

R-0429

[BSGR Resources](#)

- [BSGR GUINEA](#)
- [Media](#)
- [Contact](#)
- [About](#)
  - [Group Structure](#)
  - [Corporate Governance](#)
  - [Global Footprint](#)
  - [Track record](#)
- [Mining & Metals](#)
  - [Iron Ore](#)
  - [Diamonds](#)
  - [Ferro-nickel](#)
- [Energy](#)
- [Community & Environment](#)
  - [Environmental Initiatives](#)
  - [Community Support](#)

About 

## BSGR issues claim for judicial review against SFO and Home Office

12 December 2014

BSGR Resources Limited

("BSGR")

### BSGR issues claim for judicial review against SFO and Home Office

BSGR has commenced legal action in the High Court in London seeking a judicial review of decisions made by the Serious Fraud Office ("SFO") and the Secretary of State for the Home Department ("SSHd") to accede to a formal request for assistance of the Republic of Guinea in respect of a purported criminal investigation into BSGR and unnamed "others".

In acceding to the request for assistance, the SFO and SSHd would facilitate an investigation brought in bad faith for political reasons and which will be pursued without regard for fair trial or due process rights of individuals affected.

- Claims UK bodies offered unlawful assistance to corrupt government
- SFO and Home Office failed to consider political motivation of Guinean government's request
- Claims President Alpha Condé rigged 2010 presidential elections and then sought to reward financial backers with BSGR's looted assets
- Case presents evidence of illegal and corrupt practices in Guinea which form the backdrop of the unlawful request for mutual assistance to the UK

On 7 October 2014 the SFO utilised draconian compulsory powers, carrying criminal sanctions for non-compliance, by issuing Section 2 Notices against Onyx Financial Advisers, agents of BSGR in London and two law firms acting for the company. This is arguably the most onerous demand for documents ever made by the SFO in relation to obtaining evidence on behalf of a foreign government.

The SFO failed to give proper consideration to the background of BSGR's dispute with the Republic of Guinea when deciding whether it was appropriate to provide assistance to Guinea. Instead, it accepted unquestioningly the assertions contained within a letter of request, notwithstanding that some of those assertions are demonstrably wrong or misleading. What took place was a rubber stamping exercise, authorising everything sought by the Guinean authorities.

The grounds of the judicial review are that the decisions to accede to the Guinean requests for assistance were unlawful because: (i) the Guinean request was made in bad faith and was politically motivated; (ii) there is no guarantee of a fair trial in Guinea; (iii) the Guinean investigation itself is statute barred and the Guinean legislation prevents BSGR itself from being held liable; and (iv) the scope of the section 2 notices themselves is so wide as to be oppressive.

**James Libson, Mishcon de Reya, said:** "The UK authorities have a heightened duty in the exercise of their discretion in a case like this. The defendants have not applied that duty properly, if at all. Instead, they have simply waved through the request, ignoring numerous indicators of political influence, and have given effect to it by way of the most draconian measures at their disposal."

BSGR has repeatedly highlighted the bad faith and political motivation which taints the Republic of Guinea's request for mutual assistance. President Alpha Condé

entered into a series of secret and unlawful agreements pursuant to which he would be provided with funds and logistical support to rig the 2010 Presidential election. In return for their assistance, Alpha Condé's backers were promised rights in the country's mines.

Alpha Condé focused on revoking BSGR's rights in particular after BSGR refused to make a payment to him protect its rights. There have been marked differences in the treatment of BSGR by the Government of Guinea compared to other companies who, by making either direct payments or providing logistical support to the President's election campaign, have avoided a review of their mining rights.

Alpha Condé facilitated the revocation of BSGR's rights by manufacturing entirely false accusations of corruption against BSGR and by creating a prejudicial inquiry in Guinea which led to the cancellation of BSGR's contracts.

This inquiry relied on unreliable and discredited evidence and led to the illegal detention of two BSGR's employees in Guinea for seven months, without cause or due process and in clear violation of the right to a fair trial. This prejudicial review process now forms the basis of the criminal investigation into BSGR and subsequent request for mutual assistance.

The lack of due diligence by the SFO and Home Office is astonishing given the numerous indicators of political motivation of the Guinean government. In particular, the existence of a dispute between BSGR and the Government of Guinea concerning the latter's expropriation of the former's mining licences (currently in arbitration); the multiple public political attacks on BSGR by the Government of Guinea; the flagrant denial of due process in the Guinean criminal justice system; that no treaty for mutual legal assistance exists between the UK and Guinea, meaning there is a heightened duty on the SFO and Home Office in the exercise of their discretion; and that BSGR as a matter of Guinean law cannot be held liable for the offences purportedly under investigation in Guinea.

