

MONTHLY DIGEST ON THE AFRICAN UNION PEACE AND SECURITY COUNCIL

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THE MONTH AT A GLANCE

In August, Burundi was the Chair of the African Union (AU) Peace and Security Council (PSC). According to the Provisional Program of Work (PPoW), adopted in July, the PSC was scheduled to hold six sessions, which at the beginning of the month increased to eight (See Amani's [analysis](#) of the PPoW). During the month, the PSC convened a total of five sessions. Of these, two sessions were on thematic issues and three sessions focused on country-specific situations. Additionally, the PSC also convened the 3rd Annual Consultative Meeting with the RECs/RMs Policy Organs. All of these sessions were conducted at the ambassadorial level.

The Provisional Programme of Work (PPoW) of the PSC underwent four revisions throughout the month. The first revision early in the month led to a change of dates of the proposed field mission to Guinea and the sessions on Sudan and the session on consultation with the PRC Sub-Committee. A session was added to the PPoW for 17 August to provide updates on the situation in Niger. This session was included to follow up on the decision made during the 1164th session of the PSC held on 28 July 2023. The decision required the Junta in Niger to restore democratic order within 15 days. This revision also led to the addition of a session on the report of the PSC field mission to Burkina Faso.

The second revision published on 10 August postponed both the session initially dedicated to the situation in Sudan (following the postponement of the intra-Sudanese dialogue initially planned for the week of 8 August) and the field mission to the Republic of Guinea. Additionally, given that the last day for the 15-day deadline set for the Junta in Niger was on 11 August, the session on Niger was brought forward from 17 to 14 August.

The third revision added a session for 21 August to consider the draft communique of the 1168th PSC session that was held on 14 August, as well as an update on the situation in Niger.

The fourth and final revision of the PPoW published on 30 August dropped the session regarding the impact of climate change on peace and security, which was previously scheduled for 31 August. But following the coup that took place in Gabon on 30 August, it added an emergency session on 31 August.

In addition to the sessions of the PSC, the Committee of Experts (CoE) had initially planned to hold two sessions. While both sessions were originally intended for the preparation of the 3rd Annual Consultative Meeting between the PSC and the Regional Economic Communities and Regional Mechanisms (RECs/RMs), the second session of the CoE was later rescheduled to focus on the preparations for the 17th Annual Joint Consultative Meeting (AJCM) between the PSC and United Nations Security Council (UNSC). However, the second meeting was later postponed.

The outcomes of all the sessions were adopted as Communiqué. On average, it took 8 days for the release of published outcome documents.

PSC URGED THE TRANSITIONAL AUTHORITIES IN BURKINA FASO TO LIFT THE BAN ON THE ACTIVITIES OF POLITICAL PARTIES AND OTHER KEY STAKEHOLDERS

PSC's first session of the month and its 1166th session was convened on 3 August. PSC met to consider the [report](#) of the PSC field mission to Burkina Faso, which was conducted from 22 to 27 July 2023. Mohamed Lamine Thiaw, who led the mission in his capacity as Permanent Representative of Senegal to the AU and Chairperson of the PSC for July, presented the report during the session. According to the report, the field mission was conducted with the objective of expressing solidarity and providing support to the government and the people in addressing the plethora of challenges that Burkina Faso is facing; obtaining first-hand information on the political, security, socio-economic, and humanitarian situation in the country; and ascertain the state of progress in the implementation of the Transition Roadmap in the country.



Source: @AUC_PAPS

The mission was able to interact with various stakeholders, including internally displaced persons (IDPs) in Nagreongo in the Central Plateau region, the transitional authorities (the President of the Transition, Cabinet Ministers, the Prime Minister of the Transition, the Speaker of the Transitional Legislative Assembly), political parties, and regional and international partners (the Africa Group of Ambassadors accredited to Burkina Faso, ECOWAS, and the UN).



PSC delegation engaged with various stakeholders in Burkina Faso during its field mission in the country, 22-27 July, 2023. Source: X platform formerly Twitter @AUC_PAPS

In a [communiqué](#) adopted at the session that considered and adopted the report of the field mission, the PSC urged the Transitional Authority to ‘practically demonstrate its commitment and ensure that elections are successfully organized within the stipulated timelines’. It is recalled that the regional bloc, ECOWAS, and the Transitional Authority of Burkina Faso agreed to a 24-month transition period with elections set to be held in July 2024. However, as highlighted in the field mission report, there are uncertainties on whether the Authority will be able to organize the elections in accordance with the agreed timeline considering the dire security and humanitarian situations prevailing in the country. On the other hand, the PSC commended the Burkinabe Authority for the steps taken to improve the security situation and implement the political transition, including the establishment of the Transition Roadmap, the electoral calendar, and the Independent National Electoral Commission.

