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COUNCIL DECISION 2010/638/CFSP

of 25 October 2010

concerning restrictive measures against the Republic of Guinea

(OJ L 280, 26.10.2010, p. 10)

Amended by:

		Official Journal		
		No	page	date
►M1	Council Decision 2011/169/CFSP of 21 March 2011	L 76	59	22.3.2011
►M2	Council Decision 2011/706/CFSP of 27 October 2011	L 281	28	28.10.2011
►M3	Council Decision 2012/149/CFSP of 13 March 2012	L 74	8	14.3.2012
►M4	Council Decision 2012/665/CFSP of 26 October 2012	L 299	45	27.10.2012
►M5	Council Decision 2013/515/CFSP of 21 October 2013	L 280	25	22.10.2013
►M6	Council Decision 2014/213/CFSP of 14 April 2014	L 111	83	15.4.2014
►M7	Council Decision 2014/728/CFSP of 20 October 2014	L 301	33	21.10.2014
►M8	Council Decision (CFSP) 2015/1923 of 26 October 2015	L 281	9	27.10.2015
►M9	Council Decision (CFSP) 2016/1839 of 17 October 2016	L 280	32	18.10.2016

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COUNCIL DECISION 2010/638/CFSP

of 25 October 2010

concerning restrictive measures against the Republic of Guinea

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Article 3

▼M1

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea, and of the persons associated with them, as listed in the Annex.

2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:

(a) as a host country to an international intergovernmental organisation;

(b) as a host country to an international conference convened by, or under the auspices of, the UN;

(c) under a multilateral agreement conferring privileges and immunities; or

(d) under the 1929 Treaty of Conciliation (Lateran pact) concluded by the Holy See (State of the Vatican City) and Italy.

4. Paragraph 3 shall be considered as applying also in cases where a Member State is host country to the Organisation for Security and Cooperation in Europe (OSCE).

5. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraphs 3 or 4.

6. Member States may grant exemptions from the measures imposed under paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings, including those promoted by the Union, or hosted by a Member State holding the Chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes democracy, human rights and the rule of law in the Republic of Guinea.

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7. A Member State wishing to grant exemptions referred to in paragraph 6 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more of the Council members raises an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more of the Council members raise an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

8. In cases where pursuant to paragraphs 3, 4, 6 and 7, a Member State authorises the entry into, or transit through, its territory of persons listed in the Annex, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

Article 4

▼M1

1. All funds and economic resources belonging to, owned, held or controlled by the persons identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea, and natural or legal persons, entities or bodies associated with them, as listed in the Annex, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of, natural or legal persons, entities or bodies listed in the Annex.

3. The competent authority of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

(a) necessary to satisfy the basic needs of the persons listed in the Annex and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

(b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;

(c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources; or

(d) necessary for extraordinary expenses, provided that the competent authority has notified the competent authority of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation.

A Member State shall inform the other Member States and the Commission of any authorisation it grants under this paragraph.

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4. By way of derogation from paragraph 1, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, provided that the following conditions are met:

(a) the funds or economic resources are the subject of a judicial, administrative or arbitral lien established prior to the date on which the natural or legal person, entity or body referred to in Article 4(1) was included in the Annex or of a judicial, administrative or arbitral judgment rendered prior to that date;

(b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) the lien or judgment is not for the benefit of a natural or legal person, entity or body listed in the Annex; and

(d) recognising the lien or judgement is not contrary to public policy in the Member State concerned.

A Member State shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

5. Paragraph 2 shall not apply to the addition to frozen accounts of:

(a) interest or other earnings on those accounts; or

(b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to Common Position 2009/788/CFSP,

provided that any such interest, other earnings and payments remain subject to paragraph 1.

Article 5

1. The Council, acting upon a proposal by a Member State or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt amendments to the list contained in the Annex as required by political developments in the Republic of Guinea.

2. The Council shall communicate its decision, including the grounds for listing, to the person concerned, either directly, if the address is known, or through the publication of a notice, providing such person with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person concerned accordingly.

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Article 6

In order to maximise the impact of the abovementioned measures, the EU shall encourage third States to adopt restrictive measures similar to those contained in this Decision.

Article 7

Common Position 2009/788/CFSP is hereby repealed.

Article 8

1. This Decision shall enter into force on the date of its adoption.

▼M9

2. This Decision shall apply until 27 October 2017. It shall be kept under constant review. It shall be renewed or amended, as appropriate, if the Council deems that its objectives have not been met.

▼**M1**

ANNEX

List of persons referred to in Articles 3 and 4

	Name (and possible aliases)	Identifying information (date and place of birth (d.o.b. and p.o.b.), passport (Pass.)/ID card number, etc.)	Reasons
1.	Captain Moussa Dadis CAMARA	d.o.b: 01.01.64 or 29.12.68 Pass: R0001318	Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea
2.	Commandant Moussa Tiégboro CAMARA	d.o.b: 01.01.68 Pass: 7190	Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea
3.	Colonel Dr. Abdoulaye Chérif DIABY	d.o.b: 26.02.57 Pass: 13683	Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea
4.	Lieutenant Aboubacar Chérif (alias Toumba) DIAKITÉ		Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea
5.	Lieutenant Jean-Claude PIVI (alias Coplan)	d.o.b: 01.01.60	Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea