European Parliament

African Union instruments to protect human rights and democracy

Ambitious objectives still to be achieved

SUMMARY

The creation of the African Union (AU) in 2002 sparked hopes for a new era in African integration that would put an end to the most egregious violations of human rights and democratic norms that have plagued the region since its countries achieved independence. To fulfil this mission, the AU was endowed with broader competences and new institutional mechanisms. More and more African countries have ratified new and existing continental human rights and governance treaties, but AU members have adhered less to the more constrictive mechanisms included in these treaties.

Two major instruments stand out among these new developments: the AU's competence to intervene militarily in major crises to stop severe human rights violations, and a proclaimed zero tolerance policy towards unconstitutional changes of government. The intergovernmental nature of the organisation and reluctance by member states to commit too much power to it have posed challenges to meeting its objectives. The AU has dispatched troops to some major crises, but not to others, and the planned African rapid intervention force is still to see action.

The AU's policy of unconditionally condemning unconstitutional changes of government made a difference until recently, when the continent has witnessed a sudden resurgence in coups d'état. Despite swift condemnations of the coups in west Africa in particular, the AU has been criticised for its perceived lack of consistency with respect to similar situations elsewhere on the continent.

The EU has been a strong supporter of these objectives, pledging aid and assistance to the AU. The European Parliament has developed a support programme for the Pan-African Parliament.

This briefing updates two earlier 'at a glance' notes from 2017.

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African Union: Purpose, structure and functioning

The African Union (AU) was created in 2002 out of the vision of a 'united and strong Africa'. It replaced its predecessor organisation, the Organisation of African Unity (OAU), with the aim of overcoming the latter's ineffectiveness in protecting peace, human rights and democracy on the continent. As its founding treaty states in its recitals, the AU is driven by the determination of its members to 'promote and protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law'. It aims, among other things, to 'promote democratic principles and institutions, popular participation and good governance' and to 'promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments' (Article 3). Despite these proclaimed ambitions, the organisation's influence on human rights and governance is limited by its member states' reluctance to back strong AU action. According to a report by the Institute for Security Studies Africa, 'the AU comprises highly heterogeneous types of governments with varied commitments to human rights. Most member states favour a traditional view of sovereignty that prevents any interference to boost governance and human rights.'

The AU is a pancontinental intergovernmental organisation, in which ultimate decision-making power belongs to its members, represented by the heads of state and government in the AU Assembly, the supreme body of the Union. The Assembly strives to be consensual, but in the absence of consensus decisions can be taken by a two-thirds majority of its members. The AU Commission, which performs executive and secretarial tasks, includes a Department for Political Affairs, Peace and Security (PAPS). The Pan-African Parliament, established in 2004 and endowed with advisory and consultative functions, is composed of 255 representatives (five per state), elected by the legislatures of the 51 member states that have ratified the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament (PAP). The promotion of peace, democracy and human rights are among its objectives.

The European Parliament (EP) has supported the PAP in building up its capacity through specific assistance programmes. In 2015, it declared the PAP a priority regional parliament for its democracy support activities. In 2016, the chair of the EP Delegation for relations with the Pan-African Parliament (DPAP) and the President of the PAP signed a comprehensive programme of parliamentary support and capacity building. PAP remains a priority partner, with the EP's most recent activities for PAP including four capacity-building workshops for PAP staff in July 2021.

Limited right of intervention in its member states

The African Union was built with the purpose of putting an end to the bloody conflicts that ravaged several African states in the 1990s, particularly in west Africa and the African Great Lakes region. The AU founding treaty – the Constitutive Act of the African Union – explicitly authorises intervention by the Union in a member state in response to grave violations of human rights – in cases of war crimes, genocide and crimes against humanity – or at the request of a member state, in order to restore peace and security. This contrasts with the OAU's old principle of unconditional non-interference in member states.

To protect peace on the continent, the AU has been endowed with an African Peace and Security Architecture (APSA). Its main body is the Peace and Security Council (AU PSC), composed of 15 member states elected by the Assembly and distributed among five African regions. Fifty-three AU members have ratified the Protocol establishing the Council; Cape Verde and South Sudan have not yet done so.

