

DECISIONS

COUNCIL DECISION 2012/237/CFSP

of 3 May 2012

concerning restrictive measures directed against certain persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) In view of the seriousness of the current situation in the Republic of Guinea-Bissau, the Council considers it necessary to adopt measures targeting those who seek to prevent or block a peaceful political process or who take action that undermines stability in the Republic of Guinea-Bissau, in particular those who played a leading role in the mutiny of 1 April 2010 and the coup d'état of 12 April 2012 and who aim, through their actions, at undermining the rule of law, curtailing the primacy of civilian power and furthering impunity and instability in the country.
- (2) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of persons engaging in or providing support for acts that threaten the peace, security or stability of the Republic of Guinea-Bissau and 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 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) 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 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 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-Bissau.

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 receipt of the notification of the proposed exemption. Should one or more 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 2

1. All funds and economic resources belonging to, owned, held or controlled by natural or legal persons, entities or bodies engaging in or providing support for acts that threaten the peace, security or stability of the Republic of Guinea-Bissau 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 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 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 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;
- (d) necessary for extraordinary expenses, provided that the competent authority has notified the grounds on which it considers that a specific authorisation should be granted to the other competent authorities and the Commission at least two weeks prior to the authorisation.

Member States 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, 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 natural or legal person, entity or body referred to in paragraph 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;
- (d) recognising the lien or judgement is not contrary to public policy in the Member State concerned.

Member States 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 the provisions of this Decision,

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

Article 3

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.

2. The Council shall communicate its decision, 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 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 concerned accordingly.

Article 4

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 contained in this Decision.

Article 5

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

This Decision shall apply until 5 May 2013. 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.

Done at Brussels, 3 May 2012.

For the Council
The President
N. WAMMEN

ANNEX

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

Persons

	Name	Identifying information (date and place of birth (d.o.b. and p.o.b.), passport/ID card number, etc.)	Grounds for listing	Date of listing
1.	General António INJAI (a.k.a António INDJAI)	Nationality: Guinea-Bissau d.o.b.: 20 January 1955 p.o.b.: Encheia, Sector de Bissorá, Região de Oio, Guiné-Bissau Parentage: Wasna Injai and Quiritché Cofte Official function: Lieutenant General – Chefe de Estado-Maior Geral das Forças Armadas National ID: Unknown (Guinea- Bissau) Passport: Diplomatic passport AAID00435 Date of issue: 18.02.2010 Place of issue: Guinea-Bissau Date of expiry: 18.02.2013	António Injai has been personally involved in planning and leading the mutiny of 1 April 2010, culminating with the illegal apprehension of the Prime Minister, Carlo Gomes Junior, and the then Chief of Staff of the Armed Forces, José Zamora Induta. António Injai has operated in a way to pressure the Government for his appointment as Chief of Staff of the Armed Forces. Indjai has been consistently making public statements threatening the lives of the legitimate authorities namely against Prime Minister Carlos Gomes Junior and undermining rule of law, undercutting civilian powers, furthering a pervasive climate of impunity and instability in the country. During the 2012 electoral period, in his capacity as Chief of Staff of the Armed Forces, Injai again made statements threatening to overthrow the elected authorities and to put an end to the electoral process. António Injai has been once again involved in the operational planning of the coup d'état of 12 April 2012. In the aftermath of the coup, the first communiqué by the "Military Command" was issued by the Armed Forces General Staff, which is led by General Injai. He did not in any way counter or distance himself from that unconstitutional military action.	3.5.2012
2.	Major General Mamadou TURE (N'KRUMAH) (a.k.a. N'Krumah)	Nationality – Guinea-Bissau d.o.b. 26 April 1947 Diplomatic Passport no DA0002186 Date of issue: 30.03.2007 Date of expiry: 26.08.2013	Deputy Chief of Staff of the Armed Forces. Member of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.	3.5.2012
3.	General Augusto MÁRIO CÓ		Army Chief of Staff. Member of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.	3.5.2012
4.	General Estêvão NA MENA		Navy Chief of Staff. Member of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.	3.5.2012

	Name	Identifying information (date and place of birth (d.o.b. and p.o.b.), passport/ID card number, etc.)	Grounds for listing	Date of listing
5.	Brigadier General Ibraima CAMARÁ (a.k.a "Papa Camará")	Nationality – Guinea-Bissau d.o.b. 11 May 1964 Diplomatic Passport no AAID00437 Date of Issue:18.02.2010 Date of expiry: 18.02.2013	Chief of Staff of the Air Force. Member of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.	3.5.2012
6.	Lieutenant colonel Daba NAUALNA (a.k.a. Daba Na Walna)	Nationality – Guinea-Bissau d.o.b. 6 June 1966 Passport no SA 0000417 Date of issue: 29.10.2003 Date of expiry: 10.03.2013	Spokesperson of the "Military Command" which has assumed responsibility for the coup d'état of 12 April 2012.	3.5.2012