

Resolution on Unconstitutional Changes of Government in Africa - ACHPR/Rés.515(LXX)

Mar 25, 2022

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 70th Ordinary Session held virtually from 23 February to 9 March 2022;

Recalling its mandate of promotion and protection of human and peoples' rights in Africa, pursuant to Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Considering Article 3(f) and (h) of the Constitutive Act of the African Union (the Constitutive Act), which states that the objectives of the African Union (AU) are to promote peace, security and stability on the continent, as well as human and peoples' rights in accordance with the African Charter and other relevant human rights instruments;

Considering Article 4(m) and (p) of the Constitutive Act which sets out as fundamental principles, respect for democratic rules, human rights, the rule of law and good governance; and the condemnation and rejection of unconstitutional changes of government;

Considering also Article 30 of the Constitutive Act which provides that governments which come to power through unconstitutional means shall not be allowed to participate in the activities of the Union;

Recalling Article 1 of the African Charter which calls on Member States to adopt legislative or other measures to give effect to the rights and freedoms enshrined therein;

Emphasising the provisions of the African Charter on Democracy, Elections and Governance (the African Charter on Democracy), in particular, Articles 2, 3, 5, 23, 24, 25 and 26;

Noting Articles 1, 2, 3, 6, 7, 9 and 45 of the ECOWAS Protocol on Democracy and Good Governance, supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Resolution, Peacekeeping and Security;

Noting also Aspirations 4 and 6 of Agenda 2063 which aims for a peaceful and secure Africa as well as an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children ;

Recalling the relevant provisions of the Algiers Declaration AHG/Dec. 142 (XXXV) of July 1999 on Unconstitutional Changes of Government, the Lomé Declaration AHG/Decl.5 (XXXVI) of July 2000 on the Framework for an OAU Response to Unconstitutional Changes of Government, and the 2003 Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

Recalling also the principles stipulated in its Resolution ACHPR/Res.213 (LI) 2012 on Unconstitutional Changes of Government of 2 May 2012, which condemns attempts at instituting autocratic regimes and unconstitutional changes of government on the continent, acts which it considers to be a serious threat to stability, peace, security and development;

Concerned seriously about the resurgence of unconstitutional changes of government in Africa through military takeovers, the extension of mandates through the adoption of amendments to Constitutions, the failure of incumbents to relinquish power after losing free and fair elections; a

situation which has a negative impact on stability, sustainable democracy and the socio-economic development of the continent;

Deploing the recent military takeovers in Mali, Guinea-Conakry, Burkina Faso, The Sudan and the attempted coup d'état in Guinea-Bissau, some of which resulted in the loss of lives, in violation of democratic principles and rule of law;

Echoing the strong condemnation of these unconstitutional acts by the African Union (AU), Regional Economic Communities (RECs), Regional Mechanisms (ReMs) and the International Community;

Conscious of the need to remind African States of their obligations under international law to respect democratic principles, human rights, the rule of law and good governance, and to promote peace, security, stability and development in Africa;

Recalling that the seizure of power by force by any civilian or military group is contrary to the provisions of Articles 13 (1) and 20 (1) of the African Charter;

The Commission:

1. **Reiterates** its condemnation of the recent military takeovers and other forms of unconstitutional changes of government in Africa;
2. **Calls** on the AU, RECs, ReMs and the International Community to pursue constructive dialogue with the countries concerned, with a view to ensuring a rapid return to constitutional order;
3. **Urges** the AU Peace and Security Council to play a central role, working with the RECs, ReMs and the States concerned to ensure a swift resolution of the crises as mandated by its Constitutive Act;
4. **Urges** the AU Peace and Security Council and AU Member States to implement the relevant provisions and principles enshrined in the African Charter on Democracy and the Lome Declaration which *inter alia* prohibits the extension of mandates through the adoption of amendments to Constitutions, and the failure of incumbents to relinquish power after losing free and fair elections;
5. **Calls** on the AU, RECs and ReMs to adopt measures that would effectively address the root causes and triggers leading to unconstitutional changes of government in Africa, with a view to building a culture of respect for human rights, rule of law and ensuring coherent implementation of democratic governance in Africa, in accordance with the relevant treaties, instruments and mechanisms as envisaged in Agenda 2063;
6. **Calls** on the AU to strengthen the capacity of the AU Peace and Security Council to address the scourge of conflicts including unconstitutional changes of government; enhance its early warning systems, as well as undertake regular and effective conflict prevention measures in collaboration with RECs and ReMs;
7. **Urges** all African States to respect and comply with the provisions of the African Charter on Human and Peoples' Rights, the African Charter on Democracy, Elections and Good Governance, the Constitutive Act of the AU and other relevant regional and international instruments;
8. **Calls** on Member States of the AU that have not yet done so to ratify, domesticate and implement the African Charter on Democracy, Elections and Good Governance;

9. **Encourages** States to put the era of unconstitutional changes of government behind them in order to ensure progress and development, and foster a climate in which human rights values can flourish;

10. **Calls** on National Human Rights Institutions, civil society organisations and other stakeholders to intensify their advocacy and other activities at the national, regional and continental levels, with a view to promoting a culture of respect for human rights and rule of law as well as ensuring coherent implementation of democratic governance in Africa and the accountability of duty bearers.

Done on 9 March 2022