earlier, it was only in 2019 that the consultative meeting was held for the first time. The inaugural meeting was held on 24 May 2019 while the second consultative meeting took place on 26 August 2021. Meanwhile, the PSC also dedicated its 870<sup>th</sup> session in August 2019 to discuss the issue of harmonization and coordination of decision-making processes and division of labour between the PSC and Policy Organs of the RECs/RMs for conflict prevention, management and resolution and promotion of peace, security, and stability in Africa.

The first and second consultative meetings as well as PSC's 870<sup>th</sup> session articulated various modalities and structures to strengthen policy coherence and operational coordination. In that context, several commitments were made in these meetings as shown in the table below.

<sup>18</sup> Interview with a representative of a REC/RM (1), 15 September 2021; Interview with informant two, 16 September 2021.

<sup>19</sup> Interview with informant one, 15 September 2021.

Key decisions	Timeline	Meeting
Establishing a team of focal points from all RECs/RMs and the PSC Secretariat that would facilitate a well-coordinated network for regular meetings/consultations between PSC and RECs/RMs	No timeline	1st Consultative meeting
	No timeline	2nd consultative meeting
Conducting joint field missions	No timeline	1st Consultative meeting
Holding of joint retreats/brainstorming sessions to reflect on priorities on peace and security issues of the PSC and the RECs/RMs and develop appropriate common response strategies	No timeline	1st Consultative meeting
organizing staff exchange visits	No timeline	1st consultative meeting
RECs/RMs to forward proposals through PAPS department to be integrated into a single document focusing on:  <ul style="list-style-type: none"> <li>· harmonization/division of labour in the area of peace and security</li> <li>· modalities for undertaking early responses to looming crisis and expediting action to mitigate/resolve crisis and conflicts</li> <li>· decision-making on employment/deployment of ASF Standby Forces</li> </ul>	July 2019	1st consultative meeting
	To be agreed	2nd consultative meeting
Convening annual consultative meetings between PSC and RECs/RMs	May each year	1st consultative meeting
Convening a meeting of the Technical Working Group of experts	not later than October 2019	870th PSC session
	not later than October 2021	2nd consultative meeting
Assigning the Military Staff Committee (MSC) to work in collaboration with the technical experts of both the PSC and RECs/RMs to review the existing AU legal instruments, in contrast to those of the RECs/RMs with a view to synergize them and avoid duplication [joint communique of the 2nd consultative meeting made specific reference to the operationalization of the ASF and establishing strategic working group on the finalization of MoU between AU and RECs/RMs]	No timeline	870th PSC session
	No timeline	2nd consultative meeting
Convening a joint retreat of the Council and RECs/RMs to brainstorm and reflect on "Decision-making, Harmonization and Coordination between the AU PSC and RECs/RMs on the promotion of peace and security"	Between Sep. 2019 and Jan. 2020	870th PSC session
	2022	2nd consultative meeting
Establishing a knowledge exchange platform on Governance and Conflict Prevention between the AU and RECs/RMs	End of 2021	2nd consultative meeting
Commencing a transparent, in-depth and dynamic dialogue with the participation of the Member States, the Commission, RECs and RMs concerning the scope, dimensions, variables and criteria of the applicability of the principle of subsidiarity	No timeline	2nd consultative meeting
Encouraging PSC chairs to conduct stand-alone dialogue with RECs/RMs that they enjoy membership	No timeline	2nd consultative meeting
Convening PSC-RECs/RMs consultative meetings at a strategic and political level	At least twice a year	2nd consultative meeting
Convening PSC-RECs/RMs consultative meetings at a technical level	quarterly	2nd consultative meeting

Table 1: summary of decisions made in previous consultative meetings and session on the PSC-RECs/RMs relationships.

As it is apparent from the foregoing, the PSC and the policy organs of RECs/RMs have articulated avenues for enhancing policy coherence and operational coordination. Some of the modalities, such as the proposal for convening PSC-RECs/RMs consultative meetings at the strategic and political level, apply to the realm of policy making organs while others apply to the technical and operational structures of the AU and RECs/RMs.

If implemented, these various avenues would have facilitated higher levels of policy convergence and operational coordination between the two levels. However, only some of the modalities for close coordination and consultative decision-making have been operationalized. One of which is the launch of the Inter-Regional Knowledge Exchange (I-RECKE) on early warning and conflict prevention at the 4<sup>th</sup> mid-year coordination meeting between the AU and RECs/RMs that was held on 17 July 2022 in Lusaka, Zambia.