One of the issues featured in the report of the field mission and reflected in the communiqué is the restriction imposed by the Transition Authority on political parties and civil society organizations since the issuance of communiqué No. 3 of 30 September 2022. During their engagement with the PSC delegation, the representatives of political parties voiced their concern over the restriction and demanded their inclusion in the management of the transition process. Against this background, the communiqué adopted at the 1166th session not only stressed the imperative of an inclusive transition process but also urged the Transitional Authorities to ‘lift the ban’ on the activities of political parties and other stakeholders.

PSC also stressed the ‘need for increased interoperability and coordination between AU, ECOWAS, and the Government of Burkina Faso’ for an effective political transition process in the country. This point was particularly mentioned by the African Diplomatic Group during their interaction with the PSC delegation, highlighting that the ‘principle of subsidiarity and comparative advantage should entail robust collaboration between the AU and ECOWAS and not the contrary.’ ECOWAS recently deployed Benin’s President, Patrice Talon, as a facilitator of the political transitions in Member States that have experienced coups, but the regional bloc’s relations with some of these countries have become tense.

Key actionable decisions requiring follow-up:

The PSC:

- Requested (again) the AU Commission to avail adequate resources to AU Mission for Mali and the Sahel (MISAHEL);
- Called for (again) the operationalization of the AU, UN, ECOWAS, Joint Transition Monitoring Mechanism, including the resumption of the work of the ECOWAS Mediators in providing requisite support towards the effective implementation of the Transition Roadmap;
- Requested the AU Commission Department of Health, Humanitarian Affairs and Social Development, working in close collaboration with the PRC Sub-Committee on Refugees, Returnees and Internally Displaced Persons, to upscale the AU humanitarian support package to complement the efforts of the Transitional Authorities; and also to implement the outcomes of the AU Extraordinary Humanitarian Summit and Pledging Conference held on 27 May 2022, in Malabo, Equatorial Guinea;
- Requested the AU Commission to expedite the operationalization of existing financial mechanisms, including the Africa Facility to Support Inclusive Transitions (AFSIT) and the Crisis Reserve Fund, among others, as vital instruments for providing a comprehensive support package to the transition process in Burkina Faso; and
- Reiterated the need for effective compliance with International Human Rights Law, International Humanitarian Law and the African Union Compliance and Accountability Framework, within military operations and regional security operations of the respective countries.

PSC EXPRESSES DEEP CONCERN OVER RESURGENCE OF UNCONSTITUTIONAL CHANGES OF GOVERNMENT AS IT ENGAGES WITH THE GOVERNANCE BODIES OF THE AU

PSC's second session of the month and its 1167th meeting was convened on 11 August 2023. Ambassador

James Pitia Morgan, Permanent Representative of the Republic of South Sudan as the Chairperson of the PRC Sub-Committee on Human Rights, Democracy Governance (HRDG), and Dr. Solomon Ayele Dersso, who delivered the intervention of the Chairperson of the African Commission on Human and Peoples' Rights, as the Chairperson the African Governance Architecture (AGA) Platform gave a statement to the Council.

Although the PSC held a joint engagement session with the sub-committee last year in August, during the meeting, the AGA platform was not represented. This year's consultation brought together both the sub-committee and the AGA platform together to share experiences with the PSC. The session was framed under the theme 'Experience Sharing Session between the PSC and the AGA Platform Members.'

As stated in the [concept note](#) of the session, the objective of the meeting was to improve collaboration and coordination between the PSC Members, the PRC Sub-Committee on HRDG, and the AGP. Instead of being a session for celebrating the state of affairs of the continent in relation to the work of these entities, the session was cast as a technical and operational one aimed to build upon previous engagements, review progress in implementing joint commitments, and explore innovative ways to enhance collaboration in promoting the shared values of the AU.

