



# **From Non-Interference to Non-Indifference? The African Union's Fragile Commitment to Democracy in the EU Southern Neighbourhood**

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## Abstract

This case study explores the African Union's (AU) evolving role in democracy support, particularly in response to regime changes in the EU Southern Neighbourhood. While the AU has developed a robust normative framework – including the African Charter on Democracy, Elections and Governance (ACDEG) and the principle of non-indifference – its practical application has been inconsistent. Through an analysis of the AU's responses to the 2011 and 2019 uprisings in Tunisia, Egypt, Libya, and Sudan, the study reveals a pattern of selective enforcement shaped by internal divisions, external pressures, and a prioritisation of stability over democratic principles. Despite its formal commitment to constitutionalism and anti-coup norms, the AU often deviates from its own standards, raising questions about its credibility and the effectiveness of its democracy support mechanisms.

## Introduction<sup>1</sup>

The African Union (AU) is a regional organisation comprising fifty-five states from the African continent. Established on 9th July 2002, the AU succeeded the Organisation of African Unity (OAU), which was founded in 1963 with the aim of consolidating post-colonial states in Africa and fighting against foreign dependence.

The AU's inception marked a pivotal moment in African governance, striving to improve the living conditions of African citizens through economic development, democracy, and human rights protection (Badejo 2008). This pan-African organisation emerged from a process of reforms initiated under the OAU in the mid-1990s, a period which coincided with the end of the Cold War and significant changes within African societies, known as the 'third wave of democratisation'. During this transformative era, the OAU established a normative framework advocating for a governance system rooted in constitutionalism and democratic principles.

According to Sturman (2012), these reforms leading to the creation of the AU can be attributed to three factors: (1) the significant increase in the number of African democracies; (2) the active role played by 'norm entrepreneurs' within the OAU Secretariat and the AU Commission; and (3) a strong leadership from key member states like Libya, Nigeria and South Africa. Additionally, the failure of the OAU to address several conflicts in the African continent, such as to Biafran war in Nigeria, the civil war in Chad, the conflict in Western Sahara and the Rwandan genocide, underscored the need for these reforms (Munya 1999). As a matter of fact, several African leaders, such as former South African President Thabo Mbeki, advocated for a more interventionist approach, aiming to establish the organisation's authority to intervene in instances of military coups and severe human rights abuses (Nagar and Nganje 2016, 3). This explains why the transition from the OAU to the AU facilitated the emergence of the organisation as a normative community (Hellquist, 2021).

Within the realm of democracy support, the AU has articulated its commitment to several principles, including the 'principle of non-indifference', respect for human rights, and a dedication to promoting democracy and good governance. It has laid the groundwork for an institutional framework aimed at encouraging its member states to align with these principles. However, despite its efforts in this realm since its creation, the AU has made little progress in terms of fostering democratic change on the African continent. Moreover, the regional

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<sup>1</sup> Note: The content of this article was last updated on 10 September 2024.

organisation has faced recurrent criticism for its lack of consistency in addressing anti-democratic practices. How can such a contradiction be explained?

This study seeks to address this question. Firstly, we will analyse the AU's normative instruments and mechanisms designed to support democracy. Secondly, we will examine its response to the uprisings in North African countries in 2011 and 2019.

## **1 The AU's commitment to supporting and promoting democracy**

The AU's commitment to democracy in Africa is based on four key foundations: (1) ensuring peace and security, (2) promoting development, (3) fostering integration and cooperation, and (4) strengthening shared values, institutions, and capacity-building (Matlosa, 2011). In the process of reform leading to replace the OAU by the AU, constitutionalism was central. As articulated in the AU Constitutive Act (2000), there are several provisions highlighting various attributes of liberal democracy. This includes the imperative to limit presidential terms, conduct free and fair elections, and ensure the effective separation of powers. Two elements stand out as particularly relevant when analysing the AU's approach to democracy support in the EU Southern Neighbourhood: the adoption of the principle of non-indifference and the establishment of a foundational charter on democracy and human rights, which created a normative framework and sanctions regime to address what the Union termed "unconstitutional changes of government" (UCGs).

### **1.1 The principle of non-indifference: towards a more interventionist approach?**

Although non-interference stands as one of the AU's main guiding principles, the reform leading to the establishment of the AU also aimed at overcoming one of the main failures of the OAU: its incapacity to address conflicts, which was mostly attributed to the OAU's strict adherence to the "principle of non-interference in the internal affairs of States" (OAU Charter, article 3). In this context, the AU's Constitutive Act (CA) adopted a more interventionist approach enshrined in the principle of non-indifference.

In its principles, the CA prohibits "the use of force or threat to use force among Member States of the Union" and upholds the principle of non-interference "by any Member State in the internal affairs of another" (Article 4). More importantly, it includes the principle of non-indifference, which gives the AU the right "to intervene in a Member State pursuant to a decision of the Assembly [of Heads of State and Government] in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity." (AU CA, article 4). Those provisions related to the principle of non-indifference can be considered as the equivalent of the principle of responsibility to protect. Thus, as Sharpe (2017: 4) argues, "the birth of the AU represented a clear shift from a policy of non-interference to one of non-indifference". Besides, several references to human rights are included within the AU's guiding principles, including respect for democratic principles, human rights, the rule of law and good governance, and the "condemnation and rejection of impunity" (AU Constitutive Act, art. 4). In this vein, the AU adopted the African Charter on Democracy, Elections and Governance (ACDEG) in 2007, which constitutes the main pillar of its commitment to democracy.

### **1.2 The African Charter on Democracy, Elections and Governance**

Entered into force only five years after its adoption, in 2012, the ACDEG was signed by 46 African states and ratified by 36 of them, which is considerable given the number of authoritarian regimes in the African continent (Ionel, 2022). This charter marked the AU's entrance into a new

era, which entailed the acknowledgement “of principles of good governance, transparency and human rights [as] essential elements for building representative and stable government and contribute to conflict prevention” (Bamidele and Ayodele, 2018: 134).

The ACDEG was key in institutionalising democracy in Africa since it affirms the Member States’ commitment to promote “the universal values and principles of democracy, good governance” and “human rights” (ACDEG, preamble). Building on previous official documents – such as the African Charter on Human and People’s Rights, Algiers Decision on Unconstitutional Changes of Government, and the Lomé Declaration on the framework for an OAU response to unconstitutional changes of government – the ACDEG aims at promoting adherence to democratic principles. It establishes shared standards regarding democracy (e.g., rule of law, separation of powers, political pluralism) and provides recommendations for Member States to establish democratic systems. This includes the promotion of a “culture of democracy and peace”, the establishment of democratic institutions based on good governance, transparency, and accountability, as well as Member states’ commitment to regularly hold transparent, free and fair elections. Interestingly, the Charter includes references to gender equality in these processes of institutionalising democracy and to the guarantee of women rights.

Another relevant aspect of this Charter lies in its “condemnation and total rejection of unconstitutional changes of government” (ACDEG, chapter 3) and the provision of sanctions for their perpetrators. Drawing from the Lomé Declaration (2000), which condemns “any unconstitutional change of government”, the African Charter on Democracy, Elections and Governance is the legally binding instrument that helped to codify the definition of UCGs and establish an institutional framework to address UCGs (Nyinevi and Fosu, 2023: 101). In addition to reaffirming the “condemnation and rejection of unconstitutional changes of government” (article 4, p), the ACDEG codified and expanded the definition of UCGs to include the following scenarios of UCGs<sup>2</sup>:

- military coup d’état against a democratically elected government;
- intervention by mercenaries to replace a democratically elected government;
- replacement of democratically elected governments by armed dissident groups and rebel movements;
- the refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections; and
- any amendment or revision of the constitution or legal instruments is an infringement of the principles of democratic change of government.

