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COUNCIL REGULATION (EU) No 1284/2009

of 22 December 2009

imposing certain specific restrictive measures in respect of the Republic of Guinea

(OJ L 346, 23.12.2009, p. 26)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Regulation (EU) No 279/2010 of 31 March 2010	L 86	20	1.4.2010
► <u>M2</u>	Council Regulation (EU) No 269/2011 of 21 March 2011	L 76	1	22.3.2011
► <u>M3</u>	Council Regulation (EU) No 1295/2011 of 13 December 2011	L 330	1	14.12.2011
► <u>M4</u>	Council Regulation (EU) No 49/2013 of 22 January 2013	L 20	25	23.1.2013

**COUNCIL REGULATION (EU) No 1284/2009****of 22 December 2009****imposing certain specific restrictive measures in respect of the
Republic of Guinea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,
and in particular Article 215(1) and (2) thereof,

Having regard to Council Common Position 2009/788/CFSP of
27 October 2009 concerning restrictive measures against the Republic
of Guinea ⁽¹⁾, as amended by Council Decision 2009/1003/CFSP of
22 December 2009,

Having regard to the joint proposal from the High Representative of the
Union for Foreign Affairs and Security Policy and the Commission,

Whereas:

- (1) Common Position 2009/788/CFSP provides for certain restrictive measures concerning members of the National Council for Democracy and Development (NCDD) and individuals associated with them, responsible for the violent repression of 28 September 2009 or the political stalemate in the country.
- (2) Those measures include the freezing of funds and economic resources of the natural or legal persons, entities and bodies listed in the Annex to the Common Position, as well as a prohibition on the provision of technical and financial assistance and other services related to military equipments to any natural or legal person, entity or body in, or for use in, the Republic of Guinea. The measures also include a prohibition on the sale, supply, transfer or export of equipment to the Republic of Guinea which could be used for internal repression.
- (3) Those measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, legislation at the level of the Union is necessary in order to implement them as far as the Union is concerned.
- (4) Any processing of personal data of natural persons under this Regulation should observe Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾ and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽³⁾.

⁽¹⁾ OJ L 281, 28.10.2009, p. 7.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

⁽³⁾ OJ L 281, 23.11.1995, p. 31.

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- (5) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (a) ‘equipment which might be used for internal repression’ means the goods listed in Annex I;
- (b) ‘technical assistance’ means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance;
- (c) ‘brokering services’ means the activities of persons, entities and partnerships acting as intermediaries by buying, selling or arranging the transfer of goods and technology, or negotiating or arranging transactions that involve the transfer of goods or technology;
- (d) ‘funds’ means financial assets and benefits of every kind, including but not limited to:
- (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (iii) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (iv) interest, dividends or other income on or value accruing from or generated by assets;
 - (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (vi) letters of credit, bills of lading, bills of sale;
 - (vii) documents evidencing an interest in funds or financial resources;
- (e) ‘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;
- (f) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;

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- (g) ‘freezing of economic resources’ means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;
- (h) ‘territory of the Union’ means the territories to which the Treaty is applicable, under the conditions laid down in the Treaty.

Article 2

It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression, whether or not originating in the Union, to any natural or legal person, entity or body in, or for use in, the Republic of Guinea;
- (b) to provide, directly or indirectly, technical assistance or brokering services related to the equipment referred to in point (a), to any natural or legal person, entity or body in, or for use in, the Republic of Guinea;
- (c) to provide, directly or indirectly, financing or financial assistance related to the equipment referred to in point (a), to any natural or legal person, entity or body in, or for use in, the Republic of Guinea.
- (d) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a), (b) or (c).

Article 3

It shall be prohibited:

- (a) to provide, directly or indirectly, technical assistance or brokering services related to goods and technology listed in the Common Military List of the European Union ⁽¹⁾, or related to the provision, manufacture, maintenance and use of goods included in that list to any natural or legal person, entity or body in, or for use in, the Republic of Guinea;
- (b) to provide, directly or indirectly, financing or financial assistance related to goods and technology listed in the Common Military List of the European Union including, in particular, grants, loans and export credit insurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any natural or legal person, entity or body in, or for use in, the Republic of Guinea;
- (c) to participate, knowingly and intentionally, in activities, the object or effect of which is to circumvent the prohibitions referred to in points (a) and (b).

