

UNNUMBERED DOCUMENTS

EXPLANATORY MEMORANDUM ON THE EUROPEAN UNION'S COMMON FOREIGN AND SECURITY POLICY

COUNCIL IMPLEMENTING DECISION (CFSP) 2018/168 of 2 February 2018 implementing Decision (CFSP) 2015/740 concerning restrictive measures in view of the situation in South Sudan.

COUNCIL IMPLEMENTING REGULATION (EU) 2018/164 of 2 February 2018 implementing Article 22 (1) of Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan.

Submitted by the Foreign and Commonwealth Office on 8 February 2018.

SUBJECT MATTER

1. On the 2 February 2018, the EU Council adopted Council Implementing Decision (CFSP) 2018/168 and Council Implementing Regulation (EU) 2018/164 which added three persons to the South Sudan sanctions regime.
2. The three individuals have been added to this sanction regime in light of the deteriorating humanitarian and security situation in South Sudan and lack of commitment to the peace process.

SCRUTINY HISTORY

3. An Explanatory Memorandum on this subject was last submitted for Parliamentary Scrutiny on 16 July 2015. The House of Commons European Scrutiny Committee cleared the documents as “not legally or politically important” on 9 September 2015 (ESC 36979 & 36980, 3rd Report, Session 2015-16). The House of Lords Select Committee on the European Union cleared the documents on 21 July 2015 at the Chairman’s sift.

MINISTERIAL RESPONSIBILITY

4. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU’s Common Foreign and Security Policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

5. The UK's Foreign Affairs policy is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

POLICY IMPLICATIONS (including Exit implications where appropriate)

6. The conflict in South Sudan has caused a humanitarian, economic and political crisis. 1.52 million people are on the brink of famine – more than double than this time last year – and a third of the population are displaced causing Africa's largest refugee crisis. The High Level Revitalisation Forum (HLRF) peace initiative resumed on 5 February. The first phase of the HLRF concluded in December 2017 with a Cessation of Hostilities Agreement (CoHA). However, numerous breaches of the CoHA have been recorded.
7. The UN, African Union, Intergovernmental Authority on Development (IGAD – the East African bloc leading the HLRF), the EU and the Troika (UK, US and Norway) have all called for restrictive measures for those undermining the peace process. As the second phase of the HLRF begins, EU sanctions will signal that these threats are not empty and that there are costs and consequences for those pursuing military rather than political solutions to the conflict. EU sanctions will also demonstrate international unity; the US and Canada sanctioned the same three individuals in September 2017 and November 2017 respectively.
8. The individuals targeted have been responsible for human rights violations and/or obstructions of the political process. Paul Malong was Chief of the General Staff of the SPLA (Sudan People's Liberation Army) until May 2017. Michael Makuei Leuth has held the position of Minister for Information and Broadcasting since 2013 and has been the public spokesman for the government delegation to the Intergovernmental Authority on Development (IGAD) peace talks. Malek Reuben Riak has served as Deputy Chief of Defence Staff and Inspector General of the government's army since May 2017.

SUBSIDIARITY

9. Action by the EU is appropriate to ensure the uniform application across the EU of the sanctions measures adopted in view of the situation in South Sudan. This action is consistent with the principle of subsidiarity.

LEGAL AND PROCEDURAL ISSUES

10. Legal Basis of the Implementing Decision and Implementing Regulation: Article 31(2) of the Treaty on European Union in respect of the Implementing Decision, and Article 215 of the Treaty on the Functioning of the European Union in respect of the Implementing Regulation.
11. Voting Procedures: Council acting by Unanimity for the Council Implementing Decision and qualified majority for the Council Implementing Regulation.

12. Impact on UK Law: The Implementing Regulation is directly applicable in UK law.
13. Application to Gibraltar: Yes.
14. Fundamental rights analysis: These measures are in accordance with fundamental rights.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

15. None.

REGULATORY IMPACT ASSESSMENT

16. Not applicable.

FINANCIAL IMPLICATIONS

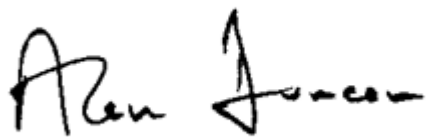
17. The listing of an individual or entity under EU South Sudan sanctions necessitates the freezing of that individual or entity's assets, if there are any, within the EU. Therefore any assets of the individuals listed will remain frozen.

TIMETABLE

18. The Council Implementing Decision and the Council Implementing Regulation were adopted on 2 February 2018.

OTHER OBSERVATIONS

19. None.

A handwritten signature in black ink, appearing to read "Alan Duncan". The signature is written in a cursive, slightly slanted style.

Rt Hon Sir Alan Duncan MP
Minister for Europe
Foreign and Commonwealth Office