



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.12.2004  
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Proposal for a

**COUNCIL DECISION**

**concluding consultations with Guinea under Article 96 of the Cotonou Agreement**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

On 30 March 2004 the European Union decided to open consultations with Guinea under Article 96 of the Cotonou Agreement. This decision was taken because of the deterioration of democracy and the rule of law, failure to respect human rights and fundamental freedoms and the lack of good economic governance. The gradual deterioration of the democratic environment culminated in the presidential elections of December 2003, held in contentious conditions and without real electoral competition.

The meeting opening consultations, initially planned for 15 April 2004, was held on 20 July 2004. During the meeting the European Union was pleased to note that Guinea made certain undertakings and proposed positive steps to improve the climate for democracy and the rule of law and to establish the structural conditions for macroeconomic stability and sustainable development in Guinea. These undertakings were set out in the memorandum which the Guinean government presented at the meeting. Briefly, they entailed:

- a return to democracy through resumption of dialogue with the traditional opposition and civil society, including revision of the electoral arrangements;
- holding local and parliamentary elections based on the new electoral arrangements in June 2005 and June 2007 respectively;
- upholding the Constitution and the law, so guaranteeing respect for human rights and fundamental freedoms, including the rights of political parties to organise, meet, demonstrate and speak in public; launching discussion on a legal framework for liberalisation of the airwaves;
- promoting decentralisation;
- enhancing macroeconomic management and implementing sectoral reforms.

The EU emphasised that the scope of the undertakings and progress in implementing them would be the decisive factor in determining the nature and scope of any appropriate measures adopted at the conclusion of the three-month period of dialogue and on-the-spot consultations.

The conclusions of the meeting also provided that the EU would continue the dialogue with a view to ensuring that democracy and the rule of law in Guinea were enhanced as fast as possible, this being a prerequisite for a complete normalisation of relations. Ongoing dialogue was conducted between the Guinean government and EU representatives on the spot.

The Guinean government presented a progress report on 30 September 2004., following which a joint mission (EU Presidency and the Commission) went to Conakry and, in collaboration with Member States' representatives on the spot, evaluated implementation of the undertakings. The undertakings were also communicated to the President of the National Assembly, the Economic and Social Council, the members of the former National Electoral Council, political representatives, representatives of civil society, including the press, and ACP countries' Ambassadors to Guinea.

The mission found that the Guinean authorities showed great willingness both to continue and step up talks and to facilitate the EU mission.

It was also noted that the Guinean authorities had taken encouraging initiatives in relation to some undertakings. In particular:

The Government showed willingness to resume political dialogue with political representatives with a view to revising electoral arrangements. The official ceremony marking the resumption of dialogue took place on 31 August 2004 and an inter-party coordination office was set up to facilitate dialogue.

The Government confirmed its decision to organise local elections in June 2005 and to step up decentralisation. A number of draft legislative texts were being drawn up which would, when the time came, be discussed with those involved in the process, and with donors.

The Government confirmed its decision to organise parliamentary elections within the time limits set by the Constitution, i.e. in June 2007. The Government expressed its willingness to consider the possibility of bringing forward the election date if the opposition so required and if there was a political consensus for this move among the political parties.

The Government announced a timetable for liberalisation of the airwaves.

The Government confirmed measures, with a timetable for implementation, in the field of macroeconomic management and sectoral reform.

However, most of these undertakings are to be implemented over an extended period and it will be necessary to monitor their implementation over time. A number of points also continue to give rise to serious concern in terms of democracy. Despite the willingness expressed by the government and the opposition to engage in dialogue, the resumption of dialogue is proving difficult. It is therefore hard for the government to set a timetable for the dialogue and, more importantly, for revision of the electoral arrangements. This could endanger compliance with the undertakings to hold local and parliamentary elections.

At the conclusion of the consultations, taking into account the initiatives noted thus far and the important measures still to be put in hand, the Commission proposes adopting appropriate measures under Article 96(2)(c) of the Cotonou Agreement as set out in the attached Decision. The measures are proposed with a view to underpinning the process in recognition of progress made, motivating the government to consolidate this progress and, above all, speeding up performance of the undertakings concerning democratisation.

An enhanced political dialogue will be conducted with the Guinean government over a 36-month monitoring period in order to ensure that it continues on the path mapped out towards democracy and the rule of law and pursues and consolidates its efforts in the field of human rights and fundamental freedoms. This dialogue will involve the EU Presidency and the European Commission and bi-annual evaluations will be carried out over the monitoring period.

If implementation of the Guinean authorities' undertakings speeds up, or on the contrary breaks down, the EU reserves the right to adjust the appropriate measures by means of a new Council Decision amending this proposal.

In view of the above, and in accordance with Articles 9 and 96 of the Cotonou Agreement, the Commission proposes that the Council conclude the consultations with Guinea and adopt the attached Decision.

Proposal for a

## COUNCIL DECISION

### concluding consultations with 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 ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000,<sup>1</sup> and in particular, Article 96 thereof,

Having regard to the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement,<sup>2</sup> and in particular Article 3 thereof,

Having regard to the proposal from the Commission,<sup>3</sup>

Whereas:

- (1) The essential elements referred to in Article 9 of the ACP-EC Partnership Agreement have been violated.
- (2) On 20 July 2004, pursuant to Article 96 of the Cotonou Agreement, consultations started with the ACP countries and Guinea, during which the Guinean authorities gave specific undertakings designed to remedy problems identified by the European Union and to implement them during a period of intensive dialogue lasting three months.
- (3) At the end of this period some substantive initiatives had been taken in respect of some of the undertakings referred to above and some undertakings had been met; nevertheless some important measures concerning essential elements of the Cotonou Agreement had not yet been taken,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

Consultations with Guinea pursuant to Article 96 of the Cotonou Agreement are hereby concluded.

