

DECISIONS

COUNCIL DECISION (CFSP) 2018/1125

of 10 August 2018

amending Decision (CFSP) 2015/740 concerning restrictive measures in view of the situation in South Sudan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 7 May 2015, the Council adopted Decision (CFSP) 2015/740 ⁽¹⁾ concerning restrictive measures in view of the situation in South Sudan.
- (2) On 13 July 2018, the United Nations Security Council adopted Resolution 2428 (2018) which notably imposes an arms embargo and adds two persons to the list of persons and entities subject to restrictive measures.
- (3) Decision (CFSP) 2015/740 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2015/740 is amended as follows:

- (1) Article 1, paragraph 2, is replaced by the following:

‘2. It shall also be prohibited to:

- (a) provide, directly or indirectly, technical assistance, brokering services or other services, including the provision of armed mercenary personnel, related to military activities or related to the items referred to in paragraph 1 or related to the provision, manufacture, maintenance and use of such items, to any natural or legal person, entity or body in, or for use in, South Sudan;
- (b) provide, directly or indirectly, financing or financial assistance related to military activities or related to the items referred to in paragraph 1, including in particular grants, loans and export credit insurance, as well as insurance or reinsurance for any sale, supply, transfer or export of such items, or for the provision of related technical assistance, brokering services or other services to any natural or legal person, entity or body in, or for use in, South Sudan;
- (c) participate, knowingly and intentionally, in activities, the object or effect of which is to circumvent the measures referred to in point (a) or (b).’;

- (2) Article 2 is replaced by the following:

‘Article 2

Article 1 shall not apply to the sale, supply, transfer or export of:

- (a) arms and related materiel, as well as training and assistance, intended solely for support of or use by UN personnel, including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA);
- (b) non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as notified in advance to the Security Council Committee established pursuant to resolution 2206 (2015) (“the Committee”);
- (c) protective clothing, including flak jackets and military helmets, temporarily exported to South Sudan by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;

⁽¹⁾ Council Decision (CFSP) 2015/740 of 7 May 2015 concerning restrictive measures in view of the situation in South Sudan and repealing Decision 2014/449/CFSP (OJ L 117, 8.5.2015, p. 52).

- (d) arms and related materiel temporarily exported to South Sudan by the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, as notified to the Committee;
 - (e) arms and related materiel, as well as technical training and assistance, to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army, as notified in advance to the Committee;
 - (f) arms and related materiel, as well as technical training and assistance, solely in support of the implementation of the terms of the peace agreement, as approved in advance by the Committee;
 - (g) other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee.;
- (3) the following Article is inserted:

'Article 2a

1. Member States shall inspect, in accordance with their national authorities and legislation and consistent with international law, all cargo to South Sudan in their territory, including seaports and airports, if they have information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited under Article 1.

2. Member States shall, upon discovery, seize and dispose of (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) items the supply, sale, transfer or export of which is prohibited under Article 1.;

- (4) in Article 3(1), point (a) is replaced by the following:

'(a) designated by the Security Council or by the Committee in accordance with paragraphs 6, 7, 8 and 9 of UNSCR 2206 (2015) and with paragraph 14 of UNSCR 2428 (2018), as listed in Annex I to this Decision.;

- (5) in Article 6(1), point (a) is replaced by the following:

'(a) persons and entities designated by the Security Council or by the Committee in accordance with paragraphs 6, 7, 8 and 12 of UNSCR 2206 (2015) and with paragraph 14 of UNSCR 2428 (2018), as listed in Annex I to this Decision.;

Article 2

Annex I to Decision (CFSP) 2015/740 is hereby amended as set out in Annex I to this Decision.

Article 3

Annex II to Decision (CFSP) 2015/740 is hereby amended as set out in Annex II to this Decision.

Article 4

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 10 August 2018.