The ACDEG requires all state parties to condemn and reject UCGs. It also stipulates the suspension of the country’s membership in the Union and prohibits the participation of perpetrators in any capacity if an UCG occurs. Besides, the Charter outlines punitive measures for those involved in UCGs. According to article 25, perpetrators of UCGs shall not be allowed to participate in the elections aimed at restoring constitutional order or hold senior positions; they may face trial before AU bodies; and the AU Assembly could impose further sanctions, including economic measures. It is important to note that the ACDEG imposes obligations on all state parties in the event of an UCG. These obligations include denying recognition to governments formed after an UCG, refraining from providing sanctuary to perpetrators, and facilitating their

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<sup>2</sup> While the first four scenario are already included in the Lomé Declaration, the fifth has been added in the ACDEG.

extradition for prosecution. Member states that support or instigate UCGs in other states may also face sanctions. In practice, the AU Peace and Security Council (2003), responsible for conflict prevention and resolution, has the authority to investigate UCGs and enforce sanctions if diplomatic efforts to restore constitutional order fail.

From this perspective, it can be argued that the adoption of the concept of UCG and the provision of sanctions against its perpetrators are key in supporting democratic processes among Member States by establishing an “anti-coup norm”. Indeed, statistics show that the AU automatically suspended UCG perpetrators 92% of the time and imposed sanctions in 67% of the cases since 2003 (Nathan, 2017). Additionally, the Union has deployed mediators to pressure those involved into UCGs to swiftly reinstate constitutional order (Obi, 2014: 73). As a matter of fact, the AU has been the regional organisation most active in using sanctions against its members compared to other regional organisations. According to Hellquist (2021: 451), this policy reflects “the transformation of African regionalism from sovereignty-preservation to involvement in matters traditionally defined as domestic affairs.”

### **1.3 Conceptual and practical limitations of the ACDEG and the UCG norm**

While the ACDEG undeniably reflects advancement in the realm of democracy support, it also entails both conceptual and practical constraints. Conceptually, Obi (2014: 69) contends that the Charter is based on a “rather superficial conceptualisation of democracy”, arguing that the liberal conceptualisation of democracy – rooted in procedural principles such as free and fair elections, political pluralism and universal adult suffrage – is difficult to implement in countries lacking the material conditions for democratic governance. In such contexts, where regimes have not adequately transformed economic, social and political life, the implementation of liberal democracy by political elites could potentially lead to ‘electoral authoritarianism’ – a system in which “factions of the dominant elite contest (and win) elections” (Obi, 2014: 70) – potentially resulting in two outcomes: the exclusion of a majority of citizens whose living conditions remain unchanged, and the legitimisation of pseudo-democratic regimes that nominally conform to international liberal democratic standards.

In practice, they are also limitations. Firstly, this Charter is non-binding and Member States are responsible for taking the necessary steps to establish democratic systems according to their domestic legislation and for assuming the political, economic and financial costs related to such an endeavour (i.e. institutional changes). Secondly, the pan-African organisation does not have the institutional and financial capacity to pursue democracy support and democracy promotion. Finally, any pressure exerted by the AU on a Member State to establish a democratic system could be considered as a form of interference in internal affairs.

While progress has been made in establishing a normative and institutional framework to address UCGs, the application of the anti-coup norm has been inconsistent (Nyinevi and Fosu, 2023: 111). As we will explore in the next section, there are inconsistencies in disqualifying perpetrators of UCGs and barring them from participating in transitional elections. Furthermore, the AU has been unable to address non-violent UCGs, such as manipulations to extend term limits or rig elections (Bamidele and Ayodele, 2018: 136). This is particularly concerning given that non-violent UCGs have emerged as one of the most pressing challenges to democracy in Africa (Nyinevi and Fosu, 2023).

All in all, the approaches and instruments analysed reflect the Union’s commitment to establish certain benchmarks for democracy in Africa. The adoption of a more interventionist approach,

embodied in the principle of non-indifference, along with the establishment of a normative, institutional and sanctions regimes to address UCGs have equipped the pan-African organisation to deal with anti-democratic attitudes, at least in theory. However, the conceptual and practical constraints discussed earlier highlight the numerous obstacles that remain for the AU to effectively support democracy and to prevent UCGs. In the next section, we will focus on the Union's response to political changes in the wake of the 2011 Arab uprisings.