The AU PSC is the standing decision-making body on peace-related issues, but the Assembly has the ultimate decision-making power. It aims to take decisions by unanimity, but if this is not possible it decides by a two-thirds majority. The Panel of the Wise, a five-person panel of 'highly respected African personalities from various segments of society who have made outstanding contributions to the cause of peace, security and development on the continent', advises the AU PSC.

The APSA used to include an early warning system, but this was later incorporated into the AU Commission PAPS department in 2021. According to an expert, this administrative reform severely curtailed the functions it performed.

The AU Assembly re-elected the members of the AU PSC in February 2022. Nine members were newly elected: the Republic of Congo, the Republic of The Gambia, the Kingdom of Morocco, the Republic of Namibia, the Republic of South Africa, the United Republic of Tanzania, the Republic of Tunisia, the Republic of Uganda and the Republic of Zimbabwe. Six members were re-elected: the Republic of Burundi, the Republic of Cameroon, the Republic of Djibouti, the Republic of Ghana, the Federal Republic of Nigeria and the Republic of Senegal.

The AU has deployed several peace operations, with troops committed voluntarily by its member states, in Burundi, the Comoros and the Central African Republic, as well as longer missions in Somalia (AMISOM) and in Darfur (UNAMID – deployed in cooperation with the UN). UNAMID completed its mandate on 31 December 2020, while AMISOM was replaced by the African Union Transition Mission in Somalia (ATMIS) – a multidimensional mission (military, police and civilian) tasked with gradually handing over control of security to the Somalian government – on 1 April 2022, in line with a UN Security Council authorisation.

AU peace operations have made a difference in protecting the human rights of civilians and strengthening governance. AMISOM played a major role in protecting the transitional government in Somalia, in degrading Al Shabab's insurgency and in expanding humanitarian access, even if its record is mixed with regard to the overarching objective of stabilising the country. UNAMDID contributed to protecting civilians in Darfur and to reaching a negotiated settlement; the mission ended after a peace agreement was reached in October 2020 between the Sudanese authorities and two armed groups in Darfur, putting an end to the bloody conflict. However, the absence of the AU in other crises, particularly in Libya, is noteworthy.

The AU is bound by the principle of subsidiarity in relation to its eight regional economic communities, which have the primary responsibility for solving local conflicts. The AU has made efforts to create its own African Standby Force (ASF), composed of military, police and civilian components on standby in their countries and ready for rapid deployment in emergencies. Established in 2003 and declared functional in 2016, the ASF has never seen action. Instead, the preferred approach has been to set up ad hoc regional multinational forces authorised by the AU, such as in west Africa to fight Boko Haram, in central Africa to eliminate the Lord's Resistance Army, the SADC Mission in Mozambique, and the Joint Force of the Group of Five for the Sahel. Analysts explain this approach through political choices with a view to protecting national sovereignty. Regional mechanisms may also be better suited to fighting transnational armed groups in Africa.

At the February 2002 AU summit, AU Commission Chair Moussa Faki Mahamat indicated the narrow reading of subsidiarity and the question of state sovereignty as causes of the AU's limited capacity to act on security issues. The International Crisis Group, in its report on priorities for the African Union in 2022, also pointed to governments' resistance to perceived external meddling as a hindrance to the AU getting involved in two ongoing conflicts – Ethiopia's civil war and the insurgency in Mozambique's Cabo Delgado region – while in Libya the AU continues to remain a spectator, as rival factions prefer to rely on more powerful and better endowed external partners.

The EU has signed a Memorandum of Understanding on Peace, Security and Governance with the AU. The EU supported African-led peace operations and the African Peace and Security Architecture through its African Peace Facility and continues to do so through the new European Peace Facility, which supports the AU with a three-year assistance measure of €600 million. One objective of the EU's comprehensive strategy with Africa, put forward in 2020, is 'to adapt and deepen the EU's support to African peace efforts through a more structured and strategic cooperation'. The European Parliament has stressed the importance of cooperation and partnership between the EU and AU on security matters in, for example, its resolution of January 2020 on the annual report on the implementation of the common security and defence policy, and its resolution of September 2020 on EU-African security cooperation in the Sahel region, West Africa and the Horn of Africa.

