

**DECISION ON THE PREVENTION OF UNCONSTITUTIONAL CHANGES OF
GOVERNMENT AND STRENGTHENING THE CAPACITY OF THE AFRICAN UNION
TO MANAGE SUCH SITUATIONS**

Doc. Assembly/AU/4(XVI)

The Assembly,

1. **TAKES NOTE** of the Report of the Chairperson of the Commission on the Prevention of Unconstitutional Changes of Government and the Strengthening of the Capacity of the African Union (AU) to Manage such Situations;
2. **RECALLS** its previous decisions on the issue of Unconstitutional Changes of Government, particularly Decisions Assembly/AU/Dec. 220(XII) and Assembly/AU/Dec. 253 (XIII) adopted at its Twelfth and Thirteenth Ordinary Sessions held, respectively, in Addis Ababa, from 1 to 4 February 2009, and in Sirte from 1 to 4 July 2009, as well as the Tripoli Declaration on the Elimination of Conflicts in Africa and the Promotion of Sustainable Peace, especially paragraph 8 thereof, adopted by the Special Session of the Assembly of the Union held in Tripoli, Great Libyan Arab Jamahiriya, on 31 August 2009;
3. **REITERATES** the African Union's total rejection of Unconstitutional Changes of Government, and its determination to put a definitive end to this scourge which undermines the progress achieved in the ongoing democratization processes in the Continent and constitutes a threat to peace and security in Africa. To this end, the Assembly **REAFFIRMS** the importance of the Algiers Decisions of July 1999, the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Lomé, Togo, from 10 to 12 July 2000, as well as the relevant provisions of the Constitutive Act of the African Union and the Protocol Relating to the Establishment of the Peace and Security Council;
4. **TAKES NOTE** of the initiatives taken by the Commission to follow up on Decision Assembly/AU/Dec. 253 (XIII), including the consultations with the various stakeholders to seek their views on the issue, including the strengthening of coordination with the AU, and the conclusions of the Peace and Security Council Retreat held in Ezulwini, Swaziland, from 17 to 19 December 2009;

5. **CONSIDERS** that AU is endowed with the instruments required to tackle the scourge of unconstitutional change of Government and that the objective should be to promote the effective implementation of these instruments by, where necessary, refining, enriching and updating them, rather than elaborating new instruments. The Assembly **ALSO EMPHASIZES**, in conformity with the relevant AU instruments, the need for a comprehensive approach to the issue of unconstitutional changes of Government based on zero tolerance for *coups d'Etat* but also for violations of democratic standards, the persistence and reoccurrence of which could result in unconstitutional changes;

6. **ENDORSES** the recommendations contained in the Report of the Chairperson of the Commission and, more specifically, agrees on the following measures:
 - i) **Enhancing the effectiveness of AU response to unconstitutional changes and modalities for accompanying transitions:**
 - a) **REITERATES** its appeal to all the Member States concerned to take, without delay, the measures required of them to become parties to the African Charter on Democracy, Elections and Governance, which considerably strengthens the provisions regarding unconstitutional changes of Government, and **REQUESTS** the Commission, working closely with the relevant structures of the Union, particularly the Pan-African Parliament, to pursue and step up its efforts at raising the awareness of all the concerned stakeholders to speed up the entry into force of the Charter;

 - b) **DECIDES** that, in cases of unconstitutional changes of Government, in addition to the suspension of the country concerned, the following measures shall apply:
 - a. non-participation of the perpetrators of the unconstitutional change in the elections held to restore constitutional order;

 - b. implementation of sanctions against any Member State that is proved to have instigated or supported an unconstitutional change in another State;

 - c. implementation by the Assembly of other sanctions, including punitive economic sanctions.

- c) **DECIDES ALSO** that Member States should, upon the occurrence of an unconstitutional change of Government, not recognize the *de facto* authorities; and **CALLS ON** all non-African international bodies, including the United Nations and its General Assembly, to refrain from granting accreditation to such authorities, thus strengthening the automatic suspension measures taken by the AU against those countries in which unconstitutional changes of Government have taken place;
- ii) **Revitalization of the mechanism for structural prevention of Unconstitutional Changes of Government**
- a) **UNDERScores STRONGLY** the importance of the signing and ratification by Member States that have not already done so, of the AU Charter on Democracy, Elections and Governance, and of adhering to the principles of good neighbourliness and non-subversion. With respect to good governance and the rule of law in particular, the Assembly **REITERATES** the need for Member States to uphold the rule of law and abide by their own Constitutions, especially with regard to constitutional reforms, bearing in mind that failure to respect these provisions could lead to situations of tension which, in turn, could trigger political crisis;
- (b) **REQUESTS** the Peace and Security Council, pursuant to the provisions of Article 7(m) of the Protocol Relating to the Establishment of the PSC, which stipulates that this body, in collaboration with the Chairperson of the Commission, shall “follow-up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life by Member States”, to examine regularly progress made in the democratisation processes, on the basis of a report prepared by an independent Rapporteur to be appointed by the Chairperson of the Commission, who will be given the necessary support in terms of personnel and expertise. The Assembly **DECIDES** that, for 2010, Year of Peace and Security in Africa, this review shall be effected by a meeting of PSC at ministerial level;
- (c) **REQUESTS** the Commission to redouble its efforts to ensure the follow-up and effective implementation of the recommendations made by the Panel of the Wise in its Report on the Strengthening of the Role of the African Union in the Prevention, Management and Resolution of Elections-related tensions and violent conflicts in Africa as endorsed by the Thirteenth Ordinary Session of the Assembly of the Union [Document Assembly/AU/6(XIII)]