For the Council
The President
G. BLÜMEL

ANNEX I

The following persons are added to the list set out in Annex I to Decision (CFSP) 2015/740:

7. Malek REUBEN RIAK RENGU (alias: a) Malek Ruben)

Title: Lieutenant General

Designation: a) Deputy Chief of General Staff for Logistics; b) Deputy Chief of Defence Staff and Inspector General of the Army

Date of birth: 1 Jan. 1960

Place of birth: Yei, South Sudan

Nationality: South Sudan

Date of UN designation: 13 July 2018

Other information: As SPLA Deputy Chief of Staff for Logistics, Riak was one of the senior officials of the Government of South Sudan who planned and oversaw an offensive in Unity state in 2015 that resulted in widespread destruction and large population displacement.

Information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Malek Ruben Riak was listed on 13 July 2018 pursuant to paragraphs 6, 7 (a), and 8 of resolution 2206 (2015), as reaffirmed in resolution 2418 (2018), for “actions or policies that threaten the peace, security or stability of South Sudan”; “Actions or policies that have the purpose or effect of expanding or extending the conflict in South Sudan ...” and as a leader “of any entity, including any South Sudanese government, opposition, militia, or other group, that has, or whose members have, engaged in any of the activities described in paragraphs 6 and 7,” and pursuant to paragraph 14 (e) of this resolution for “planning, directing, or committing acts involving sexual and gender-based violence in South Sudan”.

According to the report by the Panel of Experts on South Sudan in January 2016 (S/2016/70), Riak was one of a group of senior security officials who planned a Unity state offensive against the SPLM-IO beginning in January 2015, and subsequently oversaw its execution from late April 2015 onwards. The Government of South Sudan began arming Bul Nuer youth in early 2015 to facilitate their participation in the offensive. Most Bul Nuer youth already had access to AK-pattern automatic rifles, but ammunition was critical to sustaining their operations. The Panel of Experts reported evidence, including testimony from military sources, that ammunition was supplied to youth groups by SPLA headquarters specifically for the offensive. Riak was the SPLA Deputy Chief of Staff for Logistics at the time. The offensive resulted in systematic destruction of villages and infrastructure, the forced displacement of the local population, the indiscriminate killing and torturing of civilians, the widespread use of sexual violence, including against the elderly and children, the abduction and recruitment of children as soldiers, and large population displacement. Following the destruction of much of the southern and central parts of the state, numerous media and humanitarian organisations, as well as the United Nations Mission in South Sudan (UNMISS) published reports about the scale of the abuses that were perpetrated.

8. Paul MALONG AWAN (alias: a) Paul Malong Awan Anei, b) Paul Malong, c) Bol Malong)

Title: General

Designation: a) Former Chief of Staff of the Sudan People’s Liberation Army (SPLA), b) Former Governor, Northern Bahr el-Ghazal State

Date of birth: a) 1962, b) 4 Dec. 1960, c) 12 Apr. 1960

Place of birth: Malualkon, South Sudan

Nationality: a) South Sudan, b) Uganda

Passport no: a) South Sudan number S00004370, b) South Sudan number D00001369, c) Sudan number 003606, d) Sudan number 00606, e) Sudan number B002606

Date of UN designation: 13 July 2018

Other information: As Chief of General Staff of the SPLA, Malong expanded or extended the conflict in South Sudan through breaches of the Cessation of Hostilities Agreement and breaches of the 2015 Agreement on the Resolution of the Conflict in South Sudan (ARCSS). He reportedly directed efforts to kill opposition leader Riek Machar. He ordered SPLA units to prevent the transport of humanitarian supplies. Under Malong’s leadership, the SPLA attacked civilians,

schools and hospitals; forced the displacement of civilians; carried out enforced disappearances; arbitrarily detained civilians; and conducted acts of torture, and rape. He mobilised the Mathiang Anyoor Dinka tribal militia, which uses child soldiers. Under his leadership, the SPLA restricted UNMISS, the Joint Monitoring and Evaluation Commission (JMEC), and CTSAMM access to sites to investigate and document abuses.

