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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE SITUATION
IN THE ISLAMIC REPUBLIC OF MAURITANIA**

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I. INTRODUCTION

1. While President Maaouiya Ould Sid'Ahmed Taya was away in Riyadh, Saudi Arabia, for the funeral of King Fahd, Nouakchott found itself, in the early hours of the morning of Wednesday 3 August 2005, in the hands of soldiers of the Presidential Guard, who had taken up strategic positions in the capital. They took over the military headquarters, the national radio and television building and blocked access to the presidency and the ministries. Vehicles equipped with heavy weapons and anti-aircraft batteries were positioned in strategic points of the town. In the meantime, the airport was closed to civilian traffic; then followed artillery gun shuts, which added to the confusion already prevailing the whole day on the nature of the operation.

2. By late afternoon, it became clear that the operation was a coup d'état. In a communiqué by the Armed and Security Forces, carried by *Agence Mauritanienne d'Information*, the coup plotters announced the formation of a Military Council for Justice and Democracy (CMJD), consisting of 17 members and chaired by Colonel Ely Ould Mohamed Vall, Director of National Security. In its communiqué the CMJD promised to bring about "conditions conducive for the practice of open and transparent democracy", during a "period of two years, deemed indispensable for the preparation and establishment of true democratic institutions". Later on, and while waiting for the establishment of true democratic institutions, the Council decided to maintain the Government but to dissolve Parliament and the Senate.

3. The feat of force occurred in a context of agitation marked by a cycle of instability, characterized by repeated coup attempts and other plots, as well as the tensions generated not only by the trial of the military and civilians involved in the said plots, but also by the repression of the Islamists and diplomatic choices denounced by the opposition.

4. It should be recalled that, on 8 June 2003, the Taya regime faced an attempted coup d'état that was foiled by the loyalist forces after 36 hours of fighting which by official accounts resulted in some 15 dead and several injured. That attempt was the opportunity for the armed opposition movement – *Les Cavaliers du Changement* – to come into the open. What followed was a series of arrests in August 2004 after the announcement by the government of the foiling of a new attempt by the *Cavaliers du Changement*. At the end of September 2004, despite the arrest of several officers, including one of the presumed brains of the attempt of June 2003, an announcement was made of another aborted coup attempt.

5. It was in that tensed context that the Presidential election of 7 November 2003 was organized. On the eve of the first round, the former President, Ould Haidallah, candidate in the election, was arrested and then released. He was later given a

suspended sentence and deprived of his civic and political rights. Furthermore, the first half of 2005 was marked by a number of arrests among the Islamists, accused of planning terrorist activities. On June 4 2005, a bloody attack was carried out against the military base in Lemgheity, North East of Mauritania; an attack that was claimed by the *Groupe Salafiste pour la Predication et le Combat (GSPC)*. Overlooking the internal context in which the aborted coup of June 2003 took place, President Taya was more concerned with external factors.

6. The Peace and Security Council (PSC), at its 36th meeting held on 4 August 2005, on the margins of the 4th Extraordinary Session of the Assembly, had examined the situation in Mauritania. On this occasion, the PSC:

- recalled the decisions on unconstitutional changes of government adopted by the 35th Ordinary Session of the Assembly of Heads of State and Government of the OAU, and the Declaration on the unconstitutional changes of government adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU in Lome, from 10 to 12 July 2000, as well as the relevant principles in the Constitutive Act of the African Union;
- firmly condemned the coup d'état that took place in Mauritania and demanded the swift return to constitutional order;
- decided, in accordance with the Lome Declaration and Article 30 of the AU Constitutive Act, to suspend the participation of Mauritania in AU activities until constitutional order was restored in that country; and
- decided, furthermore, to send a delegation of Ministers to Mauritania to reiterate to the coup makers the position of the AU and commit them to the swift return to constitutional order.

7. This report presents the visit and results thereof of the delegation of Ministers, which was dispatched to Mauritania in August 2005 and the subsequent evolution in the country. It concludes with observations on the role the AU might play in the process of a return to constitutional order.

II. VISIT OF THE AU DELEGATION OF MINISTERS

8. The AU delegation of Ministers, which was led by Oluyemi Adeniji, Minister for Foreign Affairs of Nigeria acting on behalf of the Chair of the AU, and comprising C. Ngakula, Minister of Safety and Security of South Africa acting on behalf of the PSC Chairman for the month of August 2005, and Mathieu Kinouani, Analyst in the Peace and Security Department of the AU Commission, went to Nouakchott on 9 August 2005. On the same day, it was received by the Chairman of the Military Council for Justice and Democracy (CMJD), Colonel Ely Ould Mohamed Vall, and met successively with

the representatives of the National Bar of Barristers, all the political parties, the Diplomatic Corps, the Trade Unions and the Civil Society as well as the Employers.