The platform, which is established pursuant to the decision of PSC and RECs/RMs during their 2<sup>nd</sup> consultative meeting, is a co-creation of the AU Commission and the eight RECs and two RMs with the aim to advance information and knowledge exchange in order to enhance coherent efforts to collectively address the existing and emerging peace and security challenges on the continent. Most recently, on 15 July 2023, AU and the RECs/RMs organized the second policy session on I-RECKE focusing on the theme: '*Cross-Regional Strategies in Preventing Terrorism and Violent Extremism*' on the side-lines of the AU Fifth Midyear Coordination Meeting between AU and RECs/RMs, in Nairobi, Kenya.

The adoption of the draft Memorandum of Understanding (MoU) between the AU and RECs/RMs on the ASF in May of this year is another milestone in the relationships between the two bodies.

Additionally, representatives of RECs/RMs are regularly invited to PSC sessions and their participation in PSC sessions has been extended to closed sessions of the PSC.

Yet, the most crucial aspects of the decisions from the two consultative meetings and the 870<sup>th</sup> session of the PSC particularly those meant to facilitate policy coherence are still awaiting effective follow-up and implementation. This lack of operationalization has not been without consequences for policy coherence between the PSC and the policy organs of RECs/RMs.

## V MAJOR ISSUES IN THE RELATIONSHIP BETWEEN THE AU AND THE RECs/RMs

The partnership between the PSC-RECs/RMs has made some strides over the years. They have operationalized different modalities and structures to ensure policy coherence and enhance coordination as pointed in the preceding subsection. Yet, in the face of mounting peace and security challenges the relationship between the AU and RECs/RMs is under enormous pressure. It is fraught with various issues that have stifled effective policy coordination and deployment of collective and joint action to confront the peace and security challenges proactively and impactfully. These issues include those listed below.

### 5.1 Lack of shared understanding of the principles and modalities for coordination and ad hoc and selective application

There were two major gaps that have led to the lack of effective coordination between the PSC and RECs/RMs. The first of these was the non-implementation of both the provisions of Article 16 of the PSC Protocol and the relevant conclusions of the PSC Retreats on its Working Methods. While PSC's joint consultative meeting with other bodies such as the UN Security Council (UNSC) and the EU Political and Security Committee (EUPSC) has shown progress in terms of regularization and institutionalization, such has been lacking between PSC and RECs/RMs.<sup>20</sup> For example, unlike the coordination between the PSC and the UNSC,

<sup>20</sup> The PSC has been able to convene joint consultative meetings with the UNSC and EUPSC 16 and 14 times, respectively.

that involves monthly video conference between the PSC chairperson and the UNSC president and consultations with the African three members of the UNSC, no similar dynamic arrangements for policy coordination has been instituted between the AU and RECs/RMs beyond the annual consultative meeting.

Additionally, and perhaps on account of the absence of such dynamic policy engagement and coordination, not only that the application of principles and modalities for coordination is selective and ad hoc but also reveals a lack of shared understanding of the principles and modalities for policy coordination between the two levels. One manifestation of this is the reluctance on the part of RECs/RMs to have the engagement of the PSC in respect to some cases. A case in point is the deployment of the SADC Mission in Mozambique (SAMIM). Both the 2019 inaugural joint consultative meeting between PSC and RECs and the 870<sup>th</sup> PSC Session emphasized the importance of prior consultation and coordination with regard to deployment in crisis/conflict situations.<sup>21</sup> However, there is no indication that SAMIM's deployment took place within this framework. Even some within the SADC circle perceive the crisis in Cabo Delgado of Mozambique as purely SADC matter and, as such, the issue of involving AU in the process of the deployment does not seem to be given due regard.

In the absence of mutual recognition of the importance of each other's roles and implementing the relevant arrangements for consultative decision-making and coordinated action, the instances for policy divergence and dissonance have increased over the years in the face of the expansion of the respective roles of AU and the RECs/RMs on peace and security. As a result, policy differences and uncoordinated interventions have

<sup>21</sup> See paragraph 9 and 14 of the 2019 joint Communique of the 1<sup>st</sup> Consultative Meeting between the PSC and RECs/RMs for Conflict prevention, Management and Resolution (INAUGURAL MEETING (I) PSC/REC/RMS); and paragraph 5 of PSC Communique adopted at its 870<sup>th</sup> Session held on 20 August 2019 on the Harmonization and Coordination of Decision-Making process/Division of Labour between the PSC and Policy Organs of RECs/RMs for Conflict Prevention, Management and Resolution and the Promotion of Peace, Security and Stability in Africa.

been observed in a number of conflict situations. In the past, this has been the case with respect to the situations in Cote d'Ivoire, Madagascar, Guinea Bissau, Mali and Central African Republic (CAR). In recent years, this has been evident in the situations in Chad (2020/2022) and currently in Niger. In some of these cases, such as Chad, there has been a normative disconnect between the two levels. This is particularly notable with respect to situations involving electoral disputes and unconstitutional changes of government.

## 5.2 Gaps in substantive participation by the RECs/RMs in PSC meetings

The participation of RECs/RMs in PSC sessions have been expanded to include their attendance at closed PSC sessions. While this is an improvement from past practice, it remains unclear whether the format for substantive engagement of RECs/RMs in PSC meetings envisaged in the Swakopmund and Abuja Retreat have actually been institutionalized and regularized. Thus, their participation thus far does not go beyond delivering statements.

Perhaps the most important issue that limits the effective participation of RECs/RMs in PSC decision-making is the lack of clarity on who represents the RECs/RMs in the PSC meetings. For purposes of peace and security decision-making, there are two role players at RECs/RMs levels the member state heading rotationally the relevant REC/RM policy organ having the highest authority to decide on peace and security measures and the Secretariat/Commission of the REC/RM.

Additionally, RECs/RMs attend PSC meetings but it remains unclear if their representatives are provided with the necessary guidance from their headquarters for making substantive input on the situation under consideration by the PSC. This becomes particularly acute when the concerned REC/RM did not adopt clear policy position on the subject matter under consideration by the PSC.

The other but primarily logistical challenge is the timing of the provision of invitation for participation. At times invitations for the participation of RECs/RMs are often sent on short notice, making it difficult

to get and organize inputs from the headquarters, which limits their substantive contribution to the PSC deliberations.

### 5.3 Lack of representation and participation of the PSC/AU in RECs/RMs policy meetings on major peace and security issues

While there is some progress in the modalities and nature of RECs/RMs participation in PSC sessions, there has been no similar development with respect to ensuring the participation of the PSC in the meetings of the policy organs of RECs/RMs where decisions on matters on the agenda of the PSC are taken. There were various meetings of the policy organs of RECs/RMs such as SADC, EAC and ECOWAS in which there was not even AU representative let alone a representative of the PSC. This gap together with the lack of operationalization of the decision to establish 'a team of focal points from all RECs/RMs and the PSC Secretariat that would facilitate a well-coordinated network for regular meetings/consultations between PSC and RECs/RMs' has created the conditions for the adoption of decisions that may be at variance with AU norms and the decisions of the PSC.

This absence of functioning modality for institutionalized consultative decision-making by the PSC and the policy organs of RECs/RMs is compounded by a lack of mutual recognition of the importance of the respective roles of the AU and the RECs/RMs. This is reflected in the reluctance sometimes shown on the part of RECs/RMs to have proper engagement with the PSC on critical matters such as deployment of forces. For example, on the situation in Cabo Delgado, SADC countries were reluctant for the PSC to be seized with the situation and take an active part. Thus, with respect to the deployment of the SADC Mission in Mozambique (SAMIM), it was only after post-facto that the PSC was seized with.

### 5.4 Lack of clarity on, rigid application of and singular focus on the principle of subsidiarity

There is also the issue of lack of clarity about the exact application of the principle of subsidiarity.<sup>22</sup> In conventional parlance and even in policy discussions, the most commonly used principle when it comes to the question of policy coordination and the relationship between the PSC and RECs/RMs is subsidiarity. This most dominant reference to subsidiarity not only hides the absence of clarity on what this principle means vis-à-vis how the AU and RECs/RMs go about discharging their responsibilities in respect to specific cases but also tends to be used for preventing both scrutiny of RECs/RMs actions and the involvement of the AU in specific cases.

Although it was not mentioned in the PSC Protocol and emerged as a principle only in the 2008 MoU, from the perspective of some officials of the RECs/RMs, the principle of subsidiarity is something to be adhered strictly without which, they claim, it is not possible to avoid division and confrontation with member states as well as the regional blocs when the PSC deals with specific conflict situations.<sup>23</sup> Yet, what subsidiarity entails in terms of who leads on what and when and how it applies vis-à-vis the principles of complementarity and comparative advantage and the provision of article 16(1) of the PSC Protocol which envisages the primary role of PSC for maintaining peace and security in the continent remains unclear.<sup>24</sup>

While attempts have been made in the conclusions of Abuja and Cairo Retreats to clarify how RECs/RMs exercise responsibility as first responders and the conditions under which the peace-making responsibility may revert to the PSC,<sup>25</sup> the rigid

<sup>22</sup> No reference is made to the principle of subsidiarity in the PSC Protocol, which is the primary governing instrument on the relationship between the AU and RECs/RMs.