The African Governance Platform (AGP) was established as a platform for dialogue among AU organs, institutions, and RECs that are mandated to promote and sustain democracy, governance, and human rights. Comprising of 11 AU organs and institutions, as well as 8 RECs, the AGP focuses on operationalizing and coordinating joint programs and initiatives to enhance synergies and coherence in addressing democratic governance, human rights, and the rule of law. The AGP convenes statutory meetings twice a year, engaging representatives at both technical and political levels. It also has a bureau, including a Chairperson, Vice Chairperson, and Rapporteur elected from among its members for a two-year term. In the coordination of their work, both the AGA platform and the PRC Sub-Committee on Human Rights, Democracy and Governance are assisted by the AGA-APSA secretariat that is based within the PAPS department.

In the [communiqué](#) adopted by the session, the PSC commendably expressed its 'deep concern by the resurgence of unconstitutional changes of government on the Continent'. In this regard, the Council also emphasised the 'need for commitment by Member States towards the universal ratification, domestication, implementation and reporting on AU Shared Value, particularly, the African Charter on Democracy, Elections and Governance (ACDEG)'. However, the PSC failed to highlight the reluctance in the implementation of the ACDEG when it comes to the provision that calls for sanctions against all forms of unconstitutional changes of government, **including constitution tampering**.

Some of the formulations in the communiqué are vague, making practical implementation challenging. Additionally, the PSC missed the opportunity to assess the subcommittee's role in enhancing the nexus between governance and peace and security. This includes facilitating the implementation of decisions made by AGA Platform members, such as the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights. Furthermore, the subcommittee's role in promoting the integration of AU democracy and human rights standards across the AU Executive Council and AU Assembly decisions was not assessed.

Key actionable decisions requiring follow-up

The PSC requested:

- The AU Commission to expedite the operationalization of the African Governance Facility, in order to facilitate effective resource mobilization to support the initiatives of the African Governance Platform and Member States towards the promotion of good governance and strengthening of democracy on the Continent; and in the same context;
- The AU Commission to further strengthen the PRC Sub Committee on HRDG and the AGP, as well as the institutional capacity of the AGA-APSA Secretariat to more effectively discharge their respective mandates; and
- The AU Commission, the African Governance Platform and the AGA-APSA Secretariat to organize a joint consultative meeting to identify joint initiatives beyond the experience sharing sessions, paying particular attention to the following areas;

- a) Joint PSC, the PRC Sub Committee and the AGP promotional visits on AU shared values instruments;
- b) More active role in preventive diplomacy and mediation efforts;
- c) PSC involvement in the planning and delivery of the AGA Flagship Initiatives; and
- d) Establishment of follow-up mechanisms of the decisions of the joint session between PSC and AGP.

PSC MEMBERS SAVED THE AU FROM ENDORSING THE USE OF FORCE FOR RESTORING CONSTITUTIONAL ORDER IN NIGER

On 14 August, the PSC held its third session of the month, the 1168th meeting, on the situation in Niger. This meeting came four days after the Second Extraordinary Summit of the ECOWAS Authority of Heads of States and Governments on the political situation in Niger held on 10 August 2023, and following the expiry of the 15 days deadline the PSC set for Niger's junta to restore constitutional order during the emergency meeting of its 1164th session held on 28 July 2023.¹



Source: @AUC_PAPS

¹ The PSC received briefings from Moussa Faki Mahamat, Chairperson of the AU Commission; Ambassador Bankole Adeoye, the AU Commissioner for Political Affairs, Peace and Security; Ambassador Abdel-Fatau Musah, ECOWAS Commissioner for Political Affairs, Peace and Security; Ambassador Nasir Aminu, the Representative of the Chair of the Economic Community of West Africa States (ECOWAS) Authority of Heads of State and Government; and as a country of concern, Ambassador Amadou Hassane Mai Dawa, Permanent Representative of the Republic of Niger to the AU.

As stated in our [analysis](#), during this session the PSC had to deliberate and decide upon very difficult policy choices as a result of the decision of the ECOWAS extraordinary summit of 10 August 2023 requesting the AU to endorse all decisions of ECOWAS including the decision to deploy a Standby Force to Niger as a means to restore constitutional order.

Understandably, the four ECOWAS member states in the PSC by the dictate of institutional protocol of following the decision of their principals argued for endorsement of the decisions of the ECOWAS Authority of which their principals are the authors. They held consultations ahead of the session. During the session, they echoed the position of ECOWAS that the only legitimate authority of Niger is the ousted President of Niger and argued against the suspension of Niger. Together with the ECOWAS Commissioner for Political Affairs, Peace and Security and the Chairperson for the AU Commission, they made their case for PSC's endorsement of the measures adopted by ECOWAS, including the deployment of force.

