

Unscrambling subsidiarity in the African Union

From competition to collaboration

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Subsidiarity is a political concept that prioritises the role of local actors over those further removed from the situation at hand. Although unclear, the principle has been used in Africa to justify why regional bodies should take the lead in responding to conflicts in their areas of jurisdiction. This report explores the origins of the concept and its use in the African multilateral context. It provides recommendations for more coherent cooperation between the African Union and regional mechanisms.

Key findings

- ▶ Subsidiarity is originally a European governance concept which prioritises problem solving at the levels closest to a given situation – provided that those actors have the capacity to do so.
- ▶ In the African context, subsidiarity is primarily a political issue. The practical and legal contours of the principle still have to be defined. An assumption of effectiveness is used to justify the argument of proximity but this is subject to question.
- ▶ The African Union’s (AU’s) legal framework for relations between the continental and regional levels is marred by contradictions and ambiguity. This creates confusion in the African Peace and Security Architecture, which results in inconsistent decision making.
- ▶ This lack of clarity also drives competition between the regional and continental levels, shifting the debate away from effectiveness to the ownership of solutions.
- ▶ In the area of peace and security, these ambiguities create incoherence and inconsistency from one region to another; instead of clarity and cooperation.
- ▶ The discourse on subsidiarity is fundamentally a response from the regional level to a continental peace and security architecture that is sometimes perceived as intrusive.
- ▶ Some states have overlapping regional membership, which creates competition, particularly due to differing interests among member states.
- ▶ Subsidiarity needs to be defined operationally in a way that responds to the complexities of the African institutional context.

Recommendations

- ▶ Subsidiarity ought to facilitate complementarity and coordination between the AU and the regional mechanisms (RMs), in the pursuit of effectiveness and efficiency in crisis resolution, and backed by a framework with precise rules.
- ▶ African stakeholders must draw a clear distinction between the notions of ‘first responder’ (the region) and the ‘primary actor’ (the AU). Regions should be the first to engage in the resolution of crises, but cannot be the main actor.
- ▶ The AU should develop a comprehensive framework encompassing legal, policy, operational and financial dimensions for more effective coordination and cooperation between the continental and regional levels.
- ▶ A fully operational Peace Fund should play a critical role in the alignment, coherence and coordination between the AU and the RMs to improve effectiveness.
- ▶ Coordination and cooperation between the AU Commission (AUC) and the executive bodies of regional organisations should be fleshed out at the operational levels.
- ▶ Bi-annual meetings should be convened between political leaders in charge of security at the AU and regional organisations.
- ▶ The AUC Chairperson (or commissioners concerned) should be invited to participate in meetings and deliberations of the RMs.
- ▶ In order to strengthen coordination, cooperation and coherence, the AUC should establish offices to the RMs. The RMs should, in turn, establish adequately staffed liaison offices to the AUC for the same purposes.

Introduction

The protocol that established the African Union Peace and Security Council (AU PSC) states that ‘... Regional Mechanisms are part of the overall security architecture of the Union, which has the primary responsibility for promoting peace, security and stability in Africa.’¹ It further states that the PSC and the chairperson of the AU Commission (AUC), ‘... shall harmonize and coordinate the activities of Regional Mechanisms [and] ... work closely with Regional Mechanisms to ensure effective partnership’ and that such partnership should be based on comparative advantages and prevailing circumstances.²

In 2007, a memorandum of understanding (MoU) on cooperation between the AU and regional mechanisms (RMs) was adopted to supplement the provisions of the protocol. The MoU recognises the primary responsibility of the AU in accordance with the PSC Protocol, but also calls for ‘adherence to the principles of subsidiarity, complementarity and comparative advantage.’³

In a governance context, subsidiarity refers to a multi-layered structure, made up of various levels of intervention. Typically, subsidiarity means that the upper level (e.g., the state) can and should only perform tasks that cannot be implemented at the lowest level (e.g., by local actors) – implying the primacy of the latter. In this regard, the 2007 MoU contains a contradiction, as it fails to identify which actor – either regional or continental – should be the first to respond to peace and security challenges.

Although the principle of subsidiarity can be ambiguous, African stakeholders have used it increasingly to justify the role of regional mechanisms in peace and security

This lack of clarity creates confusion in the African Peace and Security Architecture (APSA), which results in inconsistent decision making, if not the fragmentation of the architecture. It is also a driver of competition between the regional and continental levels, and shifts the debate away from effectiveness to focus instead on the ownership of solutions.

