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29 June, 2022

Heads of State and Government of the
Economic Community of West African States (ECOWAS)
C/O ECOWAS Commission
101, Yakubu Gowon Crescent,
Asokoro – Abuja

Your Excellencies,

Re: Request to swiftly adopt the proposed amendment (on term limit) to the ECOWAS Protocol on Democracy and Good Governance, and to improve respect for human rights and the rule of law

I am writing to commend the progressive steps taken by the Heads of State and Government of the Economic Community of West African States (ECOWAS) to amend the ECOWAS Protocol on Democracy and Good Governance (the protocol), and to urge you to adopt the proposed amendment to the protocol to strengthen constitutional and representative government, and improve respect for human rights and the rule of law.

According to my information, the move to amend the protocol aims at ensuring that Heads of State and Government do not change the constitutions of their countries to stay beyond two terms in office, which is the common constitutional requirement in several member states. The proposed amendment would require member states to "adopt provisions in their respective Constitutions to ensure that no President of the Republic

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shall exercise more than two (2) terms or extend his/her term for any reason or in any form”.

I am concerned about reports that Cote d’Ivoire, Senegal and Togo are opposing the progressive amendment to the protocol.

It is very important for the majority of member states to reject the moves by the minority member states, and to show the leadership and political will by swiftly adopting the amendment to the protocol as currently proposed, especially given the recent experiences of unconstitutional change of governments in some African countries.

The proposed amendment to the protocol on term limit is entirely consistent with the ECOWAS foundational treaties, and the African Union Constitutive Act. The timely amendment will be a positive, effective and satisfactory response to the recent unconstitutional change of governments in some member states.

As the African Charter on Democracy, Elections and Governance (African Charter) states, unconstitutional change of government amounts to “a serious threat to stability, peace, security and development.” The African Charter indeed aims to “promote the universal values and principles of democracy, good governance, human rights and the right to development,” and to “entrench in the Continent a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies.”

Many member states of ECOWAS, including Côte d’Ivoire and Togo have ratified the African Charter while Senegal has signed the African Charter. The ECOWAS and its members should show that they are willing and able to promote and achieve constitutional and representative government, and improve respect for the rule of law and human rights in the sub-region.

Rejecting the reported moves by Cote d’Ivoire, Senegal and Togo to truncate the proposed amendment to the protocol would send a powerful message to rogue governments in the sub-region that the ECOWAS is willing and able to apply its foundational instruments and principles faithfully, consistently, and effectively.

If the reported moves by Cote d'Ivoire, Senegal and Togo are allowed, it will encourage dictators who seek to amend and manipulate their national constitutions to elongate their terms of office. It will also lead to escalating attacks on political opponents and activists who oppose such illegal constitutional amendment.

I therefore urge member states of the ECOWAS to remain resolute in the face of opposition by a minority of member states, and to move swiftly to adopt the proposed amendment on term limit to the protocol. If necessary, member states may invoke Article 20 of the Rules of Procedure of the Conference of Heads of State and Government to ensure that the amendment to the protocol is adopted without any delay.

I also urge you to use your leadership and influence to push for democracy and full respect for human rights and the rule of law in member states. The ECOWAS leadership should put pressure on all ECOWAS member states to respect, protect, promote and fulfill the human and peoples' rights guaranteed under the African Charter on Human and Peoples' Rights.

While thanking you in advance of your attention, I look forward to continued dialogue on the issue.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Femi Falana', written in a cursive style.

FEMI FALANA, SAN, FCI Arb.