While six countries from Southern Africa, East and Central Africa reportedly argued for the suspension of Niger and opposed the wholesale endorsement of the decisions of ECOWAS, the other member states did not either intervene or made intervention without expressing clear position on the sticking issues.

It emerged from this session that more than one third (six) of the members of the PSC strongly questioned the wisdom of the use of military force to reinstate the deposed president of Niger, particularly, but not exclusively, from perspective of the peace and security risks of such military intervention (which were canvassed in Amani's [analysis](#) of that session's edition of *Insights on the PSC*). With respect to the question of suspension of Niger, the PSC could not have opted for not suspending Niger after the expiry of the 15 days deadline without walking back on its determination from its 28 and 31 July sessions that the situation in Niger was a coup.



Source: @AUC_PAPS

Instead of the usual practice of putting a draft communique on silence procedure and considering the division in the PSC, the PSC Chairperson opted for continuing consultation with PSC members to secure a compromise. Apart from forestalling the breaking of the silence procedure that some member states were prepared to do, opting for not putting a draft communique on the silence procedure helped to avoid the risk of leaking the draft communiqué to the media, which would have made the achievement of consensus nearly impossible.

After a week of consultations, the draft outcome document of this session was put for deliberation at the 1169th meeting the PSC held on 21 August 2023.



Source: AUC_PAPS

Despite not granting the demand for a wholesale endorsement of the decisions of ECOWAS, the draft went far enough to accommodate the position of its members from the ECOWAS region. Not surprisingly, the deliberation took long hours. Unlike the previous session, there was no member of the PSC that did not intervene. On the main sticking point of the proposed use of military force for reinstating the deposed president of Niger, the number of PSC members opposing its endorsement by the PSC increased to 10. In a statement that captured the sentiment of most PSC members, a Permanent Representative of one member State drew the attention of fellow members that the PSC is 'a peace (and security) council and not a war council.' With the majority of PSC members taking the position for the suspension of Niger and against endorsing the use of military force, the choice the Chairperson of the PSC put for members of the PSC was to vote on the draft communiqué. ECOWAS members of the PSC exhibited commendable

diplomatic wisdom in opting for the adoption of the communiqué by consensus rather than by vote, thereby making the communiqué a reflection of the collective voice of the entire membership of the PSC.

The final communiqué of the 1168th session was released on 22 August 2023. In the [communiqué](#), the PSC, expressing its unequivocal condemnation of the coup in Niger, suspended Niger from all activities of the AU and its Organs and Institutions until the effective restoration of constitutional order. Reflecting the position of ECOWAS, it also called upon Member States and the international community to reject the junta and to refrain from granting it legitimacy.

The PSC expressed its full solidarity with the efforts of ECOWAS to restore the country to normalcy **through diplomatic means**. It also endorsed the sanctions adopted by ECOWAS while underscoring the importance of “**ensuring** its gradual application and minimizing its disproportionate effects on the ordinary people of Niger”.

However, when it came to the decision of ECOWAS to deploy the standby force into Niger, the PSC stated that it took note of the decision and requested the AU Commission ‘to undertake an assessment of the economic, social and security implications of the deployment of the force.’ This manifests a diplomatically sensitive way of declining the request for endorsement.²

One can also discern the care with which the communiqué was drafted from the language used in welcoming the AU Commission Chairperson’s statement which purported to endorse the decisions of ECOWAS. Thus, it welcomed the Chairperson’s statement only with respect to the concern it expressed about the well-being of the deposed president. In not endorsing the Chairperson’s statement in full, members of the PSC saved the AU from adopting a decision that would fly in the face of applicable AU norms and the PSC’s own earlier decisions on the coup in Niger.

As a case that put a spotlight on the widely used but poorly helpful principle of subsidiarity, the approach that the PSC adopted clearly shows that the right thing for the PSC to do is to give a full hearing and coordinate with the concerned REC(s) policy organ(s) but not to

² Art. 10(g) of the communiqué of the ECOWAS extraordinary summit of 10 August 2023 ‘call[ed] on the AU to endorse all the decisions taken by ECOWAS on the situation in Niger’.

defer total leadership to such policy organ(s). In this respect, in holding a session on Niger when the ouster of President Bazoum became clear on 28 July and without waiting for ECOWAS (as it did in September 2021) and giving the junta in Niger a 15-day timeline for restoring constitutional order, the PSC enabled itself to carve out a space for autonomously deciding on the situation in Niger in accordance with applicable AU norms rather than reducing itself to rubber stamping the decision taken by ECOWAS without scrutiny.

