

COUNCIL DECISION 2012/811/CFSP

of 20 December 2012

amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 20 December 2010, the Council adopted Decision 2010/788/CFSP ⁽¹⁾ imposing restrictive measures against the Democratic Republic of the Congo.
- (2) United Nations Security Council Resolution (UNSCR) 2078 (2012) of 28 November 2012 amended the criteria for the designation of persons and entities to be subject to the restrictive measures set out in paragraphs 9 and 11 of UNSCR 1807 (2008).
- (3) UNSCR 2078 (2012) also added a further exemption to the measures set out in paragraph 9 of UNSCR 1807 (2008).
- (4) On 12 and 30 November 2012, the Sanctions Committee established pursuant to UNSCR 1533 (2004) added additional persons to the list of persons and entities subject to restrictive measures.
- (5) Decision 2010/788/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/788/CFSP is hereby amended as follows:

- (1) Article 3 is replaced by the following:

'Article 3

Restrictive measures as provided for in Articles 4(1) and 5(1) and (2) shall be imposed against the following persons and, as appropriate, entities, designated by the Sanctions Committee:

- persons or entities acting in violation of the arms embargo and related measures as referred to in Article 1,
- political and military leaders of foreign armed groups operating in the DRC who impede the disarmament

and the voluntary repatriation or resettlement of combatants belonging to those groups,

- political and military leaders of Congolese militias receiving support from outside the DRC, who impede the participation of their combatants in disarmament, demobilisation and reintegration processes,
- political and military leaders operating in the DRC and recruiting or using children in armed conflict contrary to applicable international law,
- individuals or entities operating in the DRC and committing serious violations involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction, and forced displacement,
- individuals or entities obstructing the access to or the distribution of humanitarian assistance in the eastern part of the DRC,
- individuals or entities illegally supporting armed groups in the eastern part of the DRC through illicit trade of natural resources, including gold,
- individuals or entities acting on behalf of or at the direction of a designated individual or entity owned or controlled by a designated individual,
- individuals or entities who plan, sponsor or participate in attacks against peacekeepers of the United Nations Organization Stabilization Mission in the DRC (MONUSCO).

The relevant persons and entities are listed in the Annex.;

- (2) in Article 4(3) the following phrase is added after point (c):

'or where such entry or transit is necessary for the fulfilment of judicial process.'

Article 2

The persons listed in the Annex to this Decision shall be added to the list of persons set out in the Annex to Decision 2010/788/CFSP.

⁽¹⁾ OJ L 336, 21.12.2010, p. 30.

Article 3

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

Done at Brussels, 20 December 2012.

For the Council
The President
E. FLOURENTZOU

ANNEX

PERSONS REFERRED TO IN ARTICLE 2

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
MAKENGA, Sultani	Colonel Sultani Makenga Emmanuel Sultani Makenga	25 December 1973 Rutshuru, Democratic Republic of Congo	Congolese A military leader of the Mouvement du 23 Mars (M23) group operating in the Democratic Republic of the Congo.	Sultani Makenga is a military leader of the Mouvement du 23 Mars (M23) group operating in the Democratic Republic of the Congo (DRC). As a leader of M23 (also known as the Congolese Revolutionary Army), Sultani Makenga has committed and is responsible for serious violations of international law involving the targeting of women and children in situations of armed conflict, including killing and maiming, sexual violence, abduction, and forced displacement. He has also been responsible for violations of international law related to M23's actions in recruiting or using children in armed conflict in the DRC. Under the command of Sultani Makenga, M23 has carried out extensive atrocities against the civilian population of the DRC. According to testimonies and reports, the militants operating under the command of Sultani Makenga have conducted rapes throughout Rutshuru territory against women and children, some of whom have been as young as 8 years old, as part of a policy to consolidate control in Rutshuru territory. Under Makenga's command, M23 has conducted extensive forced recruitment campaigns of children in the DRC and in the region, as well as killing, maiming, and injuring scores of children. Many of the forced child recruits have been under the age of 15. Makenga has also been reported to be the recipient of arms and related materiel in violation of measures taken by the DRC to implement the arms embargo, including domestic ordinances on the importing and possession of arms and related materiel. Makenga's actions as the leader of M23 have included serious violations of international law and atrocities against the civilian population of the DRC, and have aggravated the conditions of insecurity, displacement, and conflict in the region.	12.11.2012
NGARUYE WA MYAMURO, Baudoin	Colonel Baudoin NGARUYE	1978, Lusamambo, Lubero territory, Democratic Republic of the Congo.	Military leader of the Mouvement du 23 Mars (M23) FARDC ID: 1-78-09-44621-80	In April 2012, Ngaruye commanded the ex-CNDP mutiny, known as the Mouvement du 23 Mars (M23), under the orders of General Ntaganda. He is currently the third highest ranking military commander within the M23. The Group of experts on the DRC previously recommended him for designation in 2008 and 2009. He is responsible for and has committed severe violations of human rights and international law. He recruited and trained hundreds of children between 2008 and 2009 and then towards the end of 2010 for the M23. He has committed killing, maiming and abductions, often targeting women. He is responsible for executions and torture of deserters within the M23. In 2009 within the FARDC, he gave the orders to kill all men in Shalio village of Walikale. He also provided weapons, munitions and salaries in Masisi and Walikale under the direct orders from Ntaganda. In 2010 he orchestrated the forced displacement and expropriation of populations in the area of Lukopfu. He has also been extensively involved in criminal networks within the FARDC deriving profits from the mineral trade which led to tensions and violence with Colonel Innocent Zimurinda in 2011.	30.11.2012

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
KAINA, Innocent	Colonel Innocent KAINA "India Queen"	Bunagana, Rutshuru territory, Democratic Republic of the Congo		Innocent Kaina is currently a Sector commander in the Mouvement du 23 Mars (M23). He is responsible for and has committed serious violations of international law and human rights. In July 2007 the Garrison Military Tribunal of Kinshasa found Kaina responsible for crime against humanity committed in the District of Ituri, between May 2003 and December 2005. He was released in 2009 as part of the peace agreement between the Congolese government and the CNDP. Within the FARDC in 2009, he has been guilty of executions, abductions and maiming in Masisi territory. As Commander under the orders of General Ntaganda, he initiated the ex-CNDP mutiny in Rutshuru territory in April 2012. He ensured the security of the mutineers out of Masisi. Between May and August 2012, he oversaw the recruitment and training of over 150 children for the M23 rebellion, shooting the boys who had tried to escape. In July 2012 he travelled to Berunda and Degho for mobilization and recruitment activities for the M23.	30.11.2012