Although the principle of subsidiarity can be ambiguous, African stakeholders have used it increasingly to justify the primary role of regional mechanisms in peace and security. This is despite the lack of a clear and widely accepted definition in the continent’s peace and security landscape.

The report has three parts. First, it discusses the origins of the concept of subsidiarity and its use in the African multilateral context. Next, it identifies the challenges fostered by subsidiarity within the African peace and security architecture – focusing on the relationship between the AU and regional mechanisms. It also articulates recommendations for more coherent cooperation between the AU and regional mechanisms, and a more widely accepted understanding of subsidiarity.



IN A GOVERNANCE CONTEXT,
SUBSIDIARITY REFERS TO A
MULTI-LAYERED STRUCTURE

An ambiguous concept

As mentioned, subsidiarity can be described as an approach to governance that prioritises problem-solving at the levels closest to a given situation – provided that actors at those levels have the required capacity.

The concept is rooted in European political history – in particular the social doctrine of the Catholic Church. It aims to prevent the highest level from exercising undue domination over the lower levels. From a political perspective, subsidiarity was originally intended to prevent the papacy from intervening in states' internal affairs.⁴ Since the 19th century, it evolved to become a recognition of the critical role of by local churches and lay people in contributing to the common wealth.

French political historian Chantal Millon-Delsol highlights the inherent contradiction within this move towards decentralisation. She notes that after the Second Vatican Council (held from 1962 to 1965), Pope Paul VI and John Paul II both emphasised the primacy of unity of the church. Subsidiarity, they said, did not mean with pluralism.⁵

Many actors and scholars don't consider the principle of subsidiarity as a legal concept

In its secular version, subsidiarity aims to defend the rights of individuals and communities against a modern state that is expanding its areas of intervention.⁶ In a federal context, it relates to the need to guarantee cohabitation between federated entities and the federal state, while limiting the domination of the latter with uneven results.⁷

The Maastricht Treaty, which the then-European Economic Community (EEC) adopted in 1992, mentions subsidiarity for the first time in the context of an international organisation. Article 3b states that:⁸

The Community shall act within the limits of the powers conferred upon it and of the objectives assigned to it by this Treaty. In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be

sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community ...

This ambivalent formulation does not clearly state the priority given to the lower levels – in this case, the member states – in a context where the EEC has 'exclusive competence'. Nor does it define the contexts where the EEC enjoys primacy. Jacques Delors, former president of the European Commission, defined subsidiarity as '... the decentralised organisation of responsibilities so as never to entrust to a larger unit what can be better achieved by a smaller one.'⁹

It should be noted that many legal and political actors and scholars do not consider the principle of subsidiarity as a legal concept, but as a philosophical, if not political, notion.¹⁰ This view is supported by key aspects of the modern conception of subsidiarity.

First is the objective of effectiveness, which is at the heart of the concept of subsidiarity. Lower levels are assumed to have greater effectiveness due to their proximity. (This, however, raises the question of who defines effectiveness. As a French legal scholar noted, the subjectivity inherent in subsidiarity is reflected in the challenge of assessing effectiveness *a priori*, or from a theoretical perspective.¹¹)

Second, subsidiarity emerged in contexts associated with federalism – where a distinction is drawn between exclusive competences (reserved for the federal level) and those shared between the federal and the federated levels. This distinction is particularly present in post-1945 Germany, as a national example, or in the European Union (EU) as an example of international framework.¹²

Yet this delimitation is hardly fixed. In fact, subsidiarity – in the context of the EU – has been seen as much as a vehicle for the expansion of European Commission (EC) competences as a safeguard of the competences of the states in the face of the said Commission. On the one hand, it offers a strict delimitation of competences among two levels of intervention. On the other, it provides the framework to identify the most adequate level of intervention in shared areas of competence.

Third, the overlap between levels implies the need for a legal mechanism to arbitrate when disputes may arise. The nature and the process of this mechanism are subject to debate. Some advocate a judicial decision by the highest court to settle disputes. The timing of the control exerted is also subject to debate: *a priori* or *a posteriori*? Those who believe that subsidiarity is primarily a principle of effectiveness from a political perspective argue that its implementation depends on compromise and trust between the different levels.

Belgian legal scholar George Vandersanden understands subsidiarity as a neutral and flexible principle, with implementation parameters linked to effectiveness and the scope of the planned action.¹³ On this basis, subsidiarity can be linked to the principle of proportionality.¹⁴ It is the nature of the situation or problem that determines its applicability – rather than the quality of the actor, or any existing delimitation of competences among various levels of intervention.