## **2 The AU's Response to the 2011 and 2019 Arab Uprisings**

The 2011 Arab uprisings represented a critical juncture as the massive protests that erupted in Tunisia spread to its neighbouring countries. While the demands were similar across North Africa, the outcomes varied significantly. From burgeoning democratisation processes (Egypt and Tunisia) to constitutional reform (Morocco), including conflict involving foreign intervention (Libya), these events serve as crucial test cases for three principles and objectives of the African Union: (1) its commitment to support democracy; (2) its stance against UCGs; and (3) its principle of non-interference. This section will delve into the AU's responses to the uprisings in four cases: Tunisia, Libya, Egypt, and Sudan.<sup>3</sup>

### **2.1 Tunisia (2011-2021)**

The 2010-2011 uprisings in Tunisia led to the ousting of President Zine El Abidine Ben Ali in February 2011, ending three decades of authoritarian rule. The country then took significant steps towards transitioning to democracy: elections were held in October 2011 for a National Constituent Assembly and a new constitution was adopted in January 2014.

Since this process adhered to the country's constitution provisions, the AU refrained from labelling it as a case of UCG (Bamidele and Ayodele, 2018). Instead, the Union provided support to Tunisia by deploying an election-monitoring mission in October 2011 in response to an invitation from the Tunisian interim government, for the Constituent Assembly elections. Besides, the regional organisation expressed its support to democratic transition by commending "the Tunisian people for the success of the first pluralist and democratic elections in the country's history, which will pave the way for the establishment of a democratic constitutional regime" (Tamburini, 2023).

In contrast, the AU abstained from taking any position in 2021 when Tunisian President Kaes Saied invoked the 2014 constitution to seize emergency powers and stage a self-coup in July 2021 (Tamburini, 2023). Within a few months, Saied froze the Parliament, suspended the 2014 constitution, dissolved the Supreme Judiciary Council and submitted a new constitution to referendum in July 2022 without making room for participation and deliberation. The constitution was approved with less than 30 percent turnout.

Despite the continuous democratic backsliding in 2022 and 2023, which included jailing several political figures and civil society activists, the AU has avoided taking any stance (Fabiani 2021). Instead, Tunisia became a member of the AU Peace and Security Council (AU PSC) – a body which is precisely in charge of monitoring compliance with constitutionalism. An explanation for the AU's limited engagement in this case is attributed to the organisation's scarce resources,

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<sup>3</sup> Morocco and Algeria experienced major protest movements in 2011, 2016–2017, and from 2019 to 2022, respectively. These cases are not included in this study, as the AU did not issue a significant response in either instance. However, we will address this lack of engagement in our conclusions.



which are mostly directed towards addressing more conflicting situations elsewhere in Africa (Abebe 2022).

## 2.2 Egypt (2011-2014)

The ousting of Egyptian President Hosni Mubarak on February 11, 2011, differed from that of Ben Ali in Tunisia. Mubarak's removal was made possible by the intervention of the Supreme Council of Armed Forces (SCAF), which subsequently suspended the constitution, dissolved the parliament, and managed the transition process.

The AU regarded this sequence of events as a case of UCG (Bamidele and Ayodele, 2018). However, the Union refrained from suspending Egypt. Instead, it urged Egypt's leadership to reinstate constitutional rule through parliamentary and presidential elections, which were held in 2011 and 2012, respectively. Less than a year after Morsi assumed the presidency, his inability to satisfy the popular demands and his conflict with the military led to a coup d'état on 3 July 2013, led by then Minister of Defense Abdel Fattah el-Sisi.

While several Arab countries generally expressed support or remained neutral regarding the military coup, the AU PSC decided to suspend Egypt's membership to the Union two days after what is considered an UCG. The justification for this decision lay in the fact that Morsi was democratically elected, and the AU emphasised that democratic elections are the only sole legitimate means for removing a leader (Maasho, 2013). In other words, the Union "pinned its decision [to suspend Egypt] to the national constitution, rather than directly to one of the five situations within 'the AU UCG norm'" (Hellquist, 2021: 458). This approach demonstrated the AU's commitment to make "no exception for one of the 'big five' in African politics", thereby emphasising "the idea of equality before the peer" (Hellquist, 2021: 459). Interestingly, while Egyptian authorities firmly rejected the applicability of the AU's sanction, arguing that Egypt is was not a party to the ACDEG<sup>4</sup>, they did not contest the authority of the AU itself.