Key actionable decisions for follow up:

The PSC:

- Requested the AU Commission to appoint and deploy High Representative(s) to foster the mediation efforts by the ECOWAS;
- Requested the AU Commission in close cooperation with the ECOWAS Commission to urgently compile and submit the list of members of the military junta and their military and civilian supporters of the coup d’état in Niger and the application of individual punitive measures;
- Called upon member states and the international community to refrain from any action likely to grant legitimacy to the illegal regime in Niger; and
- Requested the Commission, in consultation with ECOWAS, to regularly inform the Council on the progress being made on the implementation of the imposed sanctions ‘while ensuring gradual application and minimizing disproportionate effect on the ordinary people of Niger’.

PSC UNDERSCORES THE IMPORTANCE OF COLLECTIVE APPROACHES TO EFFECTIVELY RESPOND TO SECURITY THREATS

At the 1170th meeting which took place on 22 August, the PSC received a briefing on continental early warning and security outlook. The makeup of the briefers of the session³ signifies the focus on a hard security-centric view of early warning and the security outlook of the continent. For this session to reflect the holistic security approach covering human security of the PSC Protocol, it needs to bring to the centre of attention those bodies of the AU that work on governance and social and economic affairs as well as climate change.

The outcome of the session adopted in the form of [communiqué](#) highlights some of the major peace and security threats that continue to confront the continent. Coming against the backdrop of the 26 July coup in Niger, signifying the continuation of the spread of military coups since 2020, the PSC paid particular attention to unconstitutional changes of government (UCG) and stressed the **'urgent need for reviewing the efficacy of the traditional AU responses to this scourge'**. While it remains true that some reflection into AU's responses to UCG and their effectiveness is necessary having regard to the increasing indication of their insufficient deterrence effect, of particular significance is examining the underlying root causes of coups in the continent and how AU's preventive tools can better be utilised to avert their occurrence by addressing such root causes.

With respect to the transition in countries that experienced UCG, the PSC expressed concern over the delays being faced in the restoration of constitutional order.

³ Zainab Ali Kotoko, Executive Secretary of the Committee of Intelligence and Security Service of Africa (CISSA), and representatives of the African Centre for the Study and Research on Terrorism (ACSRT) and the AU Mechanism for Police Cooperation (AFRIPOL) delivered the briefing to the PSC.

Relevant previous PSC decision:

1138th session [[PSC/PR/COMM.1138 \(2023\)](#)]: the PSC urged 'all member states in political transitions to strictly adhere to the stipulated timelines to facilitate a timely return to constitutional order through the holding of elections and necessary institutional reforms'.

Yet, action was taken neither for following up on PSC's decision on provision of support by the AU for facilitating implementation of the transitional programs towards the restoration of constitutional order nor for encouraging reforms that ensure the sustainability of restoration of constitutional order.

The implications of adverse impacts of climate change on peace and security was a content of the communiqué of the 1170th session, although previous PSC engagements on the theme have not drawn much attention to this specific issue. Further to affirming PSC's recognition of the intricate link between climate change and peace and security, the session emphasized the importance of integrating climate-sensitive programming into national development plans, specifically relating to agriculture and infrastructural development.

In addition to climate change, other transboundary threats that received attention, as in previous sessions of the PSC on early warning and the security outlook of the continent, included terrorism and violent extremism. It is in light of this transboundary nature of security threats that the PSC underscored the need for enhancing collective response mechanisms. This requires better coordination among member states as well as between the various RECs/RMs horizontally and between the RECs/RMs and the AU.

Beyond the hard security aspect of the policy response to the scourge of terrorism, the 1170th communiqué acknowledged the role of counter-narratives to combat radicalisation of communities. As correctly emphasised by the PSC, this requires the role of various actors beyond the policy space including in the civil society, media and private sectors. [[Ext/Assembly/AU/Decl.\(XVI\)](#)], which recognises the role of CSOs in battling the scourge of terrorism in the continent.

Relevant previous PSC decision:

Inaugural Meeting [[PSC-CSOs.1 \(2022\)](#)]: the PSC emphasised 'the role of CSOs in tackling the emerging menace of unconstitutional changes of government and terrorism' and called for 'regular engagements between the CSOs and AU and RECs/RM to scale-up terrorism awareness and response initiatives, and de-radicalization campaigns, within the various Member States, so as to further strengthen more citizen-centred and timely response mechanisms'.