⁽¹⁾ OJ C 65, 19.3.2009, p. 1.

▼ B*Article 4***▼ M3**

1. By way of derogation from Articles 2 and 3, the competent authorities of the Member States as indicated in the websites listed in Annex III, may in duly justified cases authorise:

- (a) the sale, supply, transfer or export of equipment which might be used for internal repression, provided it is intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations (UN) and the European Union, or for European Union and UN crisis management operations;
- (b) the sale, supply, transfer or export of non-lethal equipment which might be used for internal repression, provided it is intended solely to enable the police and gendarmerie of the Republic of Guinea to use only appropriate and proportionate force while maintaining public order;
- (c) the provision of financing, financial assistance, technical assistance, brokering services and other services related to equipment or to programmes and operations referred to in points (a) and (b);
- (d) the provision of financing, financial assistance, technical assistance, brokering services and other services related to non-lethal military equipment intended solely for humanitarian or protective use, for institution-building programmes of the UN and the European Union, or for European Union and UN crisis management operations;
- (e) the provision of financing, financial assistance, technical assistance, brokering services and other services related to non-lethal military equipment intended solely to enable the police and gendarmerie of the Republic of Guinea to use only appropriate and proportionate force while maintaining public order;
- (f) provision of financing, financial assistance, technical assistance, brokering services and other services related to non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for protective use of personnel of the European Union and its Member States in the Republic of Guinea;

▼ M4

- (g) the sale, supply, transfer or export of explosives and related equipment as listed in point 4 of Annex I, intended solely for civilian use in mining and infrastructure investments, provided that the storage and use of the explosives and the related equipment and services are controlled and verified by an independent body and that the providers of the related services are identified;
- (h) the provision of financing, financial assistance, technical assistance, brokering services and other services related to explosives and related equipment intended solely for civilian use in mining and infrastructure investments, provided that the storage and use of the explosives and the related equipment and services are controlled and verified by an independent body and that the providers of the related services are identified.

▼ B

2. No authorisations shall be granted for activities that have already taken place.

▼ M4

3. The relevant Member State shall inform the other Members States at least two weeks in advance of the intention to grant an authorisation referred to in points (g) and (h) of paragraph 1.

▼ B*Article 5*

Articles 2 and 3 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to the Republic of Guinea by UN personnel, personnel of the European Union or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

Article 6

1. All funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities or bodies listed in Annex II 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 Annex II.

▼ M2

3. Annex II shall consist of the persons identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in the Republic of Guinea, and natural or legal persons, entities or bodies associated with them, as designated by the Council in accordance with Article 4(1) of Council Decision 2010/638/CFSP of 25 October 2010 concerning restrictive measures against the Republic of Guinea ⁽¹⁾.

▼ B

4. 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 7

The prohibitions set out in point (b) of Article 3 and in Article 6(2) shall not give rise to any liability of any kind on the part of the natural and legal persons, entities or bodies who made funds or economic resources available if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibition in question.

Article 8

1. By way of derogation from Article 6, the competent authorities of the Member States as indicated in the websites listed in Annex III 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 they deem appropriate, after having determined that the funds or economic resources are:

⁽¹⁾ OJ L 280, 26.10.2010, p. 10.

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- (a) necessary to satisfy the basic needs of persons listed in Annex II, and their dependent family members, including payments for food-stuffs, 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 reimbursement of incurred expenses associated with the provision of legal services;
 - (c) intended exclusively for the payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; or
 - (d) necessary for extraordinary expenses, provided that the Member State has notified the grounds on which it considers that a specific authorisation should be granted to all other Member States and to the Commission at least two weeks prior to authorisation.
2. The relevant Member State shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

Article 9

1. By way of derogation from Article 6, the competent authorities of the Member States as indicated in the websites listed in Annex III may authorise the release of certain frozen funds or economic resources, if the following conditions are met:
- (a) the funds or economic resources in question are the subject of a judicial, administrative or arbitral lien established prior to the date on which the person, entity or body referred to in Article 6 was included in Annex II, or of a judicial, administrative or arbitral judgment rendered prior to that date;
 - (b) the funds or economic resources in question 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, entity or body listed in Annex II; and
 - (d) recognising the lien or judgment is not contrary to public policy in the Member State concerned.
2. The relevant Member State shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