Subsidiarity and the AU

It is important to take stock of the context that frames the emergence of subsidiarity at the continental and regional levels in Africa.

First, there are at least four overlapping levels (continental, regional, subregional and national) – whereas in Europe there are only two (national and regional). On the African continent, the multiple membership of states to regional organisations also adds complexity when it comes to identify the lower level.

Second, it is only in the field of peace and security that the concept of subsidiarity is substantively discussed within the AU. Subsidiarity is mentioned – without a definition – in the MoU between the AUC and the regional economic communities (RECs) of 2007. Apart from that, it is not mentioned in the Constitutive Act, nor the Protocol Establishing the AU PSC. Surprisingly, the Protocol Establishing the African Continental Free Trade Area does not mention subsidiarity – despite the obvious links between regional and continental processes in this area.

The only AU legal document that defines subsidiarity is the Charter on Maritime Safety and Security and Development in Africa, which was adopted on 15 October 2016.¹⁵ The Charter states the following:

The principle of subsidiarity refers to the principle of ensuring a degree of independence for a lower authority from a higher authority, or for a local authority from central government. It therefore implies the sharing of competence at different levels of authority.

The references to ‘degree of independence’ and the sharing of competences are particularly noteworthy.

The European notion of subsidiarity places emphasis on primacy of action or competence, and less on independence. The term independence implies a relationship of hierarchy that subsidiarity puts into perspective. Apart from the primacy of the AU in Article 16 of the Protocol Establishing the PSC, it is therefore worth questioning whether such a state of subjection exists between the pan-African organisation and RECs.

Surprisingly, the Protocol establishing the African Continental Free Trade Area doesn't mention subsidiarity

Second, while the ‘sharing of competences’ between different levels of authority can be put into perspective within a European context, such sharing does not even take place within the AU. Both the AU and the RECs have quite broad, general and similar competences. However, these similarities among African international organisations seem to be reflected in the AU institutional reform, which refers more to the ‘division of labour’ between the AU and the RECs and less to the sharing of competences.¹⁶

This terminology is important. *De facto*, the AU applies subsidiarity to the extreme as states have not really delegated competences to the continental level and remain the primary actors in all areas. Consequently, it can be said subsidiarity in the pan-African context is less a legal principle than a political tool for regulating activities between the regional and continental levels, where competences or even autonomy are significantly limited. In fact, the subsidiarity discourse can be seen as a strategy of the regional levels to protect themselves against a continental peace and security architecture, often seen as intrusive.

Subsidiarity and the AU Peace and Security Architecture

The contradictions at the heart of African understandings of subsidiarity mean that the concept is implemented in different ways, depending on the situation and the preferences of member states or other international stakeholders. Three significant trends can be identified:

- That the region is framed as a vehicle for AU's involvement
- A 'logic of competition' fostered by member states
- A negation of the AU's primacy.

Over the years, the preferences of member states that are neighbours of continental crisis situations have increasingly shaped the AU's approach and involvement. An overview of the agendas of the rotating chairs of the PSC showcases that they favour neighbour issues. For example, when the chair is Algerian, sessions on the Sahel or Libya are more likely to be included – while a Burundian chair is more likely to include a session on the Great Lakes.¹⁷

The contradictions at the heart of African understandings of subsidiarity mean that the concept is implemented in different ways

This trend is evidently linked to the reality that the immediate consequences of conflicts (whether humanitarian or security related) tend to spill over to the region. However, it can also result in a situation whereby crises are included from the agenda when there is not a PSC member from the same region. In this context, when political crises take place within regional powers, it is unlikely that they will be proposed in the agenda by states.

Secondly, some member states have tended to circumvent the involvement of the AU – be it the Commission or the PSC – by referring a matter to the regional organisation. This stems from a perception that the regional framework would be more amenable, if not controllable, since it is composed of neighbour states. The challenge posed by this trend is how a referral to the region may be reversed. Few regional mechanisms are willing to acknowledge failure in managing crises. A reverse handover from the regional to the continental level is therefore unlikely to occur.

For example, in early 2016, the AU handed over the management of the political crisis in Burundi to the East African Community (EAC). However, the organisation's efforts were stalled divisions among member states and the intransigence of the Burundian authorities. Despite these conspicuous limitations, the PSC gradually stopped addressing the crisis – even though it had deployed a mission of human-rights observers and military experts.

