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COUNCIL REGULATION (EC) No 560/2005

of 12 April 2005

imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire

(OJ L 95, 14.4.2005, p. 1)

Amended by:

<u>B</u>

Official Journal

		No	page	date
<u>M1</u>	Commission Regulation (EC) No 250/2006 of 13 February 2006	L 42	24	14.2.2006
► <u>M2</u>	Commission Regulation (EC) No 869/2006 of 14 June 2006	L 163	8	15.6.2006
► <u>M3</u>	Council Regulation (EC) No 1791/2006 of 20 November 2006	L 363	1	20.12.2006
►M4	Commission Regulation (EC) No 1240/2008 of 10 December 2008	L 334	60	12.12.2008

COUNCIL REGULATION (EC) No 560/2005

of 12 April 2005

imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60, 301 and 308 thereof,

Having regard to Council Common Position 2004/852/CFSP of 13 December 2004 concerning restrictive measures against Côte d'Ivoire (¹),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (2),

Whereas:

- (1) In Resolution 1572 (2004) of 15 November 2004, the UN Security Council, acting under Chapter VII of the Charter of the United Nations and deploring the resumption of hostilities in Côte d'Ivoire and the repeated violations of the ceasefire agreement of 3 May 2003, decided to impose certain restrictive measures against Côte d'Ivoire.
- (2) Common Position 2004/852/CFSP provides for implementation of the measures set out in UN Security Council Resolution 1572 (2004), including the freezing of funds and economic resources of persons, designated by the competent United Nations Sanctions Committee, who constitute a threat to the peace and national reconciliation process in Côte d'Ivoire, in particular those who block implementation of the Linas-Marcoussis and Accra III Agreements, any other person determined as responsible for serious violations of human rights and international humanitarian law in Côte d'Ivoire on the basis of relevant information, any other person who incites publicly hatred and violence, and any other person determined by the Committee to be in violation of the arms embargo also imposed by Resolution 1572 (2004).
- (3) These measures fall within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement them as far as the Community is concerned. For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.
- (4) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day of its publication,

⁽¹⁾ OJ L 368, 15.12.2004, p. 50.

⁽²⁾ Opinion delivered on 24 February 2005 (not yet published in the Official Journal).

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions shall apply:

- 'Sanctions Committee' means the Committee of the Security Council of the United Nations which was established pursuant to paragraph 14 of UN Security Council Resolution 1572 (2004);
- 'funds' means financial assets and benefits of every kind, including but not limited to:
 - (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (d) interest, dividends or other income on or value accruing from or generated by assets;
 - (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (f) letters of credit, bills of lading, bills of sale;
 - (g) documents evidencing an interest in funds or financial resources;
 - (h) any other instrument of export-financing.
- 3. 'freezing of funds' means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;
- 'economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;
- 'freezing of economic resources' means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.

Article 2

- 1. All funds and economic resources owned, or controlled, directly or indirectly, by the natural or legal persons or entities listed in Annex I 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 or entities listed in Annex I.
- 3. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

Article 3

1. By way of derogation from Article 2, provided that the competent authorities of the Member States, as listed in Annex II, have notified the Sanctions Committee of their intention to authorise access to such funds and economic resources and have not received a negative decision by

the Sanctions Committee within two working days of such notification, they may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources.
- 2. By way of derogation from Article 2, the competent authorities of the Member States as listed in Annex II may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, after having determined that the funds or economic resources are necessary for extraordinary expenses, provided that they have notified that determination to the Sanctions Committee and that the determination has been approved by that Committee, under the conditions envisaged by paragraph 14(e) of UN Security Council Resolution 1572 (2004).

Article 4

By way of derogation from Article 2, the competent authorities of the Member States as listed in Annex II may authorise the release of certain frozen funds or economic resources if the following conditions are met:

- (a) the funds or economic resources are subject of a judicial, administrative or arbitral lien established prior to 15 November 2004 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 person or entity listed in Annex I:
- (d) recognising the lien or judgment is not contrary to public policy in the Member State concerned;
- (e) the competent authorities have notified the lien or judgment to the Sanctions Committee.

Article 5

The relevant competent authority shall inform the competent authorities of the other Member States and the Commission of any authorisation granted under Articles 3 or 4.

Article 6

Article 2(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 this Regulation,

provided that any such interest, other earnings and payments are frozen in accordance with Article 2(1).

Article 7

Article 2(2) shall not prevent the crediting of frozen accounts by financial institutions that receive funds transferred by third parties to the accounts of the persons or entities listed in Annex I provided that any such additions to such accounts are also frozen. The financial institution shall inform the competent authorities about such transactions without delay.

Article 8

- 1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy and to the provisions of Article 284 of the Treaty, natural and legal persons, entities and bodies shall:
- (a) supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2, to the competent authorities of the Member States listed in Annex II where they are resident or located, and shall transmit such information, directly or through these competent authorities, to the Commission;
- (b) cooperate with the competent authorities listed in Annex II in any verification of this information.
- 2. Any additional information directly received by the Commission shall be made available to the competent authorities of the Member State concerned.
- 3. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

Article 9

The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person or entity implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as result of negligence.

Article 10

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 11

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- (a) amend Annex I on the basis of determinations made by the Sanctions Committee; and
- (b) amend Annex II on the basis of information supplied by Member States.

Article 12

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those rules to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 13

This Regulation shall apply:

- (a) within the territory of the Community, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Community who is a national of a Member State;
- (d) to any legal person, group or entity which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, group or entity doing business within the Community.