Article 10

1. Article 6(2) shall not prevent financial or credit institutions in the Union from crediting frozen accounts where they receive funds transferred to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall inform the relevant competent authority about any such transaction without delay.
2. Article 6(2) shall not apply to the addition to frozen accounts of:
- (a) interest or other earnings on those accounts; or

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- (b) payments due under contracts, agreements or obligations that were concluded or arose before the date on which the natural or legal person, entity or body referred to in Article 3 has been included in Annex II,

provided that any such interest, other earnings, payments or financial instruments are frozen in accordance with Article 6(1).

Article 11

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 or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen or withheld as a result of negligence.

Article 12

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities or bodies shall:

- (a) supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 6, to the competent authorities of Member States as indicated in the websites listed in Annex III for the country where they are resident or located and shall transmit such information, directly or through the competent authority as indicated in the websites listed in Annex III, to the Commission; and
- (b) cooperate with that competent authority in any verification of this information.

2. Any additional information directly received by the Commission shall be made available to 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 13

The Commission and the 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 14

Annex II shall include, where available, information on listed natural persons for the purpose of identifying sufficiently the persons concerned.

Such information may include:

- (a) surname and given names, including alias names and titles, if any;
- (b) date and place of birth;

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- (c) nationality;
- (d) passport and identity card numbers;
- (e) fiscal and social security numbers;
- (f) gender;
- (g) address or other information on whereabouts;
- (h) function or profession;
- (i) date of designation.

Annex II may also include information for identification purposes as set out above for family members of the persons listed, provided that this information is necessary in a specific case for the sole purpose of verifying the identity of the listed natural person in question.

Annex II shall also include the grounds for listing, such as occupation.

▼ M2*Article 15*

The Commission shall be empowered to amend Annex III on the basis of information supplied by Member States.

Article 15a

1. Where the Council decides to subject a natural or legal person, entity or body to the measures referred to in Article 6(1), it shall amend Annex II accordingly.
2. The Council shall communicate its decision, including the grounds for listing, to the natural or legal person, entity or body referred to in paragraph 1, either directly, if the address is known, or through the publication of a notice, providing such natural or legal 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 its decision and inform the natural or legal person, entity or body accordingly.
4. The list in Annex II shall be reviewed at regular intervals and at least every 12 months.

▼ B*Article 16*

1. Member States shall lay down the rules on penalties applicable to infringements 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.
2. Member States shall notify the Commission of those rules without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 17

1. Member States shall designate the competent authorities referred to in this Regulation and identify them in, or through, the websites listed in Annex III.
2. Member States shall notify the Commission of their competent authorities without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

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3. Where there is, in this Regulation, a requirement to notify, inform or otherwise communicate with the Commission, the address and other contact details to be used for such communication shall be those indicated in Annex III.

Article 18

This Regulation shall apply:

- (a) within the territory of the Union, 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 Union who is a national of a Member State;
- (d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Article 19

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 EQUIPMENT WHICH MIGHT BE USED FOR INTERNAL REPRESSION REFERRED TO IN ARTICLES 1(A) AND 2(A)

1. Firearms, ammunition and related accessories therefor, as follows:
 - 1.1. Firearms not controlled by ML 1 and ML 2 of the EU Common Military List;
 - 1.2. Ammunition specially designed for the firearms listed in item 1.1 and specially designed components therefor;
 - 1.3. Weapon-sights not controlled by the EU Common Military List.
2. Bombs and grenades not controlled by the EU Common Military List.
3. Vehicles as follows:
 - 3.1. Vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
 - 3.2. Vehicles specially designed or modified to be electrified to repel boarders;
 - 3.3. Vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
 - 3.4. Vehicles specially designed for the transport or transfer of prisoners and/or detainees;
 - 3.5. Vehicles specially designed to deploy mobile barriers;
 - 3.6. Components for the vehicles specified in items 3.1 to 3.5 specially designed for the purposes of riot control.

Note 1 This item does not control vehicles specially designed for the purposes of fire-fighting.