The third and last trend is the one where a regional mechanism and its members consider that they are to be the first – if not the only –



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responders to crises in their geographic area. This is premised on a conception of subsidiarity that sees the AU only as a vehicle for international funding, or a validation step for regional action, without interrogating its relevance and merits. In a way, it is a regional version of the narrow understanding of sovereignty that some AU member states use to bar external interventions in domestic troubles.

This trend is mostly observed in the Southern African Development Community (SADC), where states embrace the conception of subsidiarity that gives primacy to the region. The security situation in Mozambique illustrates this. The crisis is yet to be discussed at the AU PSC, but has been systematically discussed at every SADC summit since 2018. Therefore, it is logical that a SADC military force was deployed with a notice to the PSC, instead of a decision authorising it.

Finally, it should be noted that the relationship between the AU and RECs has also been shaped by the establishment of the African Peace Facility (APF) by the EU. The APF is intended to:¹⁸

... finance peace support and peacekeeping operations conducted under the authority of the African Union, and thus improve the Union's ability to play its full role in promoting peace, security and stability in Africa ...

According to the standard operating procedures of the APF, a peace support operation (PSO) has to be endorsed by a PSC decision in order to have its funding approved. This contributes to giving the AU a *droit de regard* or 'right of inspection' on region led PSOs. Moreover, it also helps to assert the primacy of the PSC, as defined by the Article 16.

Proximity versus effectiveness

As mentioned above, there is a contradiction in the AU legal and political framework that emphasises both the primacy of the Union and the adherence to the principle of subsidiarity. Additionally, and contributing to the complexity, most treaties establishing the RECs – which are recognised by the AU – do not explicitly emphasise the primacy of the Pan-African organisation in matters of peace and security.

It can therefore be deduced that subsidiarity is a political issue, and that the practical and legal contours of the principle have yet to be defined within the African institutional context.

As explained above, subsidiarity is more a question of division of labour, cooperation and coordination between two levels operating in the field of peace and security. Yet it is important to consider the specificity of the African context, which lacks a clear-cut delimitation of competences between the continental and regional levels. Moreover, overlapping regional memberships means that this level comprises several competing factors, due to differing interests among member states. This raises the problem of coherence.

Two other issues must also be considered: effectiveness, and the ambiguity of proximity. In the traditional understanding of subsidiarity, efficiency is the basis for the primacy of the lower level. This is linked to proximity, as well as the means available to deal with a specific situation.

The subsidiarity discourse often becomes a means by which states can sideline the continental level

However, in the African context, the subsidiarity discourse places greater emphasis on proximity as a comparative advantage. In the traditional notion, such proximity is seen to ensure a better understanding of the context, which would in turn be a vehicle for effectiveness and impact. In such a context, the subsidiarity discourse often becomes a means by which states can sideline the continental level – perceived as unfavourable to certain interests – in favour of a regional level – perceived as more flexible. Here, the lack of strict delimitation between the continental organisation and regional mechanisms results in competition between states, according to the interests of the day.

It often comes a matter of a regional mechanism asserting itself in the face of a continental level, which is perceived as invasive and unduly benefiting from more resources. Regional organisations use subsidiarity in the same way that the AU uses Chapter VIII of the United Nations Charter on regional arrangements, against the United Nations, to legitimise their action.

When subsidiarity as the primacy of the regional level is mostly based on proximity, it narrows the focus on the objectives and capacity. Again, this is contrary to the traditional notion of subsidiarity that encompasses all these aspects. In this manner, subsidiarity ends up being a concept of competition against the upper level that its legal primacy conveniently made relative. The result can be a conception of subsidiarity that tends to be incantatory, and which often asks for resources from the same actor it has relativised.

The assumption of effectiveness, which is used to justify the argument of proximity, is subject to question. An example is the priority given by Mozambique to a Rwandan intervention in Cabo Delgado, which was based on a bilateral agreement. This can be linked to Maputo's reluctance towards a SADC military deployment. In the same vein, the Central African Republic (CAR) also showed reluctance towards its neighbouring countries. The CAR sidelined the Economic Community of Central African States (ECCAS) and the Economic and Monetary Community of Central Africa (CEMAC) in favour of the International Conference on the Great Lakes Region (ICGLR).

Subsidiarity ought to function as a vehicle for complementarity and coordination between the AU and RECs

These two examples illustrate that the proximity of regional organisations can engender tensions and mistrust, which can hamper their effectiveness in resolving emerging crises and conflicts. Often, the direct interests of states can be at odds with the requirements of crisis resolution. Such frequent opposition will paralyse any regional initiative.