Yet, the use of counter-narratives does not go far enough to address the underlying issues, what our special research report called the 'political and socio-economic governance pathologies' that create the context for the emergence and growth of conflicts involving terrorist groups. Accordingly, as long as the response to the threat of terrorism and violent extremism does not involve targeted interventions that not only expand the livelihoods and support the humanitarian needs of affected communities but also facilitate legitimate governance structures for delivering public and social services in the territories that are affected by and are vulnerable to conflicts involving terrorist groups due to neglect, marginalization and lack of the presence of state structures for delivery of services.

Key actionable decisions requiring follow-up

At the 1170th meeting, the PSC:

- Requested the AU Commission to expedite the establishment of a counter-terrorism unit with the African Standby Force (ASF);
- Called for the expedited operationalisation of the AU Ministerial Committee on Counter-Terrorism; and
- Requested the AU Commission to ensure that all future CEWS updates include inputs related to the persistence of terrorism, specifically in the Sahel region, 'despite the presence of numerous military bases'.

THE PSC OPTED FOR A WORKING GROUP TO REVIEW THE AU STATEMENT ON THE APPLICATION OF INTERNATIONAL LAW TO CYBERSPACE TO MOBILIZE WIDER INPUT AND OWNERSHIP

Against the background of the request made by the PSC for the African Union Commission on International Law (AUCIL) to develop a draft statement for a Common African Position on Cyber Security in Africa, the PSC held its 1171st session on 24 August.⁴

Relevant Previous PSC decisions

- ❖ 1120th session [PSC/PR/COMM.1120.1 (2022)]:
 - The PSC requested AUCIL to prepare a draft statement on the application of international law to cyberspace and submit to the PSC, it also mandated AUCIL to circulate background note and questionnaire to member states on the application of international law to cyberspace and requested the convening of a consultation on the same issue.
- ❖ 1148th Session [PSC/PR/COMM.1148 (2023)]
 - Requested AUCIL to urgently complete and submit the draft statement of a Common African Position on the Application of International Law to Cyberspace; and
 - Following up on previous requests, it called on member states to complete the questionnaire on the application of international law to cyberspace.

During the session, a progress report detailing the activities undertaken by the AUCIL was presented along with the [draft statement](#). As indicated in the progress report and our [analysis](#) of the session, the development of the draft statement involved various stakeholders, including representatives and experts of AU member states, delegates from member state missions to the AU in Addis Ababa and missions to

⁴ At the session, Dr. Guy-Fleury Ntwari, the Director of AU Legal Counsel and Dr. Mohammed Helal, the Special Rapporteur on International Law and Cyber Space of the AUCIL provided a briefing to the PSC.

the UN in New York. Representatives from AU organs, including the PSC and the Committee of Intelligence and Security Services of Africa were also involved in the process.

Following the briefing and presentation, the PSC welcomed the draft statement and requested Helal, as the Special Rapporteur on International Law and Cyber Space to continue the consultation with Member States. In the [Communique](#), adopted by the session, the PSC decided to establish an expert-level working group to revise the draft statement. This is to make the process more inclusive by involving the Committee of Experts and representatives of other Member States for mobilizing input from the wider concerned actors of member states.



Source: @AUC_PAPS

This request of the PSC is also crucial as the lack of wider ownership is also expressed in the language that is used in the communique. In the communique, the draft statement is referred to as the “AUCIL” Statement, instead of the “AU Statement”. This may reflect the need for the continued involvement of all the relevant stakeholders of the AU in the process to strengthen the ownership as well as the effective use of the document in international processes.

With regards to the governing continental instrument, the PSC encouraged those Member States that have not yet signed to sign and ratify the African Union Convention on Cybersecurity and Personal Data (Malabo Convention) in an expedited manner. The Malabo Convention recently achieved its 15th ratification with Mauritania’s [ratification](#) on May 9, 2023. As a result, the Malabo Convention came into force on 8 June 2023. The enforcement of the Convention can contribute to more effective regional regulation of cyberspace by harmonizing the laws of African states on electronic commerce, data protection, cybersecurity promotion, and

cybercrime control. Therefore, it is crucial for the AU Commission to develop mechanisms for effective implementation, such as developing implementation guidelines, establishing regional monitoring bodies, and providing support to data protection authorities. While the entry into force of the Malabo Convention is an important milestone, the fact that it has only been ratified by 15 states, almost a decade after its adoption in 2014, necessitates action by the PSC. It is accordingly a missed opportunity that the PSC did not go beyond calling on member states to ratify the convention and put in place a mechanism that actively promotes the ratification of the convention as the AU used a champion for the ratification of the AfCFTA treaty.

Although the draft statement submitted to the PSC is a comprehensive document that seeks to address the various aspects of cyber security, including sovereignty and due diligence in cyberspace as well as the prohibition on the threat or use of force in cyberspace, discrepancies have been observed on how the title of the document is referred throughout the communiqué. While the draft statement itself indicates that it is ‘the Statement by the African Union on the Application of International Law to the Use of Information and Communication Technologies in Cyberspace’, the PSC in its communiqué uses that title interchangeably with the ‘Draft Common African Position on Cyber Security in Africa’. This inconsistency is also reflected in the PSC’s 1120th Communique where the PSC requested for the AUCIL to prepare the draft statement. Considering the meaning of the two given titles could have different objectives when it comes to the use of the document in negotiations, this needs to be clarified in the final statement to be endorsed by the PSC.

Key actionable decisions requiring follow-up

At the 1171st session, the PSC:

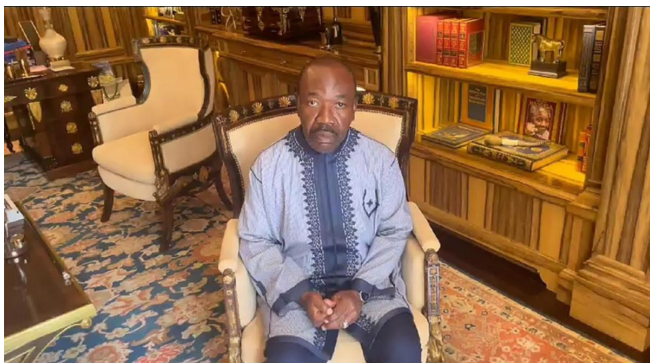
- Decided to establish an expert-level working group, with the participation of the PSC Committee of Experts and other interested AU Member States, with a mandate to review the Draft African Statement adopted and endorsed by the AUCIL, for adoption by the PSC as a Common African Position on the Application of International Law in the Cyber Space;
- Requested the Working Group, once established, to submit the Draft Common African Position on Cyber Security in Africa to the PSC

by December 2023, for its consideration before the next Ordinary Session of the AU Assembly to be held in February 2024; and

- Requested the AU Commission to establish a timeframe for the Working Group to complete its mandate.

THE PSC AUTOMATICALLY SUSPENDED GABON FOR UNCONSTITUTIONAL CHANGE OF GOVERNMENT

The PSC held an emergency session to discuss the situation in the Republic of Gabon following the coup that took place on 30 August 2023.



Gabon President Ali Bongo urging people to make noise
Source: @AP Photos

The session was convened a day after a faction of military officers appeared on national television and announced the ouster of the government of the incumbent President Ali Bongo. This was after the Gabonese Election Centre (CGE) declared him as the winner of the Presidential Election, receiving 64.27% of the votes cast on 30 August 2023.



Gabon coup leader General Brice Oligui Nguema addressing representatives of the business community in the capital, Libreville, on August 31, 2023.

Source: @GBriceolivier

This convening of the emergency session is in line with the prevailing practice that the Council convenes an emergency session within a day or so after the happening of UCG. The session marked the 1172nd session of the Council. During the session, Bankole Adeoye, the AU Commissioner for Political Affairs, Peace and Security briefed the Council on behalf of Moussa Faki Mahamat, Chairperson of the AU Commission, while the representative of the Secretariat of the Economic Community of Central African States (ECCAS), delivered a statement. The outcome of the session was adopted as a [Communiqué](#), which was released on the same day of the session.

One of the key outcomes of this session is the suspension of Gabon, 'with immediate effect, from all AU activities until the effective restoration of normal constitutional order in the country'.⁵ The Council also welcomed the communiqué of the Economic Community of Central African States (ECCAS) adopted on 30 August 2023, which condemned the use of force to resolve political conflicts and called for a rapid return to constitutional order in Gabon.

