



IMPLICATIONS OF BURKINA FASO, NIGER, AND MALI'S ANNOUNCED DEPARTURE FROM THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

1. Article 3
2. Article 59 (1)-(3).

Introduction

The Economic Community of West African States (“**ECOWAS**” or the “**Community**”) was established by the treaty of Lagos in May 1975 with the primary objective of fostering economic trade, cooperation, political harmony, self-sufficiency, and self-reliance among members (**comprising of about fifteen (15) African countries located in the West African region**).

Over the years, ECOWAS has remained a symbol of regional integration, driven by shared cultural, geopolitical ties, and economic interests. However, recent events have marked a significant departure from this unity, as three (3) founding members states—Niger, Mali, and Burkina Faso, led by military juntas—have announced withdrawal from the Community.

In view of this, this article aims to review the implication of this announcement on benefits previously enjoyed by the junta-led countries particularly in relation to migration of citizens of these countries to other member states and implications for citizens currently residing in other member states of the ECOWAS.

Need-to-know Information!

The ECOWAS Treaty

The ECOWAS Treaty of 1975 as revised (the “**Treaty**”) expresses the aims of the Community. It includes the promotion of co-operation and integration of the member states, the establishment of an economic union in West-Africa to raise the living standards of its peoples, to maintain and enhance economic stability, and contribute to the progress and development of the African Continent¹.

Further to this, member states are mandated to implement among others, the establishment of a common market through liberalization of trade by the abolishment of customs duties among member states, the removal of obstacles to free movement of persons, goods, services, right of residence and establishment between Member States.

The Treaty more specifically encourages co-operation in tourism, industry, science and technology, energy, environment and natural resources, post and telecommunication, trade, finance, and fiscal payments/taxes, political, judicial, and legal affairs, immigration, and regional security among others.

In relation to immigration, citizens of the Community are conferred with the right of entry, residence, and establishment in Member states territories in facilitation of which such members are to undertake and adopt all measures necessary to implement this at national level.² Summarily, the Community seeks to create an environment which fosters economic growth in all fields of economic activity, and poverty reduction through decreased regional trade barriers and standardize trade and border policies in all member countries. Member states including Nigeria have taken steps to actualize these objectives in their various countries.

Reason for the Withdrawal:

On January 28, 2024, the junta-led countries announced their withdrawal from ECOWAS citing concerns that the ECOWAS organization has strayed from its founding principles and the spirit of Pan-Africanism. More specifically, that the Community notably failed to assist the states in their existential fight against terrorism, political unrest, and insecurity.

Mali

In 2020, Mali experienced a coup d’etat following a mutiny by the Malian Armed Forces in response to an earlier protest by the polity calling for the resignation of the then President Ibrahim B. Keita on grounds of corruption, and the ongoing insurgency.

The National Committee for the salvation of the People (CNSP) implemented a twenty-eight (28)-month political transition to civilian rule, during which Bah N’daw was named the interim president in September 2020.



3. Article 91(1).
4. Article 91(2).
5. <https://portal.immigration.gov.ng/?p=about>
6. <https://immigration.gov.ng/residence-permit/>
7. <https://immigration.gov.ng/residence-permit/>

However, on May 24, 2021, the Malian Army led by the Vice President Assimi Goita orchestrated another coup d'état and captured the transitional President Bah N'daw, the Prime Minister and the Minister of Defense citing serious political unrest in the administration of the transitional government and the military rebels as the reasons for the coup.

Burkina Faso

Burkina Faso also experienced its own military coup d'état on September 30, 2022, prompted by the incapacity of its military leader, President Paul-Henri Damiba, to effectively handle the armed uprising that bedeviled the state. During the coup d'état, Army captain Ibrahim Traore, took charge of the state, dissolving the transitional government led by the military leader president.

Niger

More recently, Niger experienced a coup d'état on July 26, 2023. The coup witnessed the subversion of the democratically elected government of the president Mohamed Bazoum and the declaration by the presidential guard General Abdourahmane Tchiani as the leader of a new military junta.

Departure from ECOWAS

Following these events, Mali, Niger, and Burkina-Faso (the "Withdrawing States") announced their withdrawal from ECOWAS on January 28, 2024, via a jointly issued communique, effective immediately. This abrupt development raises the significant issue regarding the legality of the announced withdrawal and its consequential effects on these member states and their citizens.