**Dag Cramer, Director of BSGR, commented:** *"The witness statements present evidence of the illegal and corrupted practices of multiple parties that have conspired against BSGR. BSGR is the victim of multiple related parties acting independently and in concert to achieve various objectives at the expense of BSGR and the people of Guinea."*

*Guinea itself, already one of the world's poorest countries, has been the principal loser in this sorry situation. BSGR's projects would have enabled the country by Q3 2012 finally to begin exporting iron ore. Instead, GoG's actions forced BSGR's projects to be shuttered and have resulted in no chance of iron ore being exported from Simandou before 2020 at the earliest."*

- ENDS -

#### Media Enquiries:

Powerscourt +44 (0)20 7250 1446

Ian Middleton / Theo Crutcher [bsg@powerscourt-group.com](mailto:bsg@powerscourt-group.com)

#### Notes for editors:

BSGR's legal representation is Mishcon de Reya solicitors, London.

The Section 2 Notices compel disclosure by third parties of material belonging to BSGR, in response to a request for assistance from the Government of Guinea ("GoG").

#### Details of Arbitration

The Request for Arbitration was registered with ICSID on 8 September 2014 (ICSID Case No. ARB/14/22). A copy of the request is available at <https://icsid.worldbank.org>.

ICSID's registration of the Request for Arbitration formally institutes the arbitral proceedings between BSGR and the Republic of Guinea. The next step in the proceedings is to constitute the three-member Tribunal that will adjudicate the dispute.

BSGR filed a Notice of Dispute against the Republic of Guinea at ICSID on 7 May 2014 in relation to breaches by the Republic of Guinea of its obligations under Guinean law and international law. The dispute relates to the Government of Guinea's decision to revoke BSGR's mining titles and agreements in the Zogota and Simandou regions of south-east Guinea in April 2014.

BSGR filed a Notice of Dispute against the Republic of Guinea at ICSID on 7 May 2014 and filed its Request for Arbitration against the Republic of Guinea at ICSID on 1 August 2014 in relation to breaches by the Republic of Guinea of its obligations under Guinean law and international law.

The Company is committed to providing full transparency around progress of the international arbitration claim and will provide further updates when available.

#### About BSGR

BSGR is a company incorporated in Guernsey. It is an international diversified mining company with operations in multiple countries across metals and mining operations in Africa and Eastern Europe, including ferro-nickel, diamonds, iron ore and gold. BSGR is also active in power generation in Nigeria. BSGR has a 15-year track record of providing risk capital, operational expertise and engineering capability for developing and executing mining operations in challenging environments.

BSGR is a subsidiary of BSG, a company with interests across the world in natural resources, real estate, capital markets and the diamond industry. Beny Steinmetz is an advisor to [and family beneficiary of] BSGR.

#### BSGR in Guinea

BSGR has been active in Guinea since February 2006 and has invested more than \$800 million in the country as part of efforts to develop iron ore reserves at Simandou and Zogota, on its own account and also with its joint venture partner Vale. The company's mining licences were acquired legally, as part of an open tender process. Their award was fully in accordance with Guinea's mining code, and followed extensive exploration and prospecting by BSGR. The company's licenses, its ongoing work at the Simandou and Zogota sites, and its joint venture with Vale, were all endorsed by government officials in several communications subsequent to the granting of the licenses.

The Government of Guinea has thwarted BSGR's efforts to develop these critical national assets. Since 2011 a campaign has emerged, spearheaded by President Alpha Condé, to rescind BSGR's lawfully awarded mining rights. Following the circulation of false accusations of corruption against the company (see below), BSGR was ordered by the Government of Guinea to halt work at its sites in the country.

In February 2013, the Government of Guinea announced the establishment of the Comité Technique de Revue des Titres et Conventions Miniers ("Technical Committee"), which was funded by George Soros and under the control and direction of President Alpha Condé. The Technical Committee's inquiry did not conform to even the most basic requirements of due process. In particular, the Technical Committee operated entirely under the control of Alpha Condé, ignored the presumption of innocence, reversed the burden of proof, was based on evidence which the Technical Committee itself admitted had not been tested, failed to properly disclose the documents upon which it purported to rely and ignored in their entirety BSGR's submissions. Following the Technical Committee's recommendations, President Alpha Condé revoked BSGR's mining rights by presidential decree on April 17, 2014.

Between April and November 2013, two BSGR employees were imprisoned in the Guinean capital of Conakry with no charges filed, an illegal detention that violated the country's Constitution. They were finally released on the November 29, 2013 having suffered seven months of serious mental and physical distress.

#### Outstanding litigation against Global Witness

Dag Cramer, David Clark, Sandra Merloni-Holmes and Beny Steinmetