



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.3.2008
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Proposal for a

COUNCIL DECISION

**amending Decision 2005/321/EC concluding the consultation procedure with the
Republic of Guinea under Article 96 of the Cotonou Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

In March 2004 the European Union (EU) decided to launch consultations with Guinea under Article 96 of the Cotonou Agreement. A persistent deterioration in the democratic environment had been observed in the preceding years, amounting to non-respect of the essential elements defined in Article 9 of the Agreement. At that time, the EU was also concerned by the lack of respect for human rights and fundamental freedoms and the absence of good administrative, political, economic and financial governance.

At the meeting to launch the consultations on 20 July 2004, the Government submitted a memorandum setting out its commitments, with particular emphasis on political dialogue, the electoral commission, liberalisation of the airwaves, reinforcement of the rule of law and macroeconomic management.

On the basis of the commitments entered into by the Guinean Government, the consultations were concluded in 2005. The Council's conclusions on 14 April 2005 recognised that certain commitments had given rise to encouraging initiatives but that several important measures still had to be implemented, in particular in the context of a political dialogue with the opposition forces. As the follow-up to the consultations and in view of the undertakings given thus far and the measures still to be implemented, it was decided to adopt appropriate measures under Article 96(2)(c) of the Cotonou Agreement. The Council Decision in question expired on 14 April 2008.

However, until mid-2006 the political dialogue made slow progress and the results were rather mixed. The dialogue was even suspended following the local elections in December 2005, which were marked by shortcomings and irregularities, leading to a loss of confidence on the part of the opposition.

However, starting in July 2006, the discussions between the various political forces gathered momentum, enabling a consensus to be reached at the end of 2006 on the electoral framework and on operational conditions for parliamentary elections initially scheduled for June 2007. The Government undertook to present the relevant draft laws to the National Assembly. In addition, the airwaves were effectively liberalised in August 2006, when the first authorised private radio stations came on air. At the end of December 2006, in view of the progress made in these areas, the EU decided to make available to Guinea envelope A of the 9th EDF (€85.8 million).

At the same time, the deterioration in living conditions in the country, which had already led to two general strikes in 2006, provoked a further wave of strikes in January and February 2007 that was accentuated by the release from prison of a close ally of the President. During the strikes, there were further human rights violations (and, consequently, violations of the essential elements defined in Article 9 of the Cotonou Agreement), including two cases of violent repression of peaceful demonstrations by the forces of law and order and the army. The people's revolts in January and February and their violent repressions left between 137 and 183 dead and over 1 500 wounded. The equipment at one of the private radio stations was destroyed and another station was forced to suspend broadcasting owing to threats. In view of the rapid deterioration of governance in the country, the demands of the movement very quickly went beyond a strictly trade union context and a partial political response was achieved only through an agreement between the Government and the trade unions following lengthy mediation, notably by Guinean religious leaders and ECOWAS.

The new Prime Minister, Mr Lansana Kouyaté, was appointed at the end of February and his government (whose members were not members of the previous governments) finally took office at the end of March. The priorities of the new executive include: (i) promotion of an

independent and credible justice system; (ii) the restoration of macroeconomic equilibrium; (iii) the development of infrastructures and provision of basic social services; (iv) the promotion of good governance.

Nine months taking up the reins of government, the dissatisfaction with Kouyaté contrasts with the euphoria surrounding his appointment. Although inflation has been reduced and the exchange rate has risen, contributing to the conclusion of a three-year programme with the International Monetary Fund, the initial enthusiasm has given way to doubts concerning the Kouyaté government's capacity and determination to break with the shortcomings of the system under Lansana Conté. The President is the only true head of the executive. His powers are safeguarded by the Constitution and he signs all the decrees. He can thus easily paralyse the actions of the government. The post of Prime Minister does not exist in the constitution, and the Prime Minister has only delegated powers. He can thus easily be removed by a Presidential decree, as has already occurred several times in the past. The President's scant support for the Prime Minister's actions and the growing dissatisfaction of the population give cause for concern and risk triggering a major new crisis (an indefinite general strike was only just avoided on 10 January).