Implications of the Purported Immediate Withdrawal from ECOWAS by the Withdrawing States.

The Treaty provides the requisite procedure by which any ECOWAS Member may cease to be a member or the Community or withdraw its membership.

By virtue of **Article 91** of the Treaty, where any member state desires to renounce or relinquish its membership rights, such member is permitted to withdraw from the Community by issuing a one-year notice in writing to the Community via the Executive Secretary. Following the expiration of the notice period such country shall cease to be a member of the ECOWAS.³

The Treaty mandates such member to comply with its obligations and other provisions under the Treaty during the notice period of one year⁴. Where the withdrawal is finalized, such member will cease to be bound by the obligations of or enjoy the benefits accruing to members of the Community under the Treaty.

Further to the above, the purported immediate withdrawal of the States from ECOWAS is not in line with the prescribed procedure outlined in Article 91. Consequently, the status of these states with respect to their membership in the Community is still ambiguous and yet to be affirmed.

The immediate withdrawal announcement presents various legal uncertainties regarding the status of the Withdrawing States within ECOWAS, it challenges the validity of the prescribed procedure and raises questions about the continued application of ECOWAS Treaty provisions to the Withdrawing States within the one (1) year period.

Specifically, there arises a dilemma regarding whether the Withdrawing States are entitled to continue enjoying the benefits and rights enabled by being a member of the Community during this transitional period.

Effect of the withdrawal on Citizens and Migrants of the Withdrawing States in Nigeria -- Immigration

The withdrawal of the Withdrawing States from ECOWAS has significant implications for citizens and migrants of these states residing in Nigeria, particularly in terms of immigration.

With the withdrawal from ECOWAS, citizens of the Withdrawing States no longer possess the ECOWAS right to visa-free entry, residency, and establishment within other ECOWAS member states, including Nigeria.

It can be argued that one of the underlying considerations and spirit of the Treaty, which mandates a one-year notice period for withdrawal, is to afford member states adequate time to adjust and implement any necessary procedural changes arising from the withdrawal. This provision is intended to prevent undue hardship and disruption for nationals affected by such changes.

In Nigeria, an ECOWAS national is exempted from the requirement of obtaining a visa to enter Nigeria, such citizen is entitled to a visa-free entry into Nigeria for Ninety (90) days, right of residence and establishment of business subject to obtaining the requisite documentation and confirmation of residency in Nigeria.

To remain in Nigeria for an extended period, an ECOWAS national is simply required to file the appropriate application supported by requisite documents including the international passport or ECOWAS Travel Certificate, to obtain an ECOWAS residence card in Nigeria⁵. The residence card is valid for two (2) years and is renewable.⁶

The application process is simpler, entails less processing fees and faster processing timeline compared to visa or resident permit applications for non-ECOWAS nationals.

However, with the effective withdrawal of membership from ECOWAS, nationals of the Withdrawing States will no longer enjoy these benefits. They will be reclassified as non-ECOWAS nationals in Nigeria. Consequently, the current ECOWAS residence card, serving as proof of their legal status and presence in Nigeria, will become invalid.

The above necessitates immediate action on the part of affected individuals. They must either exit the country promptly or initiate the application process for the Combined Expatriate Residence Permit and Aliens Card (CERPAC). The CERPAC card serves as the residency requirement for non-ECOWAS nationals residing in Nigeria.⁷

The current ambiguity surrounding the status of the Withdrawing States requires expeditious clarification by the Community. Currently, the only information available from ECOWAS is that it has not been officially notified about the decision of the three (3) countries to quit and hence for now, they "remain important members" of the body.



Conclusion

While ECOWAS acknowledge the continued significance of these states within the organization, the prevailing ambiguity emphasizes the importance to promptly resolve any issues within member states to provide clarity and minimize potential disruptions for affected individuals.

The Clarification from ECOWAS is essential to ensure a smooth transition and uphold the principles of regional integration and cooperation within the West African region. Additionally, leaders of other member states are working judiciously to ensure the withdrawing states are called to order and the community continues to persist in Unity.

Nationals of these withdrawing States residing in Nigeria and other relevant stakeholders in Nigeria are likewise advised to undertake the necessary measures and note the available options to regularize their stay and ensure a smooth transition into the relevant expatriate category other than an ECOWAS citizen, in the eventual exit of these states from ECOWAS.

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