The African human rights system

As explained, the AU is committed to human rights protection through its Constitutive Act. The organisation steers a continental human rights system, whose normative core is constituted by the African Charter on Human and Peoples' Rights, in force since 1986. The Charter seeks to define a specific African understanding of human rights, taking into account the collective rights and duties of individuals towards the community. It has been ratified by all AU members with the exception of Morocco, which re-joined the AU in January 2017.

The main development under the AU framework was the establishment in 2006 of a judicial body – the African Court on Human and Peoples' Rights (ACtHPR) – to complement and reinforce the work of the existing African Commission on Human and Peoples' Rights (1987), charged with interpreting the Charter and issuing reports on compliance and recommendations to member states. The Court's task is to interpret and apply the Charter (including its socio-economic rights), as well as other international human rights instruments to which states have subscribed. Complaints can only be brought against those states that have ratified the Protocol establishing the Charter, (33 to date, of the 52 states which have signed the Protocol). The Protocol was adopted in 1998, but it entered into force only 16 years later when the minimum number of signatories (15) was reached. The state parties commit to implement the Court's decisions.

The process of opening this transnational legal regime to individuals who wish to complain about the violation of their rights has encountered only limited acceptance, in another sign that empowering pan-African bodies is a slow and difficult process. According to the Protocol, only state parties or the AU and its bodies and other organisations recognised by the AU can bring cases to the Court, unless states sign a special declaration attached to the Protocol allowing individuals or non-governmental organisations also to do so (in accordance with Article 34 of the Protocol). Only 10 countries have signed this declaration, but four withdrew their signature between 2019 and 2020: Benin, Côte D'Ivoire, Rwanda and Tanzania. The other six – Burkina Faso, The Gambia, Ghana, Malawi, Mali and Tunisia – maintain their declaration to allow individual complaints. In the opinion of international lawyers, the withdrawals reflect the dissatisfaction of the states concerned with the outcomes of cases against them, and risk undermining the independence and integrity of the Court.

Individual complaints have formed the vast majority of cases brought before the Court. There has never been an inter-state complaint, and the African Commission on Human and Peoples' Rights has referred only three cases to the Court for a decision, two against Libya (2011 and 2013) and one against Kenya (2012). Despite the limited number of cases (164 finalised by November 2022), the Court's jurisprudence has been growing in significance, with several landmark decisions; its decisions protecting journalists and freedom of expression have attracted particular attention. In Norbert Zongo and Others v. Burkina Faso, the Court found that the delay in prosecuting the assassination of journalist Norbert Zongo in 1998 constituted a violation of the right to a fair trial for the victims, and ordered the state to pay reparations to the victims' families in 2015. Another historic ruling was delivered in May 2017, when the Court found the government of Kenya had violated the right to life, property, natural resources, development, religion and culture of the Ogiek people, under the African Charter on Human and Peoples' Rights; in 2022, the Court ordered Kenya to pay reparations. This case was introduced by the African Commission on Human and Peoples' Rights.

Another ambitious AU objective aims to set up a new court with broader jurisprudence that would incorporate the ACtHPR, but again this case illustrates how AU projects are not followed through by member states. According to a 2008 Protocol on the Statute of the African Court of Justice and Human Rights, ratified to date by only eight African countries, a new African Court of Justice and Human Rights should be set up; it will have broader competences and deal, besides human rights, with AU-related legal issues in general. According to amendments to its Protocol adopted by the AU in June 2014 and not yet ratified by any member state, the competences of the new Court should also include the trial of individuals who have committed transnational crimes (genocide, crimes against humanity, corruption, money laundering, human and drug trafficking, and piracy). Heads of

State and Government and other senior officials will be excluded from its jurisdiction during their time in office – a move criticised at the time by voices from civil society.

The EU has conducted 17 human rights dialogues with the AU (as of November 2022) since 2006, when the two parties decided to start this type of cooperation. According to the proposed EU comprehensive strategy with Africa, 'respect for universal human rights – be they political, civil, economic, social or cultural – will remain a key trait of our partnership with all relevant actors and supporting major initiatives such as the African Governance Architecture'.