Following Egypt's suspension, several neighbouring countries insisted on Egypt's significant role on the African continent and supported the view that Cairo was eager to return "to the path of constitutionalism and political stability as quickly as possible" (Hellquist, 2021: 458). This narrative was further bolstered by military leaders, who portrayed themselves as champions of the popular cause and declared their intention not to rule. Besides, the US failed to call this event a coup – given the implications for Washington's annual aid to Cairo –, while the Arab League and the EU remained relatively silent on the matter.

The transitional roadmap resulted in the suspension of the 2012 constitution and power was transferred to the interim president to issue constitutional decrees. On June 17, 2014, shortly after Egypt's presidential elections, won by el-Sisi, the AU readmitted Egypt. However, this decision is problematic as the AU's institutional framework (AU CA, Lomé Declaration, AECDG) prohibits the participation of perpetrators of UCGs in any process aimed at restoring constitutional order. Moreover, the outcome of the 2014 elections, with el-Sisi securing 96,1% of the votes, suggest that the 2014 Egyptian presidential election fell short of international standards of democracy (Kirkpatrick, 2014). Nevertheless, the AU justified its decision not to bar el-Sisi from contesting this election, arguing that the Egyptian case should be "viewed in light of the unique set of circumstances" (AU, 2014). In the words of Nyinevi and Fosu (2023: 107), the

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<sup>4</sup> As Nyinevi and Fosu (2023: 108) argue, despite not being a party to the ACDE, Egypt is a signatory to the AU Constitutive Act, which includes provisions prohibiting UCGs.

decision to allow el-Sisi to run in the transitional election “was a missed opportunity to show consistency and resilience”.

Interestingly, suspension did not result in isolation. Despite imposing, the AU actively sought to engage with the new administration and eventually readmitted Egypt. While this approach may be viewed as pragmatic, it also raises concerns about the credibility of the regional organisation. Indeed, the AU “disregarded the rule prohibiting legitimisation of coup-makers”, thereby setting a low threshold for readmission considering the circumstances under which Egypt was readmitted (rigged elections and a catastrophic human rights record including the 2013 Rabaa massacre) (Hellquist, 2021: 461).

### 2.3 Libya (2011)

In Libya, the 2011 peaceful protests were met with harsh repression, leading to a violent escalation and eventually sparking a civil war. In response to Qaddafi’s threat to its own population, the UN Security Council adopted on 18 March 2011 the resolution 1973, authorising the use of force to protect civilians. The controversial interpretation of this resolution, coupled with Qaddafi’s will to remain in power, quickly precipitated armed conflict and foreign intervention.

Initially, the AU refrained from intervening and suspending Libya for several reasons. Firstly, because of the organisation’s principle of non-interference. Secondly, this cautious stance was attributed to Gaddafi’s high position within the organisation (Sturman 2012) and the fear that the collapse of the Libyan regime would pose greater security risks to both Maghrebi and Sahelian countries (Obi, 2014: 78), which eventually became a reality (Lounnas, 2018). Thirdly, the AU’s response can be understood in the light of its approach to UCGs. Although it denounced the repression of Qaddafi’s rule against the demonstrators, the Union did not suspend the country from the organisation because it primarily considered the massive protests in Libya and the subsequent developments as the manifestations of an UCG. As Sturman (2012: 3) points out:

“The events of early 2011 demonstrate the limitations of the AU’s architecture for promoting democracy. The constitutionalism on which the AU’s democracy promotion was founded does not provide for an adequate response to popular uprisings, or what could have been interpreted as “direct democracy” in action. On the contrary, taking to the streets to remove heads of state from power was interpreted by some within the AU as an unconstitutional change of government, since constitutional democracy only allows for removal from power by elections.”

Instead of intervening or supporting any external military intervention, the AU attempted to act as a mediator and sought a ceasefire from Gaddafi during the bombing campaign, which was seen as both premature and unrealistic (Sturman, 2012). The organisation issued two communiqués on 22 February and 10 March 2011. The first was meant to deploy a mission of Council to assess the situation on the ground. Yet, it has never materialised, and the AU ended up marginalised by the UNSC, especially after it adopted resolution 1973 (Kasaija, 2013: 124). The second communiqué advocated for the creation of a roadmap to address the situation and proposed a High-Level Ad Hoc Committee on Libya to engage with all the parties, monitor developments on the ground and facilitate dialogue with other relevant actors, such as the EU, the UN and the Arab League. However, the ad hoc committee faced hindrances due to disagreements among the involved parties and the unfolding events in Libya.

Due to its regional and international implication, the situation in Libya led to significant polarisation within the AU. As the AU rejected what it perceived as an UCG, the AU PSC refused to recognise the Transitional National Council (TNC), which was established in March 2011 to serve as the rebellion's military leadership, as Libya's legitimate authority. Instead, the AU PSC advocated for the formation of an all-inclusive transitional mechanism to oversee the democratic process until a new constitution is drafted and elections are held. However, 11 member states including Nigeria, Rwanda, Uganda did not share the same view and recognised the TNC as the legitimate representative of the Libyan opposition which should guide the country's transition. Other actors, including the UN, the Arab League, the Organisation of the Islamic Conference and the Gulf Cooperation Council, adopted the same view. This obliged the Union to recognise the TNC as the representative of the Libyan people, although it "continued to insist that the TNC formed an all-inclusive government, before it was allowed a seat in the AU." (Kasaija, 2013: 132).

Furthermore, the differing perspectives on the UNSC resolution paving the way for military intervention in Libya intensified these polarising dynamics. Within the AU, there was no unified stance regarding this resolution: some countries supported it while criticising the military intervention (Kenya, South Africa, and Kenya), while others firmly opposed the NATO-led intervention (Kasaija, 2013). Initially, the UA rejected the resolution, citing concerns that it violated the principle of non-interference. However, it eventually backed the UNSC resolution while maintaining its commitment to seek a negotiated solution to the Libyan conflict (Sturman, 2012).

## **2.4 Sudan 2019**

In Sudan, the 2018-2019 protests initially erupted because of rising food prices and quickly turned into a broader movement demanding an end to Omar al-Bashir's three-decade-long rule. The pressure from the protests eventually compelled the Sudanese army to topple al-Bashir through a military coup.

The AU's response differed from its approach to other UCGs. While the pan-African organisation condemned the coup, it did not implement the typical measures following a UCG (e.g., suspension of the member State). Moreover, it did not call for the return of Omar al-Bashir to power. Instead, it granted 15 days to the Transitional Military Council (TMC, i.e. Sudanese military) to transfer authority to a civilian-led authority to reinstate constitutional rule, or face sanctions from the Union.

As in the case of Libya, the AU was faced with pressure from both African and non-African actors. Egypt, then assuming the chair of the AU, suggested to extend the deadline to 60 days. Foreign actors such as Saudi Arabia and the United Arab Emirates, involved into these events, supported this proposal. In addition to foreign pressure, the Sudanese military claimed to be at the service of the popular revolution – an argument that echoes al-Sisi's narrative after the 2013 coup d'état in Egypt. In this context, the AU gave additional 60 days to the Sudanese military, arguing that progress was being made to resolve this conflict (Nyinevi and Fosu, 2023: 106).