Information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Paul Malong Awan was listed on 13 July 2018 pursuant to paragraphs 6, 7 (a), 7 (b), 7 (c), 7 (d), 7 (f), and 8 of resolution 2206 (2015), as reaffirmed in resolution 2418 (2018), for “actions or policies that have the purpose or effect of expanding or extending the conflict in South Sudan or obstructing reconciliation or peace talks or processes, including breaches of the Cessation of Hostilities Agreement”; “actions or policies that threaten transitional agreements or undermine the political process in South Sudan”; “the targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law”; “planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in South Sudan”; “The use or recruitment of children by armed groups or armed forces in the context of the armed conflict in South Sudan”; “the obstruction of the activities of international peacekeeping, diplomatic, or humanitarian missions in South Sudan, including IGAD’s Monitoring and Verification Mechanism or of the delivery or distribution of, or access to, humanitarian assistance”; and as a leader “of any entity, including any South Sudanese government, opposition, militia, or other group, that has, or whose members have, engaged in any of the activities described in paragraphs 6 and 7”.

Malong served as Chief of General Staff of the SPLA from April 23, 2014, to May 2017. In his former position as the Chief of General Staff, he expanded or extended the conflict in South Sudan through breaches of the Cessation of Hostilities Agreement and breaches of the 2015 Agreement on the Resolution of the Conflict in South Sudan (ARCSS). As of early August 2016, Malong reportedly directed efforts to kill South Sudanese opposition leader Riek Machar. Malong, knowingly countermanding President Salva Kiir’s orders, ordered the 10 July 2016 tank, helicopter gunship, and infantry assaults on Machar’s residence and the Sudan Peoples’ Liberation Movement in Opposition (SPLM-IO)’s “Jebel” base. Malong personally oversaw efforts from SPLA headquarters to intercept Machar. As of early August 2016, Malong wanted the SPLA to attack Machar’s suspected position immediately and informed SPLA commanders that Machar was not to be taken alive. In addition, in early 2016 information indicates that Malong ordered SPLA units to prevent the transport of humanitarian supplies across the Nile River, where tens of thousands of civilians were facing hunger, claiming that food aid would be diverted from civilians to militia groups. As a result of Malong’s orders, food supplies were blocked from crossing the Nile for at least two weeks.

Throughout his tenure as Chief of General Staff of the SPLA, Malong has been responsible for the SPLA and its allied forces’ perpetration of serious abuses including attacks on civilians, forced displacement, enforced disappearances, arbitrary detentions, torture, and rape. Under Malong’s leadership, the SPLA launched attacks directed against the civilian population and intentionally killed unarmed and fleeing civilians. In the Yei area alone, the UN documented 114 killings of civilians by the SPLA and its allied forces between July 2016 and January 2017. The SPLA intentionally attacked schools and hospitals. In April 2017, Malong allegedly ordered the SPLA to clear all people, including civilians from the area around Wau. Malong reportedly did not discourage the killing of civilians by the SPLA troops, and persons suspected of hiding rebels were considered legitimate targets.

According to a 15 October 2014 African Union Commission of Inquiry on South Sudan report, Malong was responsible for the mass mobilisation of Mathiang Anyoor Dinka tribal militia, which Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM) documented use child soldiers.

Under Malong’s leadership of the SPLA, the government forces regularly restricted United Nations Mission in South Sudan (UNMISS), Joint Monitoring and Evaluation Commission (JMEC), and CTSAMM’s access when they tried to investigate and document abuses. For example, on April 5, 2017, a joint UN and CTSAMM patrol tried to access Pajok but was turned back by SPLA soldiers.’

ANNEX II

The entries for the persons mentioned below are deleted in Annex II to Decision (CFSP) 2015/740:

- 1. Paul Malong;
 - 3. Malek Reuben Riak.
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