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COUNCIL DECISION (CFSP) 2015/1763

of 1 October 2015

concerning restrictive measures in view of the situation in Burundi

(OJ L 257, 2.10.2015, p. 37)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Decision (CFSP) 2016/1745 of 29 September 2016	L 264	29	30.9.2016
►**M2**	Council Decision (CFSP) 2017/1933 of 23 October 2017	L 273	9	24.10.2017
►**M3**	Council Decision (CFSP) 2018/1612 of 25 October 2018	L 268	49	26.10.2018
►**M4**	Council Decision (CFSP) 2019/1788 of 24 October 2019	L 272	147	25.10.2019

Corrected by:

►**C1**	Corrigendum, OJ L 8, 10.1.2019, p. 38 (2018/1612)

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COUNCIL DECISION (CFSP) 2015/1763

of 1 October 2015

concerning restrictive measures in view of the situation in Burundi

Article 1

1. Member States shall take the measures necessary to prevent the entry into, or transit through, their territories of:

(a) natural persons undermining democracy or obstructing the search for a political solution in Burundi, including by acts of violence, repression or inciting violence;

(b) natural persons involved in planning, directing, or committing acts that violate international human rights law or international humanitarian law, as applicable, or that constitute serious human rights abuses, in Burundi; and

(c) natural persons associated with those referred to in points (a) and (b);

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 of an international intergovernmental organisation;

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

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

(d) pursuant to the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (Vatican City State) and Italy.

4. Paragraph 3 shall be considered as applying also in cases where a Member State is host country of 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 paragraph 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 and those promoted or hosted by the European Union, or

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hosted by a Member State holding the Chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes the policy objectives of restrictive measures, including democracy, human rights and the rule of law in Burundi.

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

Article 2

1. All funds and economic resources belonging to, owned, held or controlled by:

(a) natural or legal persons, entities or bodies undermining democracy or obstructing the search for a political solution in Burundi, including by acts of violence, repression or inciting violence;

(b) natural or legal persons, entities or bodies involved in planning, directing, or committing acts that violate international human rights law or international humanitarian law, as applicable, or that constitute serious human rights abuses, in Burundi; and

(c) natural or legal persons, entities or bodies associated with the persons, entities or bodies referred to in points (a) and (b);

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 the 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 natural or legal persons, entities or bodies listed in the Annex and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

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(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 authorities 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.

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

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 an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in paragraph 1 was listed in the Annex, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;

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

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

(d) recognition of the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this paragraph.

5. Paragraph 1 shall not prevent a natural or legal person, an entity or body listed in the Annex from making a payment due under a contract entered into prior to the date on which such natural or legal person, entity or body was listed therein, provided that the Member State concerned has determined that the payment is not, directly or indirectly, received by a natural or legal person, entity or body referred to in paragraph 1.

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

(a) interest or other earnings on those accounts;

(b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2; or

(c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned;

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

Article 3

1. The Council, acting upon a proposal from a Member State or from the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the list in the Annex.

2. The Council shall communicate the decision referred to in paragraph 1, including the grounds for the listing, to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing such person, entity or body with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review the decision referred to in paragraph 1 and inform the natural or legal person, entity or body concerned accordingly.

Article 4

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to in Article 1(1) and Article 2(1).

2. The Annex shall also contain, where available, the information necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include names, including aliases, date and place of birth, nationality, passport and identity card numbers, gender, address if known, and function or profession. With regard to legal persons, entities or bodies, such information may include names, place and date of registration, registration number and place of business.

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Article 4a

1. The Council and the High Representative may process personal data in order to carry out their tasks under this Decision, in particular:

(a) as regards the Council, for preparing and making amendments to the Annex;

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(b) as regards the High Representative, for preparing amendments to the Annex.

2. The Council and the High Representative may process, where applicable, relevant data relating to criminal offences committed by listed natural persons, to criminal convictions of such persons or to security measures concerning such persons, only to the extent that such processing is necessary for the preparation of the Annex.

3. For the purposes of this Decision, the Council and the High Representative are designated as 'controllers' within the meaning of point (8) of Article 3 of Regulation (EU) 2018/1725 of the European Parliament and of the Council [1], in order to ensure that the natural persons concerned can exercise their rights under Regulation (EU) 2018/1725.

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Article 5

In order to maximise the impact of the measures set out in this Decision, the Union shall encourage third States to adopt restrictive measures similar to those provided for in this Decision.

Article 6

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

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This Decision shall apply until 31 October 2020.

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This Decision 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.

[1] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

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ANNEX

List of natural and legal persons, entities and bodies referred to in Articles 1 and 2

	Name	Identifying information	Grounds for designation
▼M4 1.	Godefroid BIZIMANA	Gender: Male DOB: 23.4.1968 POB: NYAGASEKE, MABAYI, CIBITOKE Burundian nationality. Passport number: DP0001520	'Chargé de missions de la Présidence' and former Deputy Director General of the National Police. Responsible for undermining democracy by making operational decisions that have led to a disproportionate use of force and acts of violent repression towards peaceful demonstrations that started on 26 April 2015 following the announcement of the presidential candidacy of President Nkurunziza.
▼B 2.	Gervais NDIRAKOBUCA alias NDAKUGARIKA	DOB: 1.8.1970 Burundian nationality. Passport number: DP0000761	Head of Cabinet of the Presidential Administration (Présidence) responsible for matters relating to the National Police. Responsible for obstructing the search for a political solution in Burundi by issuing instructions that led to disproportionate use of force, acts of violence, acts of repression and violations of international human rights law against protestors demonstrating from 26 April 2015 onwards, following the announcement of the presidential candidacy of President Nkurunziza, including on 26, 27 and 28 April in the Nyakabiga and Musaga districts in Bujumbura.
▼M3 3.	►C1 Mathias-Joseph NIYONZIMA ◄ alias KAZUNGU	DOB: 6.3.1956; 2.1.1967 POB: Kanyosha Commune, Mubimbi, Bujumbura-Rural Province, Burundi Registration number (SNR): O/00064 Burundian nationality. Passport number: OP0053090	Officer of the National Intelligence Service. Responsible for obstructing the search for a political solution in Burundi by inciting violence and acts of repression during the demonstrations that started on 26 April 2015 following the announcement of the presidential candidacy of President Nkurunziza. Responsible for helping to train, coordinate and arm the Imbonerakure paramilitary militias, including outside Burundi, who are responsible for acts of violence, repression and serious human rights abuses in Burundi.
▼B 4.	Léonard NGENDAKUMANA	DOB: 24.11.1968 Burundian nationality. Passport number: DP0000885	Former 'Chargé de Missions de la Présidence' and former army general. Responsible for obstructing the search for a political solution in Burundi by participating in the attempted coup d'état of 13 May 2015 to overthrow the Burundi Government. Responsible for acts of violence — grenade attacks — committed in Burundi, as well as for incitement to violence. General Léonard Ngendakumana publicly supported violence as a means to achieve political goals.