9. During a two-hour meeting with the CMJD Chairman, Minister Adeniji, explaining the reason for the visit, recalled that the Delegation was mandated by the AU to present, before submitting it officially, the Statement adopted by the PSC on 4 August 2005, which reaffirmed the principle of the AU on the unconstitutional changes of government. He stressed that, in addition to condemning the coup d'Etat, the PSC had suspended the participation of Mauritania in the activities of the AU and decided to send a Delegation to the new Mauritanian authorities to reiterate the position of the AU, not with a punitive aim but to establish dialogue in order to agree with them on the modalities for the restoration of constitutional order as soon as possible.

10. The AU Head of Delegation recalled that unconstitutional changes of Governments are not accepted by the international community. He however pointed out that the particularity of the AU was its willingness to take the initiative of engaging and supporting the Mauritanian authorities in a process leading to positive results. It was within that framework that Mauritania could regain its place within the AU.

11. In his reply, the Chairman of the CMJD said he was happy for the opportunity afforded him to explain the reasons and objectives for the change in his country. Thus, he started from the outset: "I am going to surprise you by saying that I agree with this condemnation in principle. I, myself, condemn what happened. If I had another way of avoiding chaos in my country I would have used it. I have chosen the only way open to me."

12. Describing the political situation over the past fifteen years, he recalled that, following the pressure exerted on the authorities, Mauritania had chosen the path of democracy in the beginning of the 90s. During that process, the constitution was adopted. Whatever its worth, it made it possible to make some progress. Elections had been held. Although they were disputed, it was better than before. Legislative elections had also been organised and that was an additional step.

13. However, he pointed out that by adopting that constitution, Mauritians opted for democracy, a multiparty system and change. However, in practice, the former President, as he had established himself as the President of the Party-State, had taken away from the other Parties their purpose of existence and had blocked the advancement of democracy so greatly longed for. It was the return of the one party system, supported by a "mono-colour" Parliament whose objective was to guarantee that the Head of State remained in power. It was the case on three successive occasions and that could last indefinitely.

14. The accumulation of disappointments and frustrations translated into the fragmentation of political parties; the formation of illegal groupings aimed at destabilising the State; the denunciation by the Mauritians, in the Diaspora, of the excesses of power, thus discrediting the country; as well as the successive attempted

coups d'état. These were some of the problems, which confirmed the danger in which the country was sinking. Faced with this impasse, there was only one alternative: allow the authoritarian drift to take root and head for civil war or opt for change. The Armed and Security Forces, unanimously effected the change, convinced that it was the expectation of the Mauritanian people. As if to convince himself, the Chairman of the CMJD added: "You are free to meet all those with whom you want to discuss, they will confirm to you".

15. The Chairman of the CMJD, while recognising that "To change the institutions by force is execrable", added: "we have not carried out the coup d'état against the institutions. We are rather carrying a counter coup to restore the institutions in our country".

16. Then he dwelt on the "modus operandi" leading to the restoration of the institutions. He specified that it would be in two stages. The first stage which could extend over a maximum period of twelve months, would be devoted to the amendment of three provisions of the constitution, particularly those relating to the duration of the exercise of the Executive Power (Art.26), the number of terms of office (Art.28) and Article 104, all leading to a tight mechanism to banish forever any inclination for constitutional manipulation. The three amendments would be carried out by the political parties and the civil society under the supervision of the Government. Once finalised, they would be incorporated into the constitution, which would then be submitted to a referendum. The second stage, which would also be for twelve months, would be devoted to the preparation of the elections. In that regard, the new authorities offered the following guarantees:

- No member of the transition, that is, the Chairman and the members of the CMJD, the Prime Minister and the members of the Government, would be eligible for any post;
- The CMJD would not co-opt or favour any political party just as it pledged not to establish any political party or organisation;
- It behoved all friendly countries and/or any organisation, which so wished to send observers for the elections.

17. A maximum period of 24 months was only an indication, which, in any case, was not to be exceeded. If the Government, the political parties and the civil society had the capacity to go faster, that period could be shortened. Once that process was completed, the CMJD would be dissolved and power handed over to the newly elected authorities. Thus, it would have spared the country ravages of a crisis and inscribe in the collective memory, the rejection of change by force in the future. In conclusion, Colonel Mohamed Vall appealed for the understanding of the AU and urged it to support Mauritania in that process.

18. Taking the floor again, Minister Adeniji recalled the fact that, in this type of situation, the new authorities often made promises that never went beyond mere announcements to actually being translated into deeds on the ground. That justified the scepticism of some Member States, which could be tempted to say that “we have seen and heard all this before”. Basing himself on past experiences, the Head of the Delegation, as an advice, stressed the need to shorten the period. Indeed, it had been shown that the longer the transition lasted, the more difficulties would accumulate that could disenchant gradually those who had welcomed the change.

19. In the same vein, Minister Ngakula, basing himself on the example of South Africa, added that the amendment of the constitution as envisaged by the CMJD should be done within the shortest time possible. He recalled that, in the face of a constitution inherited from apartheid, the South African authorities contented themselves with making changes, which could make it possible to hold elections quickly. In the case of Mauritania, as the changes had been widely accepted, it was the time to submit the amended constitution to the people who, surely, would approve it overwhelmingly.

20. To conclude this first phase of discussions, the Chairman of CMJD clarified that it was not a question of reviewing the constitution but to amend three clauses, which were necessary for the institutional reform. Some time was required to submit them for debate and to incorporate them into the constitution. Twelve months was an indication in terms of obligation, but that could be done in shorter time.

21. On behalf of his colleagues, the President of the Bar first deplored the condemnation of the Coup d'état by the AU, then pointed out that the condemnation could make some sense if it were a country which had a democratic tradition and where the principle of alternation was guaranteed. This was not the case with Mauritania, which put up a semblance of democracy without any possibility of alternation.

22. The Mauritanian Bar supported the change. First, because it was the expression of the people's will and that of the civil society. Then because the programme put forward by the CMJD met the aspirations of the Mauritanian people. He stood by what he called a reasonable period of time, which could spread over from one to two years. The different speakers dwelt on the condemnation in principle and the passive attitude of the OAU/AU to the sufferings of the Mauritanian people. Minister Adeniji cleared the ambiguity by explaining the automatic nature of the sanctions, which should not be understood as a rift with the Organisation but as falling within the measures intended to assist Mauritania on its way back to constitutional order. To close the discussions and have a common understanding of the situation, Minister Ngakula asked questions of the audience. To the questions of knowing if there was a consensus on the Coup d'état and what should be done, the reply was affirmative.

23. While appreciating the speed of the action of the AU, Mr. Sidi Mohamed Ould Boubacar, the new Prime Minister, explained the manner in which they intended to attain the objectives set by the CMJD, particularly to ensure a peaceful transition and alternation in transparency. That was the task assigned to the Government whose

appointment was to take place in the coming hours. The Prime Minister considered that during an indicative period of twelve months, which could be shortened, the Government should expunge from the constitution the clauses, which emptied it of its contents. Then, it would, in a similar period, prepare the elections. The Head of Government assured the Delegation that everything would be done for the electoral process to be the subject of a consensus, with the help of external expertise.

24. The Delegation met almost all the Mauritanian political parties. The condemnation by the AU, judged by some as an insult to the Mauritanian people, was the subject of most vitriolic criticisms. The reference to the painful times which marked the political history of Mauritania and the drift of the former regime described by almost all the speakers confirmed the unanimous legitimacy of the use of force, which some called “the coup d’Etat of recovery”.

25. Some parties stressed the merits of the position of the AU while others expressed some concerns about the lack of agreement between the political parties on the main points of the CMJD programme. The transitional period, for example, was seen differently. For some, two years were too long while for others they were reasonable. The political parties appealed for the assistance of the AU to conclude successfully the process underway, particularly by helping them to organise themselves and by making the CMJD honour its commitments.

26. The meeting with the Ambassadors of France, the United States, China and Senegal focussed mainly on their assessment of the situation. In the view of the diplomats at post in Nouakchott, the opening of the borders immediately after the coup d’Etat, the details given by the CMJD on its intention and the precise details announced about the future deadlines, reflected a real will for the restoration of constitutional order. Asked about the timeframe for the restoration of the constitutional order, on the basis of their knowledge of the ground, the diplomats showed reservation, particularly, as the political parties themselves did not agree on the duration of the transition. Their interventions concentrated especially on the support they were prepared to give to the electoral process.

27. From the viewpoint of the civil society, the Taya regime maintained itself in power only through terror and violence. The society was divided between the killers and the victims. Mauritania, which was heading straight for a civil war departed from constitutional order. The civil society took note of this departure, for it gave rise to the hope that the problems facing the Mauritanian society could be resolved.

28. In their turn, employers, who feared a deterioration of the situation, were optimistic that the two-year transition was reasonable, lest perception overrides the need for success. Their adhesion to the coup d’état was complete, and they hoped that the change would lead to the overhauling of the economic system undermined by widespread corruption.

29. At the end of this long series of meetings, the AU Delegation went to the Presidential Palace for a second and last time. During that wrap-up meeting held at 0h30 with the CMJD Chairman, the Head of the AU Delegation stressed the usefulness and richness of the meetings with the different Mauritanian actors, for the different talks made it possible to note:

- that undoubtedly, there was favourable consensus in favour of the change;
- that all the Mauritanian parties appreciated the fact of having been invited by the Chairman of the CMJD to be informed about the process aimed at leading the country to a genuine democracy;
- that all the parties were aware of the amendments to be made to the Constitution and what was to be done before the elections.

30. From these consultations, the following conclusions can be drawn:

- o the CMJD should honour its commitments;
- o the issues raised should be supplemented by others, such as the return of the deportees, amnesty for all the Mauritians so that they could return without fear, the establishment of mechanisms guaranteeing civil liberties, the adoption of measures aimed at rebuilding the prestigious image of Mauritania;
- o everything should be done to shorten the transitional period;
- o the establishment of an Independent Election Commission;
- o the preparation of credible voters' lists with the assistance of international expertise and the participation of international observers in different elections;
- o the promotion of confidence– building measures for the political parities;
- o the establishment of mechanisms to combat corruption, particularly the rampant corruption at all levels, which discourages investment.

31. Taking the floor, Chairman Mohamed Vall emphasised that concerns of justice were at the core of his preoccupations, as indicated by the appellation of the CMJD. The composition of the new Government would translate that new priority which had as its focus on good governance. He said he was open to any external contributions to improve what was being undertaken. Referring to the talks of the Delegation with all the Mauritanian parties, he said: "You have noted part of my sincerity, later you will note the rest".

32. In his final statement, Minister Adeniji reiterated: “The Government that will be established must do everything in its power to shorten the transitional period”. The Colonel concluded: “ You can tell the AU on my behalf ”. It was on that reassuring note that the AU Delegation took leave of its host at 1:30 a.m.

III. SUBSEQUENT DEVELOPMENT OF THE SITUATION

33. Since the coup d'état on 3 August, the new authorities have taken a number of steps, which are in conformity with the promises they made upon taking power. By decree of the CMJD Chairman, dated 10 August 2005, a new government of 24 members, composed mainly by technocrats, was established. Since it took office, a number of important decisions have been taken. At its meeting of 17 August 2005, the Council of Ministers considered and adopted the following three draft decrees:

- Draft decree on the establishment of an inter-ministerial committee for justice. This committee would propose all necessary measures for the establishment of a judicial system characterized by equity and effectiveness, in consultation with the Magistracy and the Mauritanian Bar;
- Draft decree on the establishment of an inter-ministerial committee for the democratic transition process. This committee would propose all measures and provisions likely to ensure the smooth organization of elections in consultation with the recognized political parties and civil society organizations;
- Draft decree on the establishment of an inter-ministerial committee on good-governance. This committee will propose, as soon as possible, the necessary measures for laying down an effective system of good governance in consultation with the private sector and the civil society organizations.

34. At its meeting on 24 August 2005, the Council of Ministers considered and approved the draft constitutional ordinance on the ineligibility of the Chairman and the members of the CMJD, the Prime Minister and the members of the Government, for election at the presidential and legislative elections scheduled within the framework of the democratic transitional process. This draft ordinance, aimed at guaranteeing the absolute neutrality of the State and the Administration during the electoral process was the legal translation into deed of the assurance given by Colonel Ely Ould Mohamed Vall.

35. In his maiden statement, the Prime Minister pointed out three orientations. The first one compels the committee in charge of the electoral process to submit its report in 60 days at the latest. This report should, on the one hand reflect the synthesis of the opinions of the political parties and of the civil society organizations, and on the other hand, present a summary of the legislative and regulatory amendments necessary to lay down electoral laws free of restrictions to freedoms, and thus guarantee the

transparency of various elections. The second orientation suggested the preparation of the mechanism governing the opening of the country to international observers. The third one proposed the review of conditions under which the authors of the aborted coup of June 2003 are detained. In this regard, it should be stressed that on 29 August 2005, the Minister of Justice ordered the end of detention in isolation (detention in individual cell) of two former Mauritanian officers sentenced on 4 February 2005 to live imprisonment for their involvement in the attempted coups in 2003 and 2004.