<sup>23</sup> Interview with informant one, September 15, 2021.

<sup>24</sup> It is observed from our interview that some believe that the principles of complementarity and comparative advantages are meant to counter subsidiarity. Interview one, September 15, 2021.

<sup>25</sup> It is thus stated that in circumstances where the concerned REC/RM does not have a common approach or



interpretation of subsidiarity led over the years, to the emergence of situations that the PSC has not been seized with despite circumstances warranting its engagement partly on account of subsidiarity at the level of RECs. In recent times, the PSC has also started delaying the pronouncement of its decisions in response to Unconstitutional Changes of Government (UCG) purportedly on account of subsidiarity, a practice that does not bode well with the PSC protocol. A case in point is the coup in Guinea in September 2021 on which the PSC held a session on 6 September but put its pronouncement on hold until after the convening of the ECOWAS meeting on the situation. As highlighted in one of the PSC background documents, there is recognition that such rigid application of subsidiarity has become a challenge for the PSC to discharge its primary responsibility of conflict prevention, management and resolution in the continent.<sup>26</sup>

Against this backdrop, the recent joint consultative meeting held between the PSC and RECs/RMs agreed to 'commence a transparent, in-depth and dynamic dialogue with the participation of the Member States, the Commission, RECs and RMs concerning the scope, dimensions, variables and criteria of the applicability of the principle of subsidiarity.'<sup>27</sup> It also upheld the Abuja Retreat conclusion envisaging the implementation of the principle of subsidiarity on a case by case basis rather than as an imperative for all situations. Moreover, it stated that the PSC and RECs/RMs reaffirmed that the RECs/RMs are **on many occasions** the primary responders of crisis/conflict situations in their respective regions guided by the principles of subsidiarity, complementarity and comparative advantage.<sup>28</sup> However, there have

*exhausts its efforts without resolving the situation or fails to take swift action, then the PSC shall take over the responsibility to address the situation.*

<sup>26</sup> The PSC background information prepared for the PSC 1000<sup>th</sup> session on the activities of the Peace and Security Council of the African Union since 2004 identified the principle of subsidiarity as one of the challenges to the Council in discharging its mandates.

<sup>27</sup> See para. 14(vii) of the Joint Communiqué adopted at the second annual consultative meeting between the PSC and RECs/RMs held on 26 August 2021.

<sup>28</sup> See paragraph 4 of the Joint Communiqué adopted

been no follow up on these and in practice, these clarifications did not change the lack of shared understanding between AU and RECs/RMs, as the lack of coordination and the ensuing divergence between ECOWAS and the PSC on Niger highlights.

## 5.5. Different levels of institutional development among RECs/RMs

The other issue has to do with the fact that RECs/RMs are not on the same level of institutional development. While some RECs/RMs precisely highlight the promotion of peace, security and stability in their objectives, others are silent. Some of the RECs such as ECOWAS and SADC have developed functioning structures (including the establishment of policy organs and structures to deal with peace and security issues) and demonstrated the will and the ability to deal with crisis/conflict situations arising within their jurisdictions, others are still a long way off. The effectiveness of even the most established RECs/RMs varies from situation to situation.

## 5.6. Divergent policy approaches between PSC and RECs/RMs and among RECs/RMs

There is also the issue of legal pluralism that sometimes leads to divergent policy approaches. This relates to not only the institutional dimension of the set-up of RECs with some having bodies similar to the PSC while others lack such a standing policy making body (instead depend on summit meetings)<sup>29</sup> but also to the norms that determine policy and decision-making at the level of RECs/RMs. Such is particularly the case with respect to norms related to the recognition of elections and unconstitutional changes of government. This has been witnessed recently with respect to

*at the second annual consultative meeting between the PSC and RECs/RMs, held on 26 August 2021 (emphasis added).*

<sup>29</sup> In case of SADC, for instance, the Organ on Politics, Defense and Security Affairs, which is responsible for ensuring and supporting the political and socio-economic security and safety of the Southern African region, is coordinated through a Troika consisting of the chairperson of the organ, the incoming chairperson and outgoing chairperson. The chairperson of the organ is elected by the SADC Summit among member states for one year.

unconstitutional changes of government in Chad and Mali. While the PSC took the lead of ECOWAS to sanction Mali with a suspension, no such action was taken in respect to Chad which also experienced military seizure of power contrary to the AU norms banning unconstitutional changes of government.