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

<sup>2</sup> OJ L 317, 15.12.2000, p. 376.

<sup>3</sup> OJ C...

*Article 2*

The measures specified in the annexed draft letter are hereby adopted as appropriate measures within the meaning of Article 96(2)(c) of the Cotonou Agreement.

*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*.

It shall be valid for 36 months from the date of its adoption by Council. It shall be reviewed regularly at least every six months.

Done at Brussels,

*For the Council  
The President*

## ANNEX

### **Draft letter**

Sir,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement. The ACP-EU partnership is founded on respect for human rights, democratic principles and the rule of law; these being essential elements of the Agreement and thus forming the basis for relations between us.

In this spirit, the European Union has been concerned by the deterioration of democracy and the rule of law, particularly after the constitutional referendum in 2001 and the parliamentary elections (2002) and presidential elections (2003). The European Union has also been concerned at the lack of respect for human rights and fundamental freedoms and the lack of good administrative, political, economic and financial governance.

It considered that the political situation in Guinea constituted a violation of the essential elements set out in Article 9 of the Cotonou Agreement. In view of this Article and the political deadlock in Guinea, it decided on 31 March 2004 to open consultations under Article 96 of the Agreement in order to thoroughly review the situation and find a remedy if possible.

These consultations began in Brussels on 20 July 2004. Several fundamental issues were addressed, and you were able to present your point of view and analysis of the situation in your country. You also presented a memorandum containing an action plan for consolidating democracy, respect for human rights, the rule of law and good governance.

Thereafter a joint follow-up mission (EU Presidency and the Commission) went to Conakry and, in collaboration with EU Member States' representatives on the spot, evaluated implementation of the undertakings.

The EU notes that the Guinean authorities showed great willingness both to continue and step up talks and to facilitate the EU mission. It also finds that you have taken promising initiatives in relation to some undertakings. In particular:

Your government has shown willingness to resume political dialogue with political representatives with a view to revising electoral arrangements. The official ceremony marking the resumption of dialogue took place on 31 August 2004 and an inter-party coordination office was set up to facilitate dialogue.

The Government confirmed its decision to organise local elections in June 2005 and to step up decentralisation. A number of draft legislative texts are being drawn up which will, when the time comes, be discussed with those involved in the process, and with donors.

The Government has confirmed its decision to organise parliamentary elections within the time limits set by the Constitution, i.e. in June 2007. However, it is willing to consider the possibility of bringing forward the election date if the opposition so requires and if there is a political consensus for this move among the political parties.

The Government has announced a timetable for liberalisation of the airwaves.

The Government has confirmed measures, with a timetable for implementation, in the field of macroeconomic management and sectoral reform.

These initiatives will undoubtedly improve respect for human rights and fundamental freedoms in your country. However, most of the undertakings are to be implemented over an extended period and it will be necessary to monitor the implementation of some of them over time. A number of points also continue to give rise to serious concern, especially as regards the restoration of democracy. In this connection, the European Union is anxious for the measures listed in your progress report on implementation of the memorandum of 30 September 2004 to be taken, in particular:

1. Setting a timetable and structure for national dialogue and really beginning that dialogue in order to review the electoral arrangements to guarantee transparent and democratic elections;
2. Continuing and consolidating the undertaking to comply with the laws on human rights and fundamental freedoms, in particular to allow political parties to exercise their rights and prerogatives to hold meetings, to demonstrate and to obtain access to State radio and television broadcasting;
3. Liberalising the electronic media according to the timetable presented to the EU follow-up mission in October 2004 to allow private electronic media to be set up before the local elections;
4. Organising local and parliamentary elections in line with the amended electoral arrangements;
5. Continuing decentralisation;
6. Continuing measures to enhance macroeconomic management and sectoral reforms.

Following the consultations, and in the light of the undertakings given thus far and the important measures still to be put in hand, the Commission proposes to adopt the following appropriate measures under Article 96(2)(c) of the Cotonou Agreement.

1. Cooperation financed from the unexpended balances of the 6th, 7th and 8th European Development Funds and from Envelope B of the 9th European Development Fund will continue for implementation of the programmes directly aimed at improving the living conditions of the most disadvantaged sections of the population or victims of the subregional political crisis.
2. Programmes to promote the emergence or emancipation of civil society (including non-organised forms), respect for and reinforcement of democracy, human rights and good governance and the emergence or consolidation of free media may also be supported.

3. Contributions to regional projects will be considered on a case-by-case basis.
4. Humanitarian operations, trade cooperation and trade-linked preferences will be continued.
5. Support will be provided for preparation of the elections, either from the unexpended balances of the 6th, 7th and 8th European Development Funds or from Envelope B, once electoral arrangements guaranteeing a transparent and democratic electoral process have been accepted by all parties and established.
6. Envelope A of the 9th EDF, minus EUR 65 million in line with the decision taken by the European Commission in the context of the mid-term review, will be available for implementation of the measures provided for in the National Indicative Programme once free and fair parliamentary elections have been held.

Regular reviews will have to be conducted by the EU Presidency and the European Commission, the first to be held within the next six months.

The EU will continue monitoring the situation in Guinea closely. An enhanced political dialogue will be conducted with your government over a 36-month monitoring period with a view to reestablishing democracy and the rule of law and continuing and consolidating efforts in the field of human rights and fundamental freedoms.

I have the honour to be, Sir, yours faithfully,

For the Commission

For the Council