Yet, accepting to grant time to return to constitutional rule constituted a breach of the AU's own standard operating procedures, which undermined the credibility of the Union. As Hellquist (2021: 462) argues, "The identity of the AU's sanctions policy has been formed around 'shall' and 'zero tolerance'; it offers no wriggle room for a discretionary response to coups. Modifying this core characteristic risks undermining the very basis of the policy." This is especially true as,

during this period, a violent crackdown was carried out by the Rapid Support Forces (a paramilitary group) on peaceful protesters in Khartoum on June 3, 2019, left more than 120 people dead. The Union reacted immediately through a strongly worded statement condemning and rejecting “any unilateral actions by whomsoever in the process of resolving the current crisis” and threatening to “automatically impose punitive measures on individuals and entities obstructing the establishment of the civilian-led Transitional Authority” if the TMC failed to hand-over power to a civilian-led transitional authority (AU PSC, 2019).

By raising the prospects of sanctions and diplomatic isolation, in addition to suspending Sudan, the AU aimed at exerting pressure on the coup makers to establish a civilian-led transitional authority. Similarly to the case of Egypt, suspension did not equate isolation. Instead, the AU sought several ways to mediate between all the parts involved and successfully contributed to a power-sharing agreement between the TMC and the coalition of opposition forces grouped under the Forces for Freedom and Change. A ‘civilian-led’ government was set up in August 2019 and a power-sharing constitutional decree was signed. This way, Sudan avoided AU sanctions and the Union’s strong reaction to the Sudanese events was seen as the evidence that the regional organisation ‘has come down clearly on the side of the civilian protesters’” (Hellquist, 2021: 462), thus rehabilitating its image.

**Table 1: Summary of AU’s reaction to the cases analysed.**

Country	Event	AU Approach	AU Decision
<b>Tunisia</b>	2011 protests for regime change	Transition = constitutional change of government	Democracy support (electoral assistance)
<b>Egypt</b>	2021 self-coup	Application of the principle of non-interference	No sanction
	2011 protests for regime change	Removal of Mubarak by the military = UCG	<ul style="list-style-type: none"> <li>• No sanction</li> <li>• Obligation to transit to constitutional rule (elections)</li> </ul>
	2013 coup d’état	Removal of Morsi through a coup = UCG	Sanction: suspension of Egypt (June 2013 – July 2014)
	2014 presidential election	Egypt = an exceptional case	Readmission of Egypt despite the election of an UCG perpetrator as president
<b>Libya</b>	2011 protests against Qaddafi	<ul style="list-style-type: none"> <li>• Protests = UCG</li> <li>• Principle of non-interference</li> <li>• Possibility to mediate</li> </ul>	Sanctions (August 2011 - October 2011)
<b>Sudan</b>	2011 NATO-led intervention	Lack of unified position	Support to the intervention and recognition of the Transitional National Council as the legitimate representative of Libya
	2019 coup d’état	Removal of al-Bashir by the military = coup d’état	<ul style="list-style-type: none"> <li>• Condemnation of the coup but no sanction</li> <li>• Obligation to reinstate constitutional order (power-sharing agreement)</li> <li>• Mediation</li> </ul>

**Source:** author’s own elaboration.

All in all, the 2011 and 2019 uprisings and their outcomes have put to test the African Union’s commitment to support democracy. Based on the four cases analysed, the main observation is that the AU lacked consistency in the way it dealt with each situation. Firstly, its approach to

unconstitutional changes of government has not been consistent (see table 1 below). The AU's reaction to Egypt's 2013 coup d'état undermined its credibility as the organisation's deviated from its principle of equality before peers by readmitting Egypt in 2014 after an UCG, rigged presidential elections and the election of an UCG perpetrator. Moreover, the quasi-reiteration of the Egyptian scenario in Sudan in 2019 has further questioned the organisation's commitment to constitutionalism: despite of condemning the Sudanese coup d'état, the Union did not deploy its "normal procedure" in case of UCG. Although the AU apparently acted in a pragmatic manner in these two cases – by suspending Egypt and Sudan and, in parallel, engaging in negotiations to return to constitutionalism –, they also seriously question the AU's respect for its own Constitutive Act.

Secondly, the Union's conception of constitutional changes of government – which can occur only through elections or constitutional provisions – and its principle of non-interference explain its initial reluctance to support the 2011 protests in Libya as well as its refusal to address the 2021 coup d'état perpetrated by Kais Saied in Tunisia.