The parliamentary elections initially scheduled for June 2007 have been postponed several times and the official date for them has not yet been fixed. The Decree setting up the Independent National Electoral Commission (INEC) was signed by President Conté on 28 November and its 25 members have been appointed. A member of civil society, Ben Sékou Sylla, has been elected President of the INEC. This body, which is essential to ensure the proper organisation of the forthcoming elections, will be able to initiate the registration process marking the start of the electoral process. The elections should take place at the earliest in autumn 2008.

The 36-month follow-up period should come to an end automatically on 14 April 2008. It is important to take a decision regarding the advisability of extending the Council Decision in view of the current instability in Guinea and the delay in holding the elections. Extension of the follow-up period until the elections are held would appear to be in the spirit of the Council Decision. The holding of parliamentary elections deemed to be free and transparent should ideally mark the end of the Article 96 procedure and of the appropriate measures.

The measures undertaken by the Guinean authorities are generally positive. Among other things, the people's revolts in January and February 2007 prevented compliance with the initial timetable but, thanks to the current efforts being made, these commitments are likely to be met within 12 months.

In the light of the above and in accordance with Articles 9 and 96 of the Cotonou Agreement, the Commission proposes that the Council extend by 12 months the period of validity of the Council Decision of 14 April 2005 and accordingly adopt the attached decision.

Proposal for a

COUNCIL DECISION

amending Decision 2005/321/EC concluding the consultation procedure with the Republic of Guinea under Article 96 of the Cotonou Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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 2000¹, and to the revised Agreement signed in Luxembourg on 25 June 2005², 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-EC Partnership Agreement³, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Council Decision 2005/321/EC of 14 April 2005⁴ concluding the consultation procedure with the Republic of Guinea under Article 96 of the Cotonou Agreement lays down a period of validity of 36 months from the date of its adoption for monitoring the appropriate measures.
- (2) At the end of the monitoring period, many undertakings have been fulfilled and practical steps taken towards fulfilling the main undertakings still outstanding. Nevertheless, several important measures concerning essential elements of the Cotonou Agreement have yet to be implemented,

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 287, 28.10.05, p. 4.

³ OJ L 317, 15.12.2000, p. 376.

⁴ OJ L 104, 23.4.2005, p. 33.

HAS DECIDED AS FOLLOWS:

Article 1

The validity of Decision 2005/321/EC concluding the consultation procedure with the Republic of Guinea under Article 96 of the Cotonou Agreement is hereby extended by 12 months. It will be reviewed every six months.

Article 2

The measures adopted in Decision 2005/321/EC as part of the appropriate measures within the meaning of Article 96(2)(c) of the Cotonou Agreement will remain unchanged.

Article 3

This Decision shall enter into force on the day it is adopted. It shall be published in the Official Journal of the European Union.

Done at Brussels, [...]

*For the Council
The President*

ANNEX

For the attention of the Prime Minister, Head of Government of the Republic of Guinea

Prime Minister,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement. The essential elements of this Agreement and, consequently, the basis of our relations are respect for human rights, democratic principles and the rule of law, on which the ACP-EU partnership is based.

In 2004 the European Union took the view that the political situation in Guinea violated these essential elements and in July 2004 it initiated consultations under Article 96 of the Agreement. These consultations gave rise to conclusions of which the Head of Government was informed by letter of 14 April 2005.

The appropriate measures provided for a monitoring period of 36 months which ended on 14 April 2008. During this period there was reinforced political dialogue including, among other measures, three joint follow-up missions by the Council and the Commission in May 2005, February 2006 and May 2007 and the visit of Commissioner Michel in October 2006. At the end of December 2006, in view of the progress made, the European Union decided to make available to Guinea envelope A of the 9th EDF (€85.8 million).

The measures carried out by the Guinean authorities are generally positive. However, the organisation of the parliamentary elections, including their date, which is one of the main undertakings given by the Guinean Government, has not yet been finalised. In view of the action currently being taken, these undertakings will likely be fulfilled within 12 months.

Aware of the positive action undertaken in Guinea and of what has still to be done, the European Union has decided to extend the monitoring period for the Decision of 14 April 2005 to 48 months so as to enable the Guinean authorities to fulfil all the undertakings given.

The appropriate measures of which we informed you in our letter of 14 April 2005 still apply.

Yours faithfully,

Done at Brussels

For the Commission For the Council