Consequently, to define subsidiarity in the African institutional context, the competition between the AU and the RECs/RMs must be considered in terms of areas of intervention. It should also be noted that in this context, the notion of effectiveness is being replaced by that of legitimacy to intervene due to geographical proximity. Finally, it must be acknowledged that proximity may be a source of tension on a regional scale.

Recommendations

Instead of a contentious notion of subsidiarity based on a division of competences, the AU should promote consensus and acceptance of the concept in a way that leverages the comparative advantages of the regional and continental levels.

Subsidiarity ought rather to function as a vehicle for complementarity and coordination between the AU and the RECs, in the pursuit of both effectiveness and efficiency in crisis resolution, and backed by a framework with precise rules. This makes it critical for African stakeholders to draw a clear distinction between the notions of 'first responder' and 'primary actor'.

It makes sense that regions should be the first to engage in the resolution of crises that affect one of their members. However, the region cannot be the main actor, for the self-evident reason that regional divisions, or the subjectivity inherent in its proximity, are not necessarily conducive to effectiveness. Tempering these aspects calls for a continued partnership with the AU in managing situations of instability.

From a practical point of view, fostering alignment between different organisations towards a common goal typically requires three central elements: a legal framework, a policy framework and a single financial instrument. Combined, these elements should mean that subsidiarity ceases being a discourse of bureaucratic competition – and becomes a vector of political effectiveness for African solutions to African conflicts.

In this regard, subsidiarity in the context of the AU shall be defined as ensuring coherence, collaboration and coordination between regional actors and the continental body, based on a shared appreciation of developments in crises and conflict situations. Subsidiarity is thus an ongoing dialogue between the AU and RMs – rather than a clear-cut division of labour.

Legal framework

A legal framework on subsidiarity should be developed to support, not replace, the political framework. It would identify the legal benchmarks for coordination among the various levels.

First, the primacy of the AU needs to be widely accepted – along with the notion of subsidiarity for the purpose of

effectiveness in all legal frameworks. The primacy of the Union should therefore be included in the preambles of the treaties establishing RECs. This inclusion should be mandatory for RECs to benefit from Peace Fund financing.

Second, military intervention by African organisations, or a support request to the UN, should be validated by an AU PSC authorisation to ensure coherence among continental stakeholders.

Policy framework

There is a need for the AU member states to provide the organisation with a coherent policy framework. The current situation encourages competition between the different levels – as well as incoherence and inconsistency from one region to another.

From a strictly legal point of view, the Protocol Establishing the PSC has precedence over the MoU between the AUC and the RECs, on which the practice of subsidiarity is based. As a result, the practice of subsidiarity within the AU rests on a shaky legal foundation, and the AU must create a policy framework in this area. The continental body should consider a Declaration by the Assembly of Heads of State and Government on cooperation and coordination in peace, security and governance, which could be an addendum to the Protocol Establishing the PSC

In brief, a framework should be established to promote coordination and cooperation between the continental and regional levels in a way that is effective, and based on a transparent definition of subsidiarity.

Financial framework

The Peace Fund should play a critical role in the alignment, coherence and coordination between the AU and the RECs/ RMs for the purpose of effectiveness. Precise criteria should be established for all funding requests emanating from the AU or RECs/RMs. This should include identifying the political objective, coherence with the values and texts of the AU, the primacy of politics over military logic, control of effectiveness by the PSC, command control, and the establishment of an entity in charge of monitoring and evaluating regional operations.

Second, it is important that AU's external partners perpetuate the logic of the EU APF, namely that any funding to regional organisations must go through the AUC, and requires a decision of the AU PSC. However, this means the AUC needs to strengthen its internal mechanisms, especially in the area of procurement, to ensure the timely transfer of external funds to the targeted organisations.

Subsidiarity in practice

The coordination and cooperation between the AUC and the executive bodies of the RECs/RMs need to be fleshed out at the operational levels. This should occur through:

- Bi-annual meetings between political leaders in charge of security at the AU and regional organisations
- The establishment of a support unit for RECs/RMs in the different areas (PSOs, prevention, elections) for the purpose of conveying AU support.