### 5.7. Trans-regional nature of conflicts and overlapping membership

The issues arising from trans-regional conflict situations and the multiple membership of states in various RECs also present a challenge for policy coordination. In cases where threats to peace and security affect more than one REC/RM, there is the issue of which of the affected RECs/RM take lead and how they coordinate their engagements.<sup>30</sup> Thus far, the experience shows that there is limited experience in terms of horizontal coordination between RECs/RMs. ECOWAS and ECCAS have based on their high-level joint meeting on maritime security and safety have established an Inter-regional Coordination Centre for the fight against piracy and insecurity in the Gulf of Guinea. Apart from the joint donors' conference, they organized for the fight against Boko Haram, in April 2018, a joint Summit of the Heads of State and Government of ECOWAS and ECCAS on peace, security, radicalization and violent extremism was also held.

There is also the question of not only determining who takes lead but also the modality for horizontal coordination in a context where conflict erupts in a country having membership in more than one REC/RM. In the absence of strong coordination both vertically at the level of the PSC and RECs/RMs on one hand and horizontally among the concerned RECs/RMs on the other, there is a risk of paralysis and political vacuum arising as in the case of Burundi during the 2015 crisis.<sup>31</sup>

<sup>30</sup> It is to be recalled that the inaugural joint consultative meeting between the PSC and RECs/RMs as well as the 870<sup>th</sup> PSC session underscored the need for RECs/RMs to enhance horizontal coordination though the experience thus far remains limited.

<sup>31</sup> For more on this, see Crisis Group (2019), 'Running out of Options in Burundi', *Africa Report* No.278; and Crisis Group (2016), 'the African Union and the Burundi Crisis: Ambition versus

### 5.8. The issue of representation of liaison offices

Another issue is the scope of the mandate of the liaison offices and who they represent and speak for. A former head of the ECOWAS Liaison Office to the AU identified two major challenges that RECs Liaison Offices experience.<sup>32</sup> The first is that the exchange of Liaison officers between the AU and RECs is Secretariat to Secretariat and as such the coordination is at technical and operational level while the greater need is for policy and decision-making harmonization. The second is the offices are not self-funded and have to rely on the support provided by the EU.

### 5.9. The issue of division of labour between AU and RECs/RMs

Finally, with respect to the division of labour, a major issue on which there remains lack of clarity is the possibility of agreement, in the face of existing normative instruments and clear mandates envisaged in the continental instruments which apply to all, on identifying areas which may be identified as the exclusive reserve of RECs/RMs and in respect of which the AU may be excluded from having a role. This is an important question considering the comprehensive scope and the specifically detailed mandate that AU member States have entrusted to the PSC under a legally binding treaty, the PSC Protocol. Additionally, given the variations in the institutional setup and the legal norms governing different RECs/RMs, it is not clear whether there is a possibility for a one size fits all approach to the identification of areas of exclusive jurisdiction. It has become evident from the submission of the RECs/RMs to the process of elaboration of the division of labour on the issue that a one size fits all approach to division of labour may not actually be tenable.

Reality', *Briefing* No. 122. See also Ndubuisi Christian Ani (2021), 'Reforming the African Peace and Security Architecture: Options for Effective Clarity of Roles between the African Union and Sub-regional Organizations', *IPSS policy brief*, vol.15-03, 9-10.

<sup>32</sup> See Raheemat Momodu (2016), 'New AU-RECs relationship needed for integration', *GREAT Insight Magazine*, vol.5, Issue 4.

## VI IMPLICATIONS OF THE FOREGOING EXISTING AND EMERGING ISSUES FOR POLICY COHERENCE BETWEEN THE PSC AND RECs/RMs

The result of the foregoing conditions is that policy differences and uncoordinated interventions have been observed in a number of conflict situations. In the past, this has been the case with respect to the situations in Cote d'Ivoire, Madagascar, Guinea Bissau, Mali, CAR, South Sudan, Burundi. Following the seizure of power by a military junta in April 2021 in Chad, the regional body ECCAS took a decision at the heads of state level for ECCAS to accompany the transition while AU norms demand that the AU applies suspension as well. Together with short-term security interests of neighboring countries of Chad who are members of the PSC and the support by major powers for the junta in Ndjamena, this prevented the PSC from upholding its standards, exposing it to legitimate charges of double standards and inconsistencies. This is indeed one of the major reasons why the views of the PSC are not taken in high regard in Bamako, Ouagadougou, Conakry and Khartoum.

Most recently, this was reflected in the situation in Sudan where lack of coordination between the PSC and IGAD led to two competing initiatives to end the conflict that erupted in April 2023. The same risk of divergence in policy approaches has emerged with respect to the crises that ensued from the 26 July 2023 coup in Niger in respect to which ECOWAS adopted sweeping sanctions and a threat of military action, which raise both legal and policy challenges for the PSC.