Article 14

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

ANNEX I

List of natural or legal persons or entities referred to in Articles 2, 4 and 7

(1) Charles Blé Goudé (alias Gbapé Zadi). Address: Bloc P 170, Yopougon Selmer, Côte d'Ivoire, (b) Hotel Ivoire, Abidjan, Cocody, Côte d'Ivoire. Date of birth: 1.1.1972. Place of birth: (a) Guibéroua (Gagnoa), Côte d'Ivoire, (b) Niagbrahio/Guiberoua, Côte d'Ivoire, (c) Guiberoua, Côte d'Ivoire. Nationality: Côte d'Ivoire. Passport No: (a) 04LE66241 (Côte d'Ivoire, issued on 10.11.2005, valid until 9.11.2008), (b) AE/088 DH 12 (Diplomatic passport Côte d'Ivoire, issued on 20.12.2002, valid until 11.12.2005), (c) 98LC39292 (Côte d'Ivoire, issued on 24.11.2000, valid until 23.11.2003). Travel document No: C2310421 (Switzerland, issued on 15.11.2005, valid until 31.12.2005).

Other information: (1) Address (a) in 2001, Address (b) as declared in travel document No C2310421; (2) possible *alias* or title: 'Général' or 'Génie de kpo'; (3) Leader of COJEP ('Young Patriots'). Repeatedly made public statements advocating violence against United Nations installations and personnel, and against foreigners; direction of and participation in acts of violence by street militias, including beatings, rapes and extrajudicial killings; intimidation of the United Nations, the International Working Group (IWG), the political opposition and independent press; sabotage of international radio stations; obstacle to the action of the IWG, the United Nations Operation in Côte d'Ivoire, (UNOCI), the French Forces and to the peace process as defined by UN Resolution 1643 (2005).

(2) Eugène N'goran Kouadio **Djué**. Date of birth: (a) 1.1.1966, (b) 20.12.1969. Nationality: Côte d'Ivoire. Passport No: 04LE017521 (issued on 10.2.2005, valid until 10.2.2008).

Other information: Leader of the 'Union des Patriotes pour la Libération Totale de la Côte d'Ivoire (UPLTCI)'. Repeatedly made public statements advocating violence against United Nations installations and personnel, and against foreigners; direction of and participation in acts of violence by street militias, including beatings, rapes and extrajudicial killings; obstacle to the action of IWG, UNOCI, the French forces and to the peace process as defined by UN Resolution 1643 (2005).

(3) Martin Kouakou Fofié. Date of birth: 1.1.1968. Place of birth: Bohi, Côte d'Ivoire. Nationality: Côte d'Ivoire. Identity card No: (a) 2096927 (Burkina Faso, issued on 17.3.2005), (b) 970860100249 (Côte d'Ivoire, issued on 5.8.1997, valid until 5.8.2007).

Other information: (a) Burkina Faso Nationality Certificate: CNB N.076 (17.2.2003), Father's Name: Yao Koffi Fofié, Mother's Name: Ama Krouama Kossonou; (b) Chief Corporal New Force Commandant, Korhogo Sector. Forces under his command engaged in recruitment of child soldiers, abductions, imposition of forced labour, sexual abuse of women, arbitrary arrests and extra-judicial killings, contrary to human rights conventions and to international humanitarian law; obstacle to the action of the IWG, UNOCI, French Forces and to the peace process as defined by UN Resolution 1643 (2005).

ANNEX II

List of competent authorities referred to in Articles 3, 4, 5, 7 and 8

BELGIUM

Federale Overheidsdienst Financiën

Thesaurie

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E-mail: Quesfinvragen.tf@minfin.fed.be

Service public fédéral des finances

Trésorerie

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Факс: (359-2) 988 1207

E-mail: feedback@minfin.bg

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Finanční analytický útvar

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Fax (45) 35 46 62 03

Udenrigsministeriet

Asiatisk Plads 2

DK-1448 København K

Tlf. (45) 33 92 00 00

Fax (45) 32 54 05 33

Justitsministeriet

Slotholmsgade 10

DK-1216 København K

Tlf. (45) 33 92 33 40

Fax (45) 33 93 35 10

GERMANY

Concerning freezing of funds:

Deutsche Bundesbank

Servicezentrum Finanzsanktionen

Postfach

D-80281 München

Tel.: (49) 89 28 89 38 00 Fax: (49) 89 35 01 63 38 00

Concerning technical assistance:

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)

Frankfurter Straße 29-35

D-65760 Eschborn

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15049 Tallinn

Tel: +372 6317 100 Fax: +372 6317 199

Finantsinspektsioon

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GREECE

A. Freezing of Assets

Ministry of Economy and Finance General Directory of Economic Policy

5 Nikis Str.

GR-105 63 Athens

Tel.: (30) 210 333 27 86 Fax: (30) 210 333 28 10

Α. Δέσμευση κεφαλαίων

Υπουργείο Οικονομίας και Οικονομικών Γενική Δ/νση Οικονομικής Πολιτικής

Νίκης 5

GR-105 63 Αθήνα

Τηλ.: (30) 210 333 27 86 Φαξ: (30) 210 333 28 10

B. Import- Export restrictions

Ministry of Economy and Finance

General Directorate for Policy Planning and Management

Kornaroy Str. GR-101 80 Athens

Tel.: (30) 210 328 64 01-3 Fax: (30) 210 328 64 04

Β. Περιορισμοί εισαγωγών — εξαγωγών

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FRANCE

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Ministry of Finance (Department of Customs)

M. Karaoli

CY-1096 Nicosia

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Latvijas Republikas Ārlietu ministrija

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Articles 7 and 8: Finansinspektionen Box 6750 S-113 85 Stockholm Tfn (46-8) 787 80 00 Fax (46-8) 24 13 35

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