Rev.1], considering the fact that differences concerning the conduct of an electoral process contribute to the occurrence of an unconstitutional change of Government;

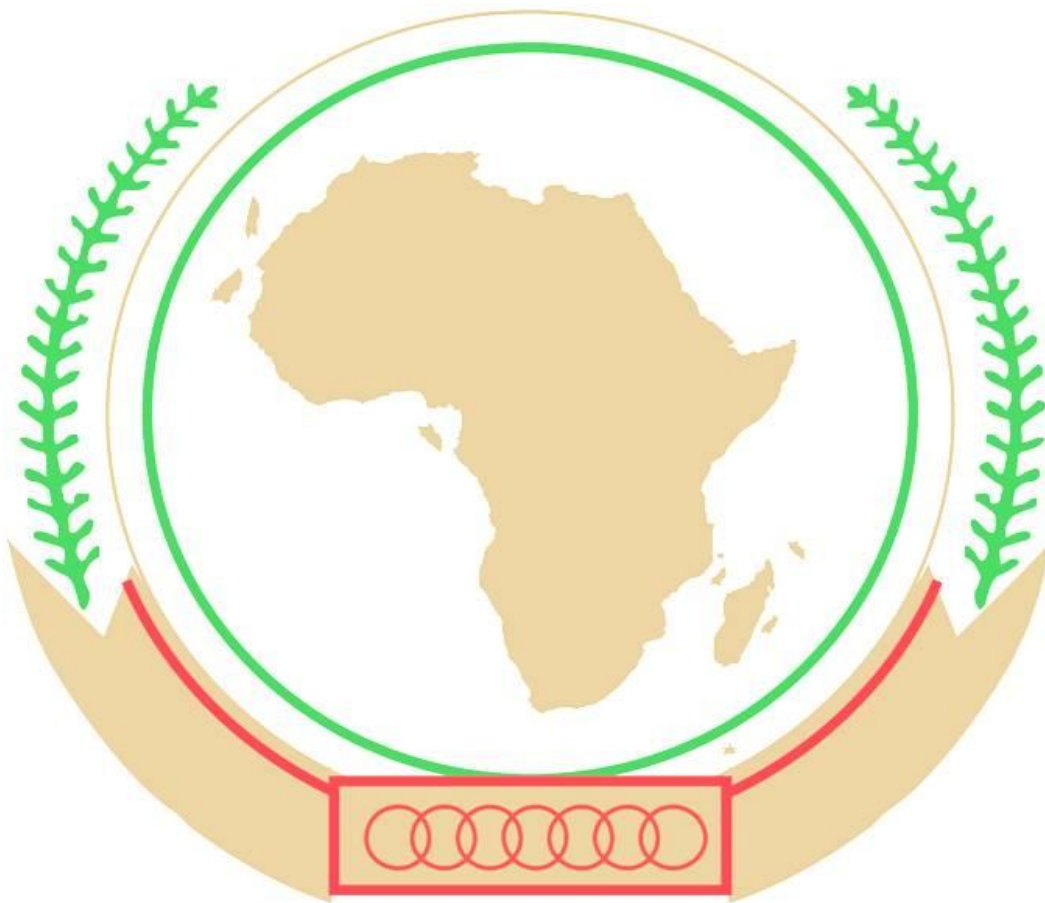
- (d) **UNDERScores** the need to build AU's proactive capacity, through a much more dynamic direct preventive action. In that connection, the Assembly **ENCOURAGES** the Chairperson of the Commission to make full use of the powers conferred on him by the provisions of Article 10 (2b) of the Protocol establishing the PSC and to work, as necessary, with the Panel of the Wise and other eminent African personalities to diffuse tensions and resolve crises which could lead to unconstitutional changes of Government. The Assembly **UNDERScores** the obligation on the part of Member States to provide all the assistance and cooperation required to that end.

(iii) **Coordination at regional and international levels**

- a) **REITERATES** the primacy of the Union's responsibility in the promotion of peace, security and stability in the continent, in accordance with the Protocol relating to the Establishing of the PSC, and **DECIDES**, therefore, that whenever the AU takes a decision on an unconstitutional change of Government, it must do so in close consultation with the Regional Mechanisms for Conflict Prevention, Management and Resolution as provided for under Article 16 of the above referred Protocol. The Regional Mechanisms must conform with the decision thus taken and, in particular, refrain from admitting States suspended from participating in the AU activities. The Assembly **FURTHER DECIDES** that, in discharging its mandate, the PSC should take into account the fundamental role of the RECs and their rules and practices governing unconstitutional changes of government;
- b) **REQUESTS** AU partners, both bilateral and multilateral, including the UN and the European Union, to strongly support the decisions taken by the AU in situations of unconstitutional change of government and to refrain from any action which could undermine the efforts of the AU and send conflicting signals to the perpetrators of unconstitutional changes;
- c) **RECOGNISES** the important role played by International Contact Groups in mobilizing the support of AU partners and the international community as a whole to AU positions on unconstitutional changes of Government, and **ENCOURAGES** the Commission to establish, as and when necessary, such Groups under AU leadership, in order to mobilize the broadest support

possible for decisions taken by the Union in accordance with the relevant instruments of the AU;

7. **REQUESTS** the Chairperson of the Commission to take all necessary measures to follow-up and implement this Decision and to report regularly on efforts deployed to this end.



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