Protecting good governance and democracy in Africa

Institutional mechanism

The normative framework for promoting democracy and good governance is set out in The African Charter on Democracy, Elections and Governance, which was adopted in 2007 and entered into force in 2012. It has been signed by 46 countries, and ratified by 36; some of Africa's most stable democracies, such as Cabo Verde, Botswana, Mauritius and Senegal, have signed but not yet ratified it. The Charter defines common norms on democracy, the rule of law, elections, and political, economic and social governance, with compliance to be assessed through biennial reports. The Charter prohibits unconstitutional change of government (UCG), and provides for sanctions against the perpetrators and suspension of the state concerned. One of the major challenges for the Charter is the implementation and domestication of its principles by state parties. These parties are required to submit a biennial report on the measures taken to implement the Charter, but since its entry into force in 2012 only two countries have submitted their reports (Togo and Rwanda, as of 2019).

A practical mechanism for promoting democracy is the African Peer Review Mechanism (APRM – an AU agency), a voluntary self-monitoring tool for political, economic and corporate governance, launched in 2003. The APRM evaluation consists of a self-assessment by the participating country with the involvement of relevant stakeholders, and an external independent evaluation, culminating in a peer review by fellow Heads of State and Government. So far, 42 states have subscribed to the APRM, most of which[1] have been peer reviewed. Four countries have undergone a second-generation APRM evaluation: Kenya, Nigeria, Mozambique and Uganda. In 2011, the African Governance Architecture was set up as an overarching framework for good governance and democracy, with the task of coordinating relevant AU bodies and other stakeholders.

The AU is also a regular election observer on the continent alongside regional organisations, and has conducted numerous missions over the years. It continues the work of its predecessor organisation, the OAU, which conducted the first observation in Namibia in 1989. AU election observation missions are typically composed of a political-diplomatic component made up of members of the PAP and members of the AU permanent representative committee, as well as a technical component made up of election experts from national election management bodies, human rights groups and civil society organisations. The AU conducts long-term election observation missions based on an electoral cycle approach, having built a reputation as a professional and independent observer. The AU's observations are based on the principles and standards for the conduct of democratic elections enshrined in specific AU instruments such as the Guidelines for African Union Electoral Observation and Monitoring Missions (2002) and the OAU/AU Declaration on Principles Governing Democratic Elections in Africa (2002), alongside the general human rights and democracy framework already mentioned, enshrined in the African Charter on Human and Peoples' Rights and the African Charter on Democracy, Elections and Governance.

The AU has contributed through its electoral observation to successful multi-party elections, most recently in Angola and in Kenya.

According to the EU's comprehensive strategy with Africa, the 'EU seeks to continue supporting credible, inclusive and transparent electoral and democratic processes, including through increased coordination between the AU and EU on electoral observations and their follow-up'.

African Union action against coups d'état

The framework for tackling unconstitutional changes of government

Figure 1 – Coups d'état in Africa by year: successful and failed
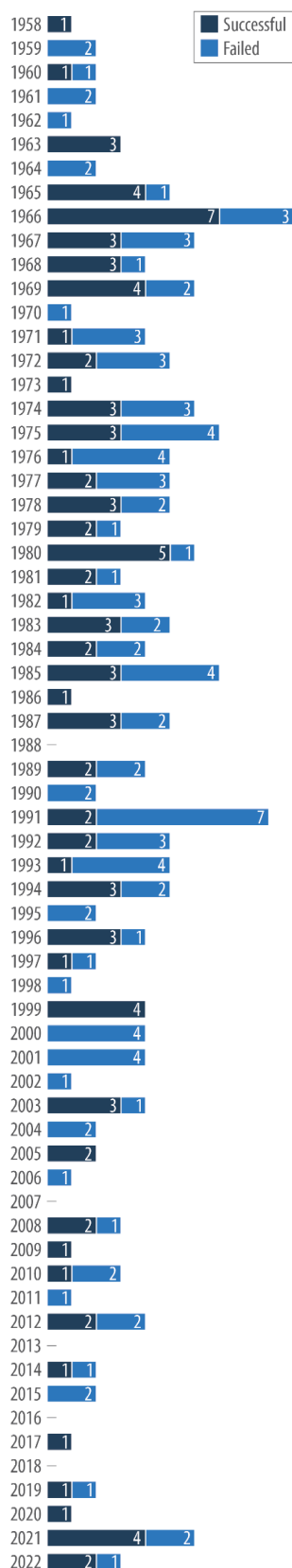
Source: Global instances of coups, 1950-present.