The Economic Community of Central African States (ECCAS) was officially established in October 1993 through the signing of its Constitutive Treaty in Libreville. It was formed by the members of the Central African Customs and Economic Union (UDEAC) and the members of the Economic Community of the Great Lakes States (Burundi and Rwanda), along with Sao Tome and Principe. ECCAS aims to promote economic integration and cooperation among its member states in Central Africa. In 2000, the member states entered into an agreement to form the Council for Peace and Security in Central Africa (COPAX) in order to enable member states to collaborate on various initiatives with the goal of ensuring regional security. The headquarters of ECCAS is located in Libreville, the capital of Gabon. Currently, Gabon holds the rotating presidency of ECCAS for this year.

⁵ The decision to suspend Gabon from AU activities is in line with the relevant provisions of the AU Constitutive Act (Article 30), the PSC Protocol (Article 7(g)), and the African Charter on Democracy, Elections and Governance (Article 23), as well as the PSC's established practice.

The 30 August Communique of ECCAS also requested to take all measures for a rapid return to constitutional order, but no timetable has been specified for the military authorities in Gabon.

Against the background of the concern repeatedly expressed about the resurgence of UCGs, the PSC reiterated its request to the AU Commission to undertake a comprehensive and objective study on the structural root causes of unconstitutional changes of government. This same request was first made at its [1030th session](#) held on 30 September 2021 following the coup in Guinea and reiterated during its [1062nd session](#) on 31 January 2022 following the coup in Burkina Faso.

Additionally, similar to its responses to previous coups, the PSC demanded the immediate restoration of constitutional order. In doing this, interestingly the Council proposed as a means to the restoration of constitutional order 'the conduct of free, fair, credible and transparent elections that would be observed by the AU Election Observer Mission and the concerned region'. In this regard, there are some discrepancies in the communiqué that trigger a question. The proposal of the PSC may be linked to the doubts raised as to the credibility and transparency of the elections that took place on 26 August and considering the fact that election observers were not welcomed, including AU observers. However, in the same Communique, the PSC demanded "the military to immediately return to the barracks and to unconditionally return power to the civilian authority". Yet, there is no clarity about what this 'civilian authority' that the PSC is referring to is. While this may have resulted from an attempt on the part of the PSC not to give legitimacy to the coup makers, it should have made it clear that it rejects the military assuming a role in the transitional process and explicitly call for the transfer of authority to a civilian transitional government that will implement transitional processes towards the restoration of constitutional order, as the PSC did for coups that took place prior to 2019 such as the coup in Burkina Faso in November 2014.

Considering that the lack of credibility of the election was used as an excuse for the coup and that the coup was more like a household coup that had little prospect of changing the governance arrangements in Gabon, the PSC missed the opportunity to call for a transitional process that guarantees full participation of opposition political parties and the main opposition

presidential candidate who were arrived by the disputed electoral process.

Key actionable decisions requiring follow-up:

At the 1172nd session, the PSC:

- Requested the AU Commission to deploy a high-level mission to Gabon to engage with the key Gabonese stakeholders, working in collaboration with ECCAS and other relevant stakeholders on all key issues, with a view to laying the necessary foundation for the immediate transfer of power to a civilian-led and democratically elected government;
- Requested the Chairperson of the Commission to continue to closely monitor the evolution of the situation, including through the establishment of an inclusive monitoring mechanism, comprising the AU, ECCAS and other relevant stakeholders, and to report back to the Council within fifteen (15) days from the adoption of this Communique;
- Directed the AU Commission and the Regional Economic Communities and Regional Mechanisms (RECs/RMs) to enhance early warning mechanisms and early responses to ensure effective deployment of preventive diplomacy efforts; and

OTHER PSC ACTIVITIES DURING THE MONTH

Besides the sessions, the PSC held the 3rd Annual Consultative Meeting between the PSC and RECs/RMs Policy Organs in Bujumbura, Burundi from 28 – 30 August. This involved an informal meeting between the PSC/RECs/RMs and the Chairperson of the First Ladies Peace Mission (FLPM) and a consultative meeting with the policy organs of RECs/RMs focusing on the resurgence of unconstitutional changes of government and the growing threat of terrorism in Africa. Additionally, the PSC Committee of Experts convened a meeting on 8 August for the preparation of the 3rd Annual Consultative Meeting between the PSC and RECs/RMs Policy Organs.



MEDIA AND RESEARCH SERVICES

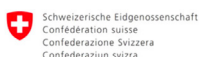
ABOUT AMANI AFRICA

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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