Thirdly, the cases analysed show the limitations of the pan-African organisation in times of crisis when it comes to adopt a unified position. As a regional organisation, the AU's action can be overshadowed by other actors. This includes (1) its own member states, which may adopt different stances on the same subject (e.g., stance on the UNSC resolution and NATO-led intervention in Libya); (2) other regional or international organisations (e.g., UN, Arab League); (3) and regional and foreign powers (e.g., US and EU, GCC countries). The fact that the Union had adapted changed its position several times in many of the cases analysed (e.g., opposition/support to the UNSC resolution on Libya; suspension/readmission of Egypt; condemnation of the Sudanese coup without sanctions) can be explained by these internal and external pressures but also by the potentially huge risks of instability that could derive from each situation.

In other words, pragmatism prevails over adherence to principle. In the words of Nyinevi and Fosu (2023: 108) the "AU's application of sanctions to authors of coups and other participants in UCG is informed by a practical assessment of the political situation in a country and other unspoken factors rather than adherence to principle." The Union's inconsistency in the way it applied sanctions consolidates this view. Rather than being used for coercive purposes, the sanctions implemented by the AU are primarily aimed at exerting constructive pressure on the actors accused of perpetrating UCGs, which make sanctions operate as what Hellquist (2021) termed an "in-group peer review". Analysing the cases of Egypt (suspension/readmission) and Sudan (absence of sanctions), Hellquist concludes that the idea that the "priority of AU sanctions is to avoid escalating insecurity, rather than to establish durable civilian-led democracy" (Hellquist, 2021: 452). Put simply, the main priority of the Union is not to support democracy in the countries undergoing changes of government but to prevent instability and conflict.

### **3 Conclusion**

To conclude, we observe a gap between the AU's normative framework to support democracy and its behavioural practices. Despite of the adoption of the principle of non-indifference and the establishment of an institutional framework to address anti-democratic attitudes, little consolidation of democracy has been achieved over the past decade while democratic backsliding has become a defining trend on the African continent. In other words, the AU's architecture for democracy support has demonstrated its ambiguous effects: on the one hand, it

has adopted international standards of democracy (at least, theoretically) and established a series of norms and sanctions to prevent UCGs. On the other hand, the multiple deviation from its own principles questions the Union's commitment to democracy.

In the EU Southern Neighbourhood, the AU 's reaction to different forms of regime change – from massive protests to military coups – has been inconsistent. The 2011 uprisings have demonstrated that there is a “shortfall and gap in the definition of unconstitutional changes of government” since the AU's way of dealing with the popular protests (e.g., Libya, Egypt) has proved to be inadequate (Bamidele and Ayodele 143-44). Even in cases where UCGs occurred – such as Egypt and Libya – the Union failed to impose sanctions in a coherent manner, or even contradicted its own founding principles by putting an end to sanctions (e.g., readmission of Egypt). Several explanations were advanced to account for these inconsistencies, such as the AU's focus on peace and stability rather than democracy; the pressure exerted by internal (member States) and external (global powers, regional powers, regional organisations) actors; and its pragmatic approach views sanctions are a form of constructive criticism rather than coercion.

The analysis of AU's discursive and behavioural practices shows that the Union's architecture to support democracy mostly concentrated on the “UCG component”. This focus is problematic for democracy support in the African continent for several reasons. Firstly, because UCG perpetrators learnt how to manoeuvre efficiently as we have seen in the case of Egypt (e.g., narrative on the need to protect the country; refusal to rule the country after a coup). Although this may signal that “the AU's norm is maturing (or has matured) to prohibit the old-style military intervention” (Nyinevi and Fosu, 2023: 112), it also showcases the limits of the Union when it comes to enforcing the prohibition of UCGs. Secondly, the focus on UCGs contributes not only to legitimise regimes using façade strategies but also overlooks many other forms of non-democratic practices or democratic backlashes (e.g., Tunisia since 2021). Finally, this approach has led autocratic rulers to adopt a democratic façade through elections and theoretical commitments to democracy while implementing an elitist, state-centric and often autocratic exercise of power (Obi: 2014 70).

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