Note 2 For the purposes of item 3.5 the term 'vehicles' includes trailers.
4. Explosive substances and related equipment as follows:
 - 4.1. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car airbag inflators, electric-surge arresters or fire sprinkler actuators);
 - 4.2. Linear cutting explosive charges not controlled by the EU Common Military List;
 - 4.3. Other explosives not controlled by the EU Common Military List and related substances as follows:
 - (a) amatol;
 - (b) nitrocellulose (containing more than 12,5 % nitrogen);
 - (c) nitroglycol;
 - (d) pentaerythritol tetranitrate (PETN);
 - (e) picryl chloride;
 - (f) 2,4,6-trinitrotoluene (TNT).

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5. Protective equipment not controlled by ML 13 of the EU Common Military List as follows:
 - 5.1. Body armour providing ballistic and/or stabbing protection;
 - 5.2. Helmets providing ballistic and/or fragmentation protection, anti-riot helmets, anti-riot shields and ballistic shields.

Note. This item does not control:

 - equipment specially designed for sports activities,
 - equipment specially designed for work safety requirements.
6. Simulators, other than those controlled by ML 14 of the EU Common Military List, for training in the use of firearms, and specially designed software therefor.
7. Night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the EU Common Military List.
8. Razor barbed wire.
9. Military knives, combat knives and bayonets with blade lengths in excess of 10 cm.
10. Production equipment specially designed for the items specified in this list.
11. Specific technology for the development, production or use of the items specified in this list.

▼ M2

ANNEX II

List of natural and legal persons, entities or bodies referred to in Article 6(3)

	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.

▼ **M4***ANNEX III***Websites for information on the competent authorities referred to in Articles 4, 8, 9, 10(1), 12 and 17 and address for notifications to the European Commission***A. Competent authorities in each Member State:*

BELGIUM

<http://www.diplomatie.be/eusanctions>

BULGARIA

<http://www.mfa.bg/en/pages/135/index.html>

CZECH REPUBLIC

<http://www.mfcr.cz/mezinarodnisankce>

DENMARK

<http://um.dk/da/politik-og-diplomati/retsorden/sanktioner/>

GERMANY

<http://www.bmwi.de/BMWi/Navigation/Aussenwirtschaft/Aussenwirtschaftsrecht/embargos.html>

ESTONIA

http://www.vm.ee/est/kat_622/

IRELAND

<http://www.dfa.ie/home/index.aspx?id=28519>

GREECE

<http://www.mfa.gr/en/foreign-policy/global-issues/international-sanctions.html>

SPAIN

http://www.maec.es/es/MenuPpal/Asuntos/Sanciones%20Internacionales/Paginas/Sanciones_%20Internacionales.aspx

FRANCE

<http://www.diplomatie.gouv.fr/autorites-sanctions/>

ITALY

http://www.esteri.it/MAE/IT/Politica_Europea/Deroghe.htm

CYPRUS

<http://www.mfa.gov.cy/sanctions>

LATVIA

<http://www.mfa.gov.lv/en/security/4539>

LITHUANIA

<http://www.urm.lt/sanctions>

LUXEMBOURG

<http://www.mae.lu/sanctions>

HUNGARY

http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemzetkozi_szankciok/

MALTA

http://www.doi.gov.mt/EN/bodies/boards/sanctions_monitoring.asp

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NETHERLANDS

www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/sancties

AUSTRIA

http://www.bmeia.gv.at/view.php3?f_id=12750&LNG=en&version=

POLAND

<http://www.msz.gov.pl>

PORTUGAL

<http://www.min-nestrangeiros.pt>

ROMANIA

<http://www.mae.ro/node/1548>

SLOVENIA

http://www.mzz.gov.si/si/zunanja_politika_in_mednarodno_pravo/zunanja_politika/mednarodna_varnost/omejevalni_ukrepi/

SLOVAKIA

<http://www.foreign.gov.sk>

FINLAND

<http://formin.finland.fi/kvyhteisty/pakotteet>

SWEDEN

<http://www.ud.se/sanktioner>

UNITED KINGDOM

www.fco.gov.uk/competentauthorities

B. *Address for notifications to, or other communication with, the European Commission:*

European Commission
Service for Foreign Policy Instruments (FPI)
EEAS 02/309
1049 Bruxelles/Brussel
BELGIQUE/BELGIË