Since independence, most African countries have suffered *coups d'état* (see Figure 1). Coups have occurred regularly almost every year since the 1960s when African countries started achieving independence. Africa has only witnessed a few years without coup attempts (1988, 2007, 2016 and 2018). Until the 1990s, such coups were the most common form of government change, blocking democratic development on the continent. This prompted African leaders to take action at continental level, to end a tradition whereby all those who managed to seize power through brute force were recognised as legitimate rulers of a country.

In 2000, the AU's predecessor, the OAU, adopted the Lomé Declaration on the framework for an OAU response to unconstitutional changes of government, which defined four cases of unconstitutional change of (a democratically elected) government: i) a military coup d'état; ii) an intervention by mercenaries; iii) a seizure of power by armed dissident groups and rebel movements; iv) a refusal by an incumbent government to relinquish power after free, fair and regular elections. The new sanction consisted of the suspension of the country concerned from the OAU. This approach was reaffirmed in the Constitutive Act of the African Union, which includes among its governing principles the 'condemnation and rejection of unconstitutional changes of governments'. Article 30 of the Constitutive Act stipulates that 'Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.'

In 2003, the Peace and Security Council (PSC) was created within the AU framework to deal with cases of unconstitutional changes of government, among other things. Ratified almost unanimously, by 53 countries, the Protocol relating to the establishment of the PSC specifies that it shall 'institute sanctions [in conjunction with the AU Chairperson] whenever an unconstitutional change of government takes place in a member state, as provided for in the Lomé Declaration', but does not define the sanctions more explicitly.

The African Charter on Democracy, Elections and Governance, adopted in 2008, sets out a list of sanctions for perpetrators, namely banning them from participating in the democratic elections held to restore constitutional order, and from holding key government posts. Moreover, they may be tried before a competent AU court and subjected to economic sanctions.

The AU Assembly can also impose sanctions on a state that supports or encourages unconstitutional changes of government in another state. The Charter reiterates the definition of unconstitutional changes of government in the Lomé Declaration, and extends it to include a revision of the constitution in violation of the principles of democratic change of government. The Charter, which entered into force in 2012, has been ratified by only 36 of the AU's 55 member states (as of November 2022), and it therefore applies only to these states.

In 2010, the AU Assembly adopted a Decision envisaging similar punitive measures against the perpetrators of unconstitutional changes of government that apply to all AU states.

Fighting unconstitutional changes of government on the ground: Achievements and limitations

Since its creation, the AU has condemned and sanctioned numerous coups. The following states have been suspended and/or have seen sanctions imposed on the perpetrators of coups:

2003: Central African Republic, Guinea-Bissau

2005: Mauritania, Togo

2008: Mauritania, Guinea

2009: Madagascar

2010: Côte d'Ivoire

2012: Mali, Guinea-Bissau

2013: Central African Republic, Egypt, Guinea-Bissau

2015: Burkina Faso

2019: Sudan

2020: Mali

2021: Guinea, Mali, Sudan

2022: Burkina Faso

The AU's role has not been limited to sanctions. As a return to the situation preceding the coup is sometimes impossible, the AU insists on the organisation of free and fair elections within a clearly defined deadline as a prerequisite for the return to constitutional order.

Until the recent re-emergence of coups in Africa, the AU's policy had contributed to a significant reduction in the number of coups, as can be seen in Figure 1. More recently, however, critical voices have pointed to the AU's inconsistent or slow reaction to the crises in Chad and Sudan, and the risk that this inconsistency undermines the effectiveness of the policy. For example, the Crisis Group underlines that 'the AU's established norm against coups took a significant hit when its Peace and Security Council decided to maintain Chad's membership after the military took power in April [...and] the Council was deeply divided in trying to articulate a response to the October coup in Khartoum', but it was finally able to overcome its division. The Institute for Security Studies Africa underlines, in a similar vein, the lack of consistency revealed by the AU's reaction to the change of power in Chad.

