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2014/0186 (NLE)

Proposal for a

**COUNCIL DECISION**

**extending the validity of Decision 2011/492/EU and suspending the application of its  
appropriate measures**

## **EXPLANATORY MEMORANDUM**

On 31 January 2011 the European Union decided to open consultations with the Republic of Guinea-Bissau under Article 96 of the revised Cotonou Agreement. This decision was taken in the wake of the events of 1 April 2010. On that day, on the orders of the Deputy Chief of Staff of the Armed Forces, General Antonio Indjai, a group of mutinous soldiers arrested Chief of Staff José Zamora Induta and the Prime Minister of Guinea-Bissau, Mr. Gomes Junior. Following the mutiny, General Indjai became de facto Chief of Staff before being officially appointed on 25 June 2010 by decree of the President, Mr Bacai Sanha, on a proposal from the government.

The European Union regards the mutiny of 1 April 2010 and the subsequent appointment of its main instigators to high-ranking posts in the military hierarchy as a serious and evident breach of the essential elements of Article 9 of the Cotonou Agreement (respect for democratic principles) and as a case of special urgency within the meaning of Article 96(2)(b). A letter was therefore sent to the Guinea-Bissau authorities on 2 February 2011 to invite them to hold consultations.

The opening meeting of the consultations took place in Brussels on 29 March 2011.

In the course of the meeting, the participants were informed of the proposals of the Guinea-Bissau side for progressively ensuring the primacy of civilian authority, improving democratic governance, guaranteeing the safeguarding of constitutional order and the rule of law, and tackling impunity and organised crime.

The undertakings made by the Guinea-Bissau side comprise, in particular:

- the conduct and conclusion of judicial investigations and proceedings that are fully independent and carried out under appropriate logistic and security conditions, relating to the assassinations in March and June 2009;
- the effective implementation of the security sector reform based on the strategy adopted by the national parliament and the legislative package drawn up with the support of the EU's CSDP mission;
- the renewal of the military hierarchy to ensure the appointment to senior command of persons not involved in unconstitutional or illegal conduct or acts of violence, in conformity with the conclusions and recommendations of the ECOWAS roadmap for Security Sector Reform;
- the approval of and assistance of an experts' mission to support security sector reform and the protection of political figures, to be carried out with the support of ECOWAS, the CPLP and/or other partners;
- the preparation, adoption and effective implementation of national operational plans to implement Security Sector Reform and to combat drug trafficking;
- the improvement of the administrative and financial management of civilian and military employees, and measures to combat money laundering.

The European Union noted these undertakings in its conclusions of the consultations. It urged the representatives of the Republic of Guinea-Bissau to undertake judicial investigations and proceedings into the events of 1 April 2010 to reinforce efforts to tackle the problem of impunity and to specify a more detailed timetable for implementation of these undertakings in compliance with the timeframe set out in the ECOWAS roadmap.

The European Union decided on 18 July 2011, by Council Decision 2011/492/EU to adopt appropriate measures for the performance of these undertakings, including a scheme of mutual commitments for the gradual resumption of EU cooperation.

On 12 April 2012, a coup d'état by elements of the armed forces took place after the first round of the presidential elections, due after the death in January of President Bacai Sanha; the Acting President and the Prime Minister were arrested.

Two years after the coup d'état of April 2012, legislative and presidential elections have finally taken place on 13 April and 18 May 2014. These elections, judged by all international observers, including the EU Electoral Observation Mission, as free and credible, were a major step to the restoration of the constitutional order.

By Council Decision 2013/385/EU of 15/7/2013, the appropriate measures set out in Council Decision 2011/492/EU were extended by one year, with validity until 19/7/2014.

The Commission considers it important that Council Decision 2011/492/EU does not expire as it continues providing a fundamental framework for the promotion of democratic stability and rule of law in Guinea-Bissau. An extension of the deadline of one year, until 19 July 2015, is therefore proposed. However, taking into consideration the holding of credible elections and in order to be able to engage with and to support the democratically elected authorities to move the country towards more stability, democracy and development, it is proposed to suspend the application of the appropriate measures.

## **Conclusion**

In the light of the above, the Council is requested to adopt the attached draft proposal for a Council Decision extending the validity of Decision 2011/492/EU, but suspending the application of its appropriate measures.

Proposal for a

## **COUNCIL DECISION**

**extending the validity of Decision 2011/492/EU and suspending the application of its appropriate measures**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000<sup>1</sup> (hereinafter referred to as the 'ACP-EU Partnership Agreement'), as last amended in Ouagadougou, Burkina Faso on 22 June 2010<sup>2</sup>, and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EU Partnership Agreement<sup>3</sup>, and in particular Article 3 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision 2011/492/EU<sup>4</sup>, consultations with the Republic of Guinea-Bissau under Article 96 of the ACP-EU Partnership Agreement were concluded and appropriate measures, as specified in the Annex to that Decision, were taken.
- (2) By Council Decision 2013/385/EU<sup>5</sup>, Council Decision 2011/492/EU was amended to extend further by one year, until 19 July 2014 the period of application of the appropriate measures.
- (3) The essential elements cited in Article 9 of the ACP-EU Partnership Agreement continue to be violated and the current conditions in Guinea-Bissau do not ensure respect for human rights, democratic principles and the rule of law. It is therefore

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<sup>1</sup> OJ L 317, 15.12.2000, p. 3.

<sup>2</sup> OJ L 287, 4.11.2010, p.3

<sup>3</sup> OJ L 317, 15.12.2000, p. 376, as amended in OJ L 247, 9.9.2006, p. 48.

<sup>4</sup> Council Decision 2011/492/EU of 18 July 2011 concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 ACP-EU Partnership Agreement (OJ L 203, 6.8.2011, p. 2).

<sup>5</sup> Council Decision 2013/385/EU of 15 July 2013 extending the period of application of the appropriate measures in Decision 2011/492/EU concerning Guinea-Bissau and amending that Decision (OJ L 194, 17.7.2013, p.6).

appropriate to extend the validity of Council Decision 2011/492/EU for a period of one year.

- (4) However, taking into consideration the holding of peaceful, free and credible elections on 13 April and 18 May 2014, which represent a major step towards more democracy and stability, and in order to engage with and provide direct support to the democratically elected authorities in their efforts to consolidate the democratic institutions, reconcile the society and promote the socioeconomic development of Guinea Bissau, the appropriate measures set out in the Annex to Council Decision 2011/492/EU should be suspended.

- (5) This Decision should be reviewed six months after its entry into force.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The validity of Decision 2011/492/EU and of its appropriate measures is hereby extended until 19 July 2015. However, the application of the appropriate measures is hereby suspended.

The appropriate measures shall be kept under constant review and shall be applied again if the situation in Guinea Bissau is to seriously deteriorate. Such measures shall in any event be reviewed six months after the entry into force of this Decision.

#### *Article 2*

The letter in the Annex to this Decision shall be sent to the authorities of Guinea-Bissau.

#### *Article 3*

This Decision shall enter into force on the date of its adoption.

#### *Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*