There is also the question of not only determining who takes the lead but also the modality for horizontal coordination in a context where conflict erupts in a country having membership in more than one REC/RM. In the absence of strong coordination both at the level of the PSC and RECs/RMs on one hand and among the concerned RECs/RMs on the other, there is a risk of divergence arising as has recently been observed in the

context of Democratic Republic of Congo (DRC) where both East African Community (EAC) and SADC have decided their respective deployments in that country to address the crisis in Eastern DRC.

## VII CONCLUSION AND RECOMMENDATIONS

The relationship between the AU and the RECs/RMs is the most important aspect of the continental peace and security regime. There is a clear recognition that the role of RECs/RMs is critical for mobilizing and deploying effective responses to threats to peace and security on the continent. RECs/RMs are closer to the conflict setting and hence are more familiar with conflict actors and the issues. Due to their proximity, they have a better understanding of the political and cultural context of the situation. Most importantly, they are generally regarded as having much more vested interest for the resolution of the situations as they bear the consequences of the conflict situation. The experience of the AU from South Sudan to Central African Republic to Mali also shows that because of their knowledge of the conflict parties and their vested interest, RECs/RMs are better placed to exert influence on the conflict actors and hence for facilitating the implementation of initiatives for peace.

Yet, this proximity can also lead RECs/RMs to be at times partial and therefore less disposed for a more dispassionate handling of conflict situations in their backyard. As was witnessed in South Sudan and currently in Sudan, when neighbouring countries have divergent interests, it makes it difficult for the concerned regional REC/RM to mobilize effective policy action. When it does, it tends to lack impartiality. This speaks to the importance of a less rigid approach to subsidiarity and the provision of wide space for active engagement of and dynamic coordination with the AU and its PSC.

Perhaps most significantly, the nature of the peace and security challenges on the continent is such that **no one level of policy making body can by itself alone mobilize the requisite response** for the prevention, management and resolution

of conflicts in Africa. The conflict situations in the Sahel, the Great Lakes, the Horn of Africa, North Africa and Southern Africa regions have all demonstrated that relying on the role only of one level of policy maker is utterly inadequate. The nature of the threats to peace and security today necessitates the mobilization and harnessing of the contribution and comparative advantages of both AU and RECs/RMs. Subsidiarity should accordingly be approached not as a principle that prevents the engagement of the AU but one that operates along with the principles of the primacy of the AU and comparative advantages. As such subsidiarity should be seen as entailing the active engagement of the RECs/RMs while facilitating and enjoining the full engagement of the AU in a complementary way.

The foregoing analysis also highlights that there are rich normative and policy instruments that articulate not only the importance of the relationship between the AU and the RECs/RMs but also the principles that should inform the working relationship and policy coordination between the two levels. Some of these instruments are foundational legal texts such as the Constitutive Act of the AU and the PSC protocol, hence constitute first order instruments. Others are subsidiary instruments. These subsidiary instruments are not meant to change or contradict the primary legal instruments. They supplement and seek to elaborate modalities to operationalize the principles articulated in the first order instruments. Additionally, the two levels have concluded additional instruments such as the MoU. These instruments not only acknowledge the primary role of the PSC but also affirm and recognize the mandate that RECs/RMs share with the PSC in the maintenance of peace and security in their respective regions.

It has also clearly emerged that the AU and RECs/RMs have over the years developed various modalities for policy coordination. These coordination mechanisms cover both the policy level relationship between the PSC and the policy making organs of RECs/RMs and the relationship between the AU Commission and the Secretariats/Commissions of the RECs/RMs. More recently,

additional steps have been taken within the framework of the AU institutional reform for enhancing and elevating coordination between the AU and RECs/RMs.

Among others, the instruments provide for the mechanisms for participation of RECs/RMs in the proceedings of the PSC. The provisions from these various legal instruments and interpretative/operational documents also stipulate the need for the AU (AUC Chair and PSC Chair) to be invited to participate in the statutory and other peace and security decision-making meetings of RECs/RMs. In this respect, it is worth recalling that the Solemn Declaration on Common African Defence and Security Policy states that 'While the Common African Defence and Security Policy will reflect the substance of Article 16 of the PSC Protocol, regarding the role of that the AU, as the continental body, would be required to play in efforts to coordinate and harmonize sub-regional mechanisms, **there needs to be a commitment on the part of the sub-regional mechanisms themselves to coordinate and harmonize their defence and security activities with those of the AU.**<sup>33</sup> (emphasis added) It is necessary to clarify how the PSC engages with the RECs/RMs policy organs including the consultations it may hold in between the annual consultative meeting and its representation in statutory meetings and visits to the REC/RM concerned.