The AU's greatest challenge in implementing its policy has been to react to forceful changes of government driven by popular discontent and mass uprisings against undemocratic governments. By definition, unconstitutional changes of government are directed against democratically elected governments, according to the Lomé Charter, but with many governments resulting from flawed elections on the continent, the border between democratic and non-democratic government is not easy to draw.

Taking into account the experience of the popular uprisings in North Africa in 2010-2011, the AU made efforts to outline what a legitimate change of government following a popular uprising could be. In April 2014, the PSC recommended 'the appropriate refinement of the definition of unconstitutional changes of government' in light of the popular uprisings against oppressive systems.

In June 2014, a report published by the AU High Panel on Egypt [2] shed some light on the conditions that could justify an unconstitutional change of government: the existence of an authoritarian government; total ineffectiveness of the constitutional means; popularity of the uprising; non-involvement of the military and peacefulness of the process. However, the Panel also expressed concern about the fact that 'mass uprisings could be allowed to justify the intervention of the military to remove democratically-elected governments'. So far, the recommendation of the Council to expand the definition of unconstitutional changes of government with regard to uprisings against oppressive systems of government has not been fulfilled, but it remains an objective worth pursuing according to civil society.

The AU's position against military coups following popular protests has remained uncompromising. In the case of Burkina Faso, and the popular unrest in October 2014 against long-time authoritarian ruler Blaise Compaoré, the PSC regarded the military takeover as an act of unconstitutional change of government, but it expressed its solidarity with the legitimate aspirations of the people of Burkina Faso.

Resurgence of coups

The resurgence of coups since 2021 on the continent in places such as Mali, Guinea and Burkina Faso has illustrated the risk that coup perpetrators can take advantage of popular discontent to legitimise their action. In all three places, there was genuine popular discontent with the performance of governments that came to power through elections that were competitive. In Guinea, the president had amended the constitution to run for a third term despite popular protests, while in Mali and Burkina Faso the governments had been unable to tackle grave security risks related to terrorist movements or address severe socio-economic grievances among the population.

The condemnation by the AU PSC of the coups in Mali (May 2021, August 2020), Guinea (September 2021) and Burkina Faso (February 2022) was, however, unequivocal. The Council rejected the coups and called for a swift return to the civilian order. In the cases of these coups in west Africa, the AU PSC's position was very much aligned with the position of the regional organisation, ECOWAS, which swiftly suspended the countries from its ranks and imposed sanctions on the military juntas, unlike in the cases of Chad and Sudan, where the respective regional organisations did not take a similar stance and preferred to engage in mediation. The accommodation by Chad's neighbours of what appeared to be an unconstitutional change of government, after the long-term president had been killed in combat in April 2021,[3] likely played a role in the AU PSC not rejecting the change of power as unconstitutional.

According to an AMANI Africa report in May 2022, the resurgence of coups in Africa is to be explained by factors such as democratic backsliding, increasing loss of government legitimacy, contested elections, unlimited power of the executive branch of government, and the lack of effective constitutional mechanisms for effecting a change of government, among other things. To address the phenomenon, it is therefore necessary to address these root causes.

To respond to the new urgency represented by the proliferation of *coups d'état*, the AU Assembly held an extraordinary session in Malabo, Equatorial Guinea in May 2022. One of the two major items on the agenda of this extraordinary summit was the resurgence of unconstitutional changes of government. The declaration adopted at the summit called for unequivocally condemning and continuing the zero tolerance policy with regard to unconstitutional changes of government, and proposed to reinforce the preventive approach, such as increasing support for member states in political transition and post-conflict situations.

A Reflection Forum on Unconstitutional Changes of Government in Africa took place from 15-17 March 2022 in Accra, bringing together members of the AU PSC and representatives of AU states, regional economic communities and AU institutions, as well as civil society. The Forum adopted the Accra Declaration, which emphasised that unconstitutional changes of government 'in any circumstances, should not be entertained or justified'. To prevent and respond to them, the declaration recommends: coherent implementation of the APSA and the African Governance Architecture; addressing development challenges; addressing factors that lead to unconstitutional changes of government, including manipulation of democratic processes to tamper with constitutions and effecting amendments to electoral laws shortly before elections; respect for constitutions, especially adherence to presidential term limits; and organising free, fair, transparent and credible elections.

