

118TH CONGRESS
1ST SESSION

S. J. RES. 44

Directing the removal of United States Armed Forces from hostilities in the Republic of Niger that have not been authorized by Congress.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 2023

Mr. PAUL introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

JOINT RESOLUTION

Directing the removal of United States Armed Forces from hostilities in the Republic of Niger that have not been authorized by Congress.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) Congress has the sole power to declare war
6 under the War Powers Clause of section 8 of article
7 I of the Constitution of the United States.

8 (2) Niger hosts the second-largest United
9 States military presence in Africa, with more than

1 1,000 members of the United States Armed Forces
2 in the country as of June 2023.

3 (3) Congress has not declared war against the
4 Republic of Niger or any organization or group in
5 Niger, nor has Congress provided a specific statu-
6 tory authorization for the involvement of United
7 States Armed Forces in the armed conflict or any
8 hostilities in Niger.

9 (4) The Authorization for Use of Military Force
10 (Public Law 107–40; 50 U.S.C. 1541 note) against
11 the perpetrators of the terror attacks on September
12 11, 2001, which was enacted on September 18,
13 2001, and the Authorization for Use of Military
14 Force Against Iraq Resolution of 2002 (Public Law
15 107–243; 50 U.S.C. 1541 note), which was enacted
16 on October 16, 2002, do not serve as specific statu-
17 tory authorizations for the use of force against
18 Niger.

19 (5) Since 2013, members of the United States
20 Armed Forces have been introduced into hostilities
21 with terrorist organizations and insurgent groups in
22 the Republic of Niger, including through direct ex-
23 changes of fire with such groups.

24 (6) On October 4, 2017, 4 members of the
25 United States Armed Forces, Staff Sergeant Bryan

1 Black, Staff Sergeant Jeremiah Johnson, Sergeant
2 La David Johnson, and Staff Sergeant Dustin
3 Wright, were killed in an attack by a regional Is-
4 lamic State affiliate near the village of Tongo Tongo
5 in western Niger.

6 (7) On December 6, 2017, members of the
7 United States Armed Forces engaged in a firefight
8 and reportedly killed 11 members of a regional Is-
9 lamic State affiliate in southeastern Niger.

10 (8) On July 26, 2023, a coup d'etat occurred
11 in Niger when the presidential guard detained the
12 duly-elected President Mohamed Bazoum, and a
13 military junta, the National Council for the Safe-
14 guard of the Homeland, was established under the
15 leadership of presidential guard commander general
16 Abdourahamane Tchiani.

17 (9) The coup d'etat triggered a regional conflict
18 in which the Economic Community of West African
19 States declared that it has chosen an undisclosed
20 timeframe for possible military intervention in Niger
21 to restore President Bazoum to power.

22 (10) The regional conflict resulting from the
23 coup d'etat threatens to involve members of the
24 United States Armed Forces deployed in Niger, thus

1 expanding the scope and nature of United States in-
2 volvement in hostilities.

3 (11) Section 8(c) of the War Powers Resolution
4 (50 U.S.C. 1547(c)) defines the “introduction of
5 United States Armed Forces” to include “the as-
6 signment of members of such Armed Forces to com-
7 mand, coordinate, participate in the movement of, or
8 accompany the regular or irregular military forces of
9 any foreign country or government when such mili-
10 tary forces are engaged, or there exists an imminent
11 threat that such forces will become engaged, in hos-
12 tilities”. Activities that the United States Armed
13 Forces have conducted in Niger fall within such defi-
14 nition, as evidenced by direct exchanges of fire with
15 various terrorist organizations and insurgent groups.

16 (12) The United States Armed Forces have
17 been introduced into active or imminent hostilities
18 within the meaning of section 4(a) of the War Pow-
19 ers Resolution (50 U.S.C. 1543(a)).

20 (13) Section 5(c) of the War Powers Resolution
21 (50 U.S.C. 1544(c)) states, “at any time that
22 United States Armed Forces are engaged in hos-
23 tilities outside the territory of the United States, its
24 possessions and territories without a declaration of
25 war or specific statutory authorization, such forces

1 shall be removed by the President if the Congress so
2 directs”.

3 (14) Section 1013 of the Department of State
4 Authorization Act, Fiscal Years 1984 and 1985 (50
5 U.S.C. 1546a) provides, “[a]ny joint resolution or
6 bill [to require] the removal of United States Armed
7 Forces engaged in hostilities . . . without a declara-
8 tion of war or specific statutory authorization shall
9 be considered in accordance with the procedures of
10 section 601(b) of the International Security Assist-
11 ance and Arms Export Control Act of 1976” (Public
12 Law 94-329; 90 Stat. 765).

13 **SEC. 2. REMOVAL OF UNITED STATES ARMED FORCES**
14 **FROM HOSTILITIES IN NIGER THAT HAVE**
15 **NOT BEEN AUTHORIZED BY CONGRESS.**

16 Pursuant to section 1013 of the Department of State
17 Authorization Act, Fiscal Years 1984 and 1985 (50
18 U.S.C. 1546a) and in accordance with the provisions of
19 section 601(b) of the International Security Assistance
20 and Arms Export Control Act of 1976 (Public Law 94–
21 329; 90 Stat. 765), Congress hereby directs the President
22 to remove United States Armed Forces from hostilities in
23 or affecting the Republic of Niger by not later than the
24 date that is 30 days after the date of the adoption of this
25 joint resolution (unless the President requests and Con-

1 gress authorizes a later date), and unless and until a dec-
2 laration of war or specific authorization for such use of
3 United States Armed Forces has been enacted.

4 **SEC. 3. RULE OF CONSTRUCTION REGARDING AUTHORIZA-**
5 **TIONS FOR USE OF MILITARY FORCE.**

6 Consistent with section 8(a)(1) of the War Powers
7 Resolution (50 U.S.C. 1547(a)(1)), nothing in this joint
8 resolution may be construed as authorizing the use of mili-
9 tary force.

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