It also emerges from the analysis that the various modalities for operationalizing close working relationships and policy coordination between the AU and the RECs/RMs are to be found scattered in various policy and operational instruments. There may thus be a need for consolidating these into a single text as part of the effort to streamline the arrangements for coordination between the AU and the RECs/RMs in the area of peace and security.

Apart from the importance of implementing and operationalizing the various modalities for coordination, the experience thus far shows the need for a clear mechanism for sharing information and analysis between the AU and

33 *Common African Defence and Security Policy.*

RECs/RMs and the need to build trust and much more engagement of RECs/RMs in continental decision making for collective action. It is of particular significance that the annual consultative meeting reflects on how to effectively translate into practice the six mechanisms of coordination and working relationship outlined in paragraph 18 of the communique of the 852<sup>nd</sup> session on the consultative meeting between itself and the policy organs of RECs/RMs and those enunciated in the 2<sup>nd</sup> annual consultative meeting held on 26 August 2021.

In terms of specific measures, two additional areas are worth considering. There is the question of engaging RECs/RMs in the planning of the PSC monthly provisional program of work and in the planning of PSC field missions as an important avenue both for securing their buy-in and facilitating planning for their substantive engagement on those items of direct concern to them. Also important is the need to clarify how the initiatives of RECs/RMs are communicated with and presented to the PSC for appropriate authorization or endorsement to ensure that the actions of RECs/RMs forms part and parcel of the African collective security arrangement anchored on the AU Constitutive Act and the PSC Protocol as well as the Common African Defence and Security Policy.

### • *Specific Recommendations*

In addition to the general propositions outlined in the analysis and the foregoing conclusion, the specific recommendations outlined below will be of particular significance for realizing the potential for effective and impactful policy action by the AU and RECs/RMs in the maintenance of peace and security in Africa.

## **First: Operationalize agreed modalities and structures to enhance coordination**

As captured in the table above, various decisions have been taken by the PSC and RECs/RMs to enhance their partnership. It is advised that the upcoming consultative meeting outlines concrete steps for the implementation of the various decisions that are not followed up yet.

## **Second: PSC and RECs/RMs should talk to each other more frequently beyond the annual consultative meeting**

In this respect, it is imperative that the AU Commission and RECs/RMs act on the decision to establish 'a team of focal points from all RECs/RMs and the PSC Secretariat that would facilitate a well-coordinated network for regular meetings/consultations between PSC and RECs/RMs'. Similarly, while the PSC should circulate its monthly program of work to the chairs of the policy organs of RECs/RMs and the Secretariat/Commission of the REC/RM concerned drawing their attention to the relevant sessions where their active participation is anticipated.

## **Third: The engagement should be not only frequent but also substantive**

Despite the practice of relevant REC/RM's participation in the PSC sessions, whether the existing practice and formats allow the envisaged REC/RM's substantive engagement remains questionable. Furthermore, the last two consultative meetings focused on exploring different modalities to enhance engagement between the PSC and regional mechanisms. While this remains extremely important, the two counterparts should also move beyond discussing coordination modalities and the meetings should serve as a platform for a substantive discussion on conflict and thematic related agendas of common interest for both. Based on experiences of the existing partnerships with the UNSC and the EUPSC, the two counterparts could also agree to hold a joint retreat before the consultative meeting for a detailed discussion at the expert level on common agendas of peace and security. Such closer and substantive engagement between the PSC and RECs/RMs also paves the way to translate some of the agreed initiatives such as joint field missions into action.

#### **Fourth: Clarify the when, how and what of the application of the principle of Subsidiarity**

The popular and widespread reference to the principle of subsidiarity is not accompanied by clarity about how it governs the relationship between the PSC and the policy organs of RECs/RMs in specific conflict situations. What is more, its misinterpretation creates competition and lack of coordination rather than collective and joint action the peace and security situation on the continent warrants. In this respect, it is thus high time for the PSC to follow up on the decision of the 2<sup>nd</sup> consultative meeting which agreed to commence dialogue on the 'scope, dimensions, variables and criteria of the applicability of the principle of subsidiarity.' As suggested above, subsidiarity should be interpreted as requiring the effective role and engagement of the RECs/RMs which does not entail the exclusion of the role of the AU. What such effective engagement of the RECs/RMs in respect of matters within their geographic region on the basis of the principle of subsidiarity entails is intense joint planning and consultation with the AU in order to ensure that their respective roles reinforce each other and operate complementarily.

