

THE REPUBLIC OF GUINEA-BISSAU (SANCTIONS) (EU EXIT) REGULATIONS 2019

REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

Introduction

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Act**”) in relation to the Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that the purpose of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act;ⁱ why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to “defend the rules-based international order”. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Act allows the UK to impose sanctions measures for a number of purposes, including in the interests of international peace and security, to further a foreign policy objective of the United Kingdom and to promote compliance with international humanitarian rights law or respect for human rights.
4. The EU first adopted a sanctions regime towards the Republic of Guinea-Bissau on 3 May 2012 in relation to those who sought to prevent or block peaceful political processes and who played a leading role in the mutiny of 1 April 2010 and coup d’état of 12 April 2012. As well as implementing United Nations Security Council Resolution 2048 (2012), under which the Sanctions Committee imposed travel bans on those persons responsible for the coup d’état, the EU regime imposed additional sanctions measures and designations.
5. The EU can decide to introduce EU autonomous sanctions to supplement UN sanctions and take action where the UN has not, or to pursue a specific policy objective. In the case of the Republic of Guinea-Bissau, the EU sanctions regime provides for further travel bans and asset-freeze measures to be imposed on additional persons responsible for engaging in, or providing support for, acts that threaten the peace, security or stability of the Republic of Guinea-Bissau. The EU measures also target those who sought to undermine the rule of law, curtailing the primacy of civilian power and furthering impunity and instability in the country. The UK played a role in the development of the EU sanctions and bringing these existing EU sanctions into UK law is consistent with UK policy on the Republic of Guinea-Bissau.

6. These Regulations are intended to substantially deliver the same policy effects as those existing EU sanctions and will run in parallel to the UNSCR in respect of Guinea-Bissau which is already implemented via domestic legislation, namely section 8B of the Immigration Act 1971.

Purposes and reasons for pursuing the purposes

7. The Regulations confer a power on the Secretary of State to designate a person who is or has been involved in an activity that threatens the peace, security or stability of the Republic of Guinea-Bissau. Designated persons can then be subject to immigration or financial sanctions measures.
8. The purpose of the sanctions regime, as set out in regulation 4 of the Regulations, is to encourage the abandonment of actions that undermine the peace, security or stability of the Republic of Guinea-Bissau.
9. Carrying out this purpose meets one or more of the conditions set out in section 1(2) of the Act. In particular, carrying out this purpose would fall within paragraphs (c), (d) and (i).

- a. Section 1(2)(c): the interests of international peace and security.

In adopting resolution 2048, the United Nations declared that the situation in the Republic of Guinea-Bissau in 2012 represented a threat to international peace and security under Chapter VII of the Charter of the United Nations. These Regulations further this objective by imposing additional sanctions measures on persons responsible for that situation.

- b. Section 1(2)(d) and (i): UK foreign policy and respect for democracy, the rule of law and good governance.

The democratic process in the Republic of Guinea-Bissau remains a concern as outlined in the report of an assessment of the United Nations Integrated Peacebuilding Office in Guinea-Bissau from December 2018¹. The UK Government continues to engage with the Government of the Republic of Guinea-Bissau to promote the rule of law and democratic principles.

10. There are good reasons for pursuing this purpose, namely to encourage the abandonment of actions that undermine the peace, security or stability of the Republic of Guinea-Bissau. Not only is UNSCR 2048 still operative, but also the Republic of Guinea-Bissau has presidential elections scheduled to take place before the end of 2019. In order to ensure a successful democratic process, there is a political and practical imperative to retain the regime until at least then, to send a strong signal to the Republic of Guinea-Bissau that the UK continues to monitor the situation closely.

¹ https://uniogbis.unmissions.org/sites/default/files/n1839338_0.pdf

Why sanctions are a reasonable course of action

11. The imposition of prohibitions and requirements of the kind imposed by these Regulations is a reasonable course of action for the purpose of providing accountability for, or to act as a deterrent to, persons whose actions, policies, or activities undermines the peace, security or stability of the Republic of Guinea-Bissau.
12. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. HMG believes sanctions can be an effective and reasonable foreign policy tool if they are part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
13. There are two principal kinds of prohibition in the Regulations: those relating to financial sanctions and those relating to immigration sanctions. These restrictions consist of an asset freeze (including a restriction on providing funds and economic resources) and a travel ban. These restrictions can only be imposed upon specified individuals and entities who meet the criteria set out in the Regulations, namely that there are reasonable grounds to suspect that the person is, or has been, involved in threatening the peace, security or stability of the Republic of Guinea-Bissau, and that their designation is appropriate having regard to the purposes of the regime and the likely significant effects of the designation on that person. This is in order to ensure that the sanctions are clearly targeted at those who threaten the peace security or stability of the Republic of Guinea-Bissau and therefore fulfil the stated purpose of the sanctions.
14. The intention is to apply pressure to key figures who played a significant role in the mutiny of 2010 and the coup d'état of 2012 to act as a deterrent to potential political disruptors. Applying these restrictions gives a signalling intention to prevent further those who seek to prevent or block peaceful political processes, or who take action that undermines stability in the Republic of Guinea-Bissau in the run up to the Presidential elections taking place in 2019. The Regulations allow for exceptions to the travel ban and also provides for the financial sanctions to be subject to certain exceptions and a licensing framework. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons, as they mitigate any possible negative or counter-productive impacts.
15. These sanctions are not an end in themselves. They are one element of a broader dual-track strategy approach of pressure and engagement to achieve the UK's foreign policy goals based on the right for the rule of law, democratic processes and good governance, in the Republic of Guinea-Bissau. In line with the UK Government's policy and to seek to prevent actions which threaten democratic principles, sanctions have been imposed along with continued support of UNSCR 2048 as well as the UN Special Rapporteur.
16. The policy intention is to keep the sanctions on the Republic of Guinea-Bissau in place until the UK Government is assured that the rule of law and democratic processes have been adhered to, at least until the outcome of the upcoming Presidential elections in 2019. The UK will continue to coordinate with international partners, including on the future of the regime.
17. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions

regime and certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is considered a reasonable course of action for the purpose of the Regulations.

Conclusions

18. The purpose of these Regulations is to encourage the abandonment of actions that undermine the peace, security or stability of the Republic of Guinea-Bissau. For the reasons set out in this report, carrying out those purposes meets one or more of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing that purpose, and the imposition of immigration and financial sanctions against persons responsible for actions that threaten the peace, security or stability of the Republic of Guinea-Bissau is a reasonable course of action.

The Rt Hon Sir Alan Duncan MP KCMG

**Minister of State for Europe and the Americas, Foreign and Commonwealth Office, on behalf of
the Secretary of State for Foreign and Commonwealth Affairs**

ⁱ Section 1(2) states:

“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -*
 - (i) compliance with international human rights law, or*
 - (ii) respect for human rights,*
- g) promote compliance with international humanitarian law,*
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
- i) promote respect for democracy, the rules of law and good governance.”*