Imposing sanctions against the perpetrators of coups

Sanctions against coup perpetrators have been the main tool of AU policy besides temporary suspension of a country from the AU. The PSC decides on the imposition of sanctions.

According to a report by the think tank ISS Africa, '[t]he AU has consistently implemented sanctions against unconstitutional government changes, particularly coups [...] Of the 22 cases [of unconstitutional changes of government] the PSC has handled since 2005, 91% of states were suspended.' The report underlines, however, that many coup-makers have re-entered government in spite of the rules prohibiting them from doing so.

A notable controversy arose in connection with the application, during the crisis in Egypt in 2013, of the rule prohibiting participants in a coup from taking part in the next elections, due to the fact that the newly elected president, Abdel Fattah al-Sisi, had been involved in the ousting of the previous president, Mohammed Morsi. Given the AU's lenient attitude towards Egypt on this occasion, critical voices spoke of double standards and preferential treatment for the big member states, jeopardising the AU's leverage. To make sanctions more consistent and effective, in May 2022 the AU decided to activate its Peace and Security Council sanctions committee. This committee was established in 2009, but had never been operational.

Reacting to leaders clinging to power

While the AU's policy against coups is well defined and was, for a while at least, quite effective, the AU is not endowed with similar tools to react to leaders who want to extend their stay in power through potentially unconstitutional means, such as postponing elections indefinitely, rigging elections or scrapping or circumventing presidential term limits. These are not included in the definition of unconstitutional changes of government and are not subject to AU sanctions, with the exceptions of the refusal to relinquish power after lost elections, and of undemocratic revisions of constitutions, according to the Lomé Declaration.

It is, however, difficult to draw a line between democratic and undemocratic constitutional amendments, given the numerous instances of what academics call 'constitutional but illegitimate amendments' in Africa. In some cases of incumbents clinging to power, the AU has tried to mediate a consensual solution through power-sharing agreements; this approach faced criticism, since it involved condoning autocratic rulers and went against the AU's own principle of acceding to power only through democratic means. For example, in the crisis in Burundi in 2015, the AU did not condemn the attempt by the then president to run for an unconstitutional third term. It tried instead to mediate in the crisis, but also threatened, unsuccessfully, a military intervention without the country's government's consent to stop repression against civilians – the first time it had done so.

Following the 2016 presidential elections in The Gambia, on the other hand, the AU PSC took an unequivocal position, recognising the opposition candidate as the winner and withdrawing recognition of the incumbent president, who was trying to cling to power. He was ousted through military intervention by ECOWAS, the regional organisation in west Africa.

In other cases, the PSC has not reacted to the extension of presidential term limits, such as in Guinea in 2020, where the third term obtained by the former president after a contested constitutional amendment paved the way to the coup. The 2022 Accra Declaration on unconstitutional changes of government, mentioned above, makes an appeal to African states to respect term limits, but the Malabo Declaration of the AU Assembly of May 2022 limits itself to 'commending' those states that respect term limits.

> The European Union has consistently condemned coups in Africa and has reacted to them with sanctions imposed under the democracy and human rights clause of the Cotonou Agreement. In 2013, the EU-ACP Joint Parliamentary Assembly adopted a resolution on the threats posed again by military coups to democracy and political stability in ACP countries, in which it asked for the effective adoption and application of the AU's doctrine on unconstitutional changes of government.

MAIN REFERENCES

African Union treaties.

AMANI Africa, Unconstitutional Changes of Government: Policy Recommendations for the AU Extraordinary Summit, 2022.

ENDNOTES

[1] The data provided by the APRM is not up to date, therefore determining an exact number is not possible.

[2] Instituted in 2013 and consisting of Alpha Oumar Konaré, former President of the Republic of Mali and former Chairperson of the AU Commission, as its chair; Festus Gontebanye Mogae, former President of the Republic of Botswana; and Dileita Mohamed Dileita, former Prime Minister of the Republic of Djibouti.

[3] A group of military officers assumed power, installed the former president's son as interim president and suspended the constitution, which envisaged that, in such a situation, the chair of the National Assembly should temporarily assume the function of president.

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