36. Furthermore, in a request addressed to the United Nations dated 26 August 2005, the Mauritanian Government requested for electoral assistance in view of the organization of a constitutional referendum scheduled in July 2006 at the latest followed by presidential and legislative elections which the Mauritanian authorities intend to organize before 3 August 2007. This request for assistance purportedly focused on the following three areas:

- Support with regard to international observers through the coordination of the process of international election observation, the provision of logistical support to the international observers invited by the Government and the supervision, in full neutrality, of the publication of a joint report;
- Technical assistance in the following areas: support to the Independent Electoral Commission; support to the Ministry of Interior and other national administrations concerned with elections; preparation of a budget for elections, training of staff for the elections; civic education for the voters; logistics; electoral materials; coordination of international financial assistance for the elections.

37. On September 5 2005, Colonel Mohammed Vall announced a general amnesty decreed by CMJD for all Mauritians being prosecuted, indicted or sentenced for political crimes. This amnesty, which concerns more than some hundred persons, also applies to former president Mohamed Khouna Ould Haidalla (1980-1984), sentenced in 2004 to five years suspended sentence and deprived of his civic and political rights for attempts to overthrow constitutional order.

38. Shortly after the announcement of the amnesty, 32 persons, (mostly former soldiers) sentenced in February for taking part in the presumed putsch attempt in 2003 and 2004 against the dethroned President, were freed. Some hours later, five officers opposed to the putsch, and the only ones to have been arrested from the army ranks during the August 3rd coup, were also released. On the same day, 24 moderate Islamists locked up since last April for belonging to an illegal association, were freed by court judgement.

IV. OBSERVATIONS

39. The August 3rd coup d'état came unexpectedly and peacefully. It should be pointed out that the operation was bloodless. Nobody was troubled. On arriving

Nouakchott, the delegation of Ministers found the capital calm and peaceful with people going about their daily preoccupations as if nothing had happened. It should be stressed that during the operation of the coup d'état, the wife of the former Head of State and his children were in the Presidential Palace and were not threatened. The next day, the former First Lady was authorized to take whatever she needed and vehicles were placed at her disposal to help her move into a private residence. After that, all facilities were arranged for her to join her husband abroad.

40. Colonel Mohamed Vall and his comrades assert that they placed themselves in a strategy of anticipation to prevent an explosion, which seemed inevitable. However, there are many questions, which still have to be answered: how long will the honeymoon last? How will the relations between the CMJD and all the Mauritanian parties develop?

41. Beyond the condemnation and the subsequent decision to suspend Mauritania, the AU should guide the process of a return to constitutional order and the strengthening of democracy, in accordance with the Lome Declaration. In these efforts, the AU must take cognizance of the commitments made by the new authorities to organize free and transparent elections, and not to allow any member of the CMJD and the Government to stand for elections to be organized at the end of the transition. In addition, they promised to create an independent electoral commission with the help of the international community. Besides, Mauritanian parties have unanimously expressed the wish to see the AU support the process for the restoration of constitutional order.

42. In this context, I propose, in conjunction with the acting Chair of the AU and the Chair of the PSC, to take all the necessary measures to accompany the transitional process in Mauritania, in a bid to restore constitutional order, in accordance with the spirit and letter of the Lome Declaration, the Algiers Decision and the Constitutive Act of the AU. More specifically, AU's role would be to provide electoral assistance, encourage the dialogue and concertation which now prevail in the country, and to undertake any other activity that may facilitate the success of the transition within the shortest time possible, the advancement of the democratic process in Mauritania and the consolidation of the rule of law.

43. In the meantime, I encourage the Mauritanian authorities and the other actors concerned to continue to work together for the restoration of the constitutional order and the promotion of stability in the country.

44. In more general terms, and beyond the role the AU may play within the framework of re-establishing constitutional order in Mauritania, the events that have taken place in this country underscore the urgency, once more, of revisiting the Lome Declaration on unconstitutional changes of government. In this regard, it should be noted that in the draft Declaration submitted in Lome in July 2000, the Secretariat General of the OAU had proposed the inclusion, in the definition of "unconstitutional changes", the situations in which a government in power systematically violates the provisions of the constitution and human rights and impedes all possible democratic

change. This proposal was not adopted. It is necessary to re-examine it when the Lome Declaration is revisited within the context of the communiqué adopted by the 93rd Ordinary Session of the Central Organ of the mechanism for the prevention, management and resolution of conflicts held on 24 July 2003. In this communiqué, the Central Organ had stressed the need for an in-depth examination of the Lome Declaration in the light of developments that have occurred since it was adopted, and demanded that concrete proposals be made to it for the purpose of strengthening the effectiveness of the Declaration, including the rejection of the participation, especially as candidate, of the authors of unconstitutional change to elections aimed at restoring constitutional order.

2005

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