Additionally, there is a need to ensure that the application of subsidiarity is subject to the overall norms and policies of the AU. The implication of this is that subsidiarity cannot trump or prevent the application by the AU of the legal commitments that states made under various AU instruments and policies. As such, subsidiarity should not be allowed to become an impediment to the application of these legal commitments and one that political actors may instrumentalize for eroding the democratic governance and constitutional rule commitments of member states. As such, while the AU and RECs/RMs can work towards harmonizing their standards on UCG in order to ensure that the standards of RECs/RMs are aligned with that of the AU, the invocation of subsidiarity should not be used to block PSC action in the face of UCG and if used is contrary to the grand norms of the AU, including most notably the Constitutive Act of the AU.

#### **Fifth: Enhance horizontal coordination between RECs/RMs**

Some of the peace and security threats such as terrorism defy regional boundaries and pose trans-regional security risks. The threat of Boko Haram for instance affects countries that fall within the jurisdiction of ECOWAS and ECCAS. In such context, it raises the question of which of the affected RECs/RMs take the lead and how they coordinate their engagements. Even in respect to conflicts or crisis situations in individual states, such as in Mali, Sudan and Niger the fact that neighboring countries of these countries are not all in the same REC/RM necessitate close consultation and coordination horizontally. The membership of individual countries in multiple RECs/RMs also raises the issue of who takes leads and the kind of coordination that needs to be pursued horizontally as the recent experience of DRC highlights.

One good example to draw on, as has been seen recently is the membership of the DRC in EAC, SADC, ICGLR and ECCAS as well as the resultant adoption of uncoordinated policy decisions led to a convening under the auspices of the AU of the quadripartite summit of the four RECs at the end of June 2023 in Luanda, Angola. This quadripartite summit is a good example to emulate for enhancing coordination horizontally among RECs/RMs.

#### **Sixth: Convene one of the high-level meetings between the PSC and the policy organs of the RECs/RMs as part of the Mid-Year Coordination meeting of the AU**

Unlike the annual consultative meetings which are usually convened at the ambassadorial level, the mid-year coordination meeting presents a unique opportunity for convening the meeting of the PSC and the policy organs of RECs/RMs at the summit level. This is particularly important considering that the mid-year coordination meeting is the only instance outside of the annual ordinary AU summit in which the chairpersons of the policy organs of RECs/RMs are usually present. It thus presents a unique opportunity for convening PSC and RECs/RMs meetings on an annual basis

outside of the consultative meetings and does so at the highest levels. As a convening at the highest levels, it affords an opportunity for developing and adopting agreed upon modalities for consultative decisions and collective decisions on specific issues of concern affecting different regions by rallying the contributions of all to the implementation of such decisions.

### **Eighth: Periodic meeting between the PSC and individual RECs/RMs focusing on situations in the specific REC/RM**

As part of the monthly program of work of the PSC, it is possible to include a session with different RECs/RMs a meeting on conflict situations in the individual REC/RM every other month in order to share respective policy positions and achieve complementarity in such policy positions and actions.

### **Ninth: Ensure the regular invitation and participation of AU in the policy meetings of RECs/RMs**

Currently, there is a lack of effective participation of the AU in RECs/RMs policy meetings. The result of this lack of participation is the emergence of policy distance and even at times incoherence between the RECs/RMs and the PSC. The AU Commission needs to initiate engagement with all RECs/RMs for each REC/RM to establish a standing working arrangement for invitation and participation of the AU in RECs/RMs policy meetings as a matter of both policy and practice. Policy organs of RECs/RMs should also introduce rules allowing the participation of the monthly chairperson of the PSC and the AU Commission Chairperson in the meetings where they adopt decisions on files that the PSC is required to be seized with.

Participation should go beyond passive presence in such meetings. It should entail participation in and contribution to the process of preparing the draft policy decisions of the policy meetings of the RECs/RMs. It also needs to entail the communication by the AU representative of the AU's legal and policy considerations that the concerned policy

meeting of the RECs/RMs need to bear in mind in their deliberations for enhancing coherence and facilitate the effective discharge by the AU of its continental responsibilities while having regard to the policy decisions of RECs/RMs.



## MEDIA AND RESEARCH SERVICES

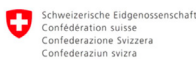
### ABOUT AMANI AFRICA

Amani Africa is an independent African based policy research, training and consulting think tank with a specialization and primary focus on African multilateral policy processes, particularly those relating to the African union.

We support the pan-African dream of peaceful, prosperous and integrated Africa through research, training, strategic communications, technical advisory services, and convening and facilitation.

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