Annex 1: Proposed provision on the relationship between the AU and the RECs/RMs, for the Protocol establishing the PSC (Article 17)

1. RECs are part of the overall security architecture of the AU, which has the primary responsibility of promoting peace, security and stability in Africa. The Union shall act –through the Council – when its objectives of peace and security cannot be achieved through regional efforts.¹⁹
2. The relations between the RECs and the Union are defined by the principles of complementarity, coordination and comparative advantage – depending on the situation at hand.
3. In order to ensure close harmonisation and coordination and facilitate the regular exchange of information, the AUC Chairperson – or appropriate commissioners – shall convene bi-annual meetings, preferably during the mid-year coordination summit, with the chief executives and/or the officials in charge of peace, security and political affairs within the RECs.²⁰
4. The AUC Chairperson or commissioners concerned shall be invited to participate in meetings and deliberations of the RECs/RMs.
5. In order to strengthen coordination, cooperation and coherence, the AUC shall establish offices to the RECs. The RECs/RMs shall establish liaison offices to the AUC with adequate staff for the same purposes.

Notes

- 1 African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, Article 16, 2004.
- 2 Ibid.
- 3 African Union, Memorandum of Understanding on Cooperation in the Area of Peace and Security between the African Union, the Regional Economic Communities and the Coordinating Mechanisms of The Regional Standby Brigades of Eastern Africa and Northern Africa, 2 September 2007.
- 4 JL Clergerie, *Le principe de subsidiarité*, (Paris): Ellipses, 1998, 15.
- 5 C Millon-Delsol, *Le principe de subsidiarité*, (Paris): Que Sais-Je, 1994, 52–53.
- 6 An interesting illustration of this conception can be found in Jacques Maritain's view, even if he does not use the word subsidiarity. 'According to the pluralist principle, everything in the body politic which can be brought about by particular organs or societies inferior in degree to the State and born out of the free initiative of the people should be brought about by those particular organs or societies; second that vital energy should unendingly rise from the people within the body politic. In other words, the program of the people should not be offered from above to the people, and then accepted by them; it should be the work of the people. This means that at the very bottom, at a level far deeper than that of the political parties, the interest and initiative of the people in civic matters should begin with an awakening of common consciousness in the smallest local communities and remain constantly at work there.' From J Maritain, *Man and the State*, (Chicago): University of Chicago Press, 1966, 67–68.
- 7 JL Clergerie, *Le principe de subsidiarité*, (Paris): Ellipses, 1998, 17.
- 8 European Union, Treaty establishing the European Community-Part One: Principles-Article 3B, *Official Journal C191*, 29 July 1992, 6.
- 9 JL Clergerie, *Le principe de subsidiarité*, (Paris): Ellipses, 1998, 83.
- 10 Ibid, 38.
- 11 Ibid.
- 12 C Millon-Delsol, *Le principe de subsidiarité*, (Paris): Que Sais-Je, 1994, 38–39.
- 13 George Vandersanden, *Considérations sur le principe de subsidiarité* – *Mélanges Velu*, Brussels: Bruylant, 1992, 197–198. 'It appears that the principle of subsidiarity is characterised by its flexibility and by a vertical effect that could be described as indifferent, i.e. devoid of a preferential tendency towards centralism and decentralism. In itself, the principle is neutral in this respect. The only parameters that determine its application are (...) the effectiveness of the action to be taken and the size of the action'.
- 14 C Millon-Delsol, *Le principe de subsidiarité*, (Paris): Que Sais-Je, 1994, 39.
- 15 African Union, African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter), 15 October 2016, <https://au.int/en/treaties/african-charter-maritime-security-and-safety-and-development-africa-lome-charter>. The charter was signed by 35 member states but ratified by only two (Benin and Togo).
- 16 The first report on the institutional reform identifies the 'focus on priorities with continental scope' as one of the vehicles of strengthening the AU. This includes a '... focus on priorities that make real differences to African citizens; establish a clear division of labour between the African Union, RECs/RMs, and member states'. See P Kagame, The Imperative of Strengthening the Union: Report of the Proposed Recommendations of the Institutional Reform of the African Union, 29 January 2017, https://au.int/sites/default/files/documents/33273-doc-report-_institutional_reform_of_the_au.pdf.
- 17 Felicite Djilo, *Review of the Agency of the Peace and Security Council from 2016 to 2018*, unpublished.
- 18 African Union, Decision on the Establishment by the European Union of a Peace Support Operations Facility for the African Union, Maputo Mozambique, Assembly/AU.Dec.21(II), July 2003.
- 19 The rationale is that this reaffirms the primacy of the PSC, while still recognising the critical role of the RECs. It also creates a window for the PSC to take over an ineffective regional process.
- 20 The rationale is that this creates obligations of meetings between the AU and RECs stakeholders to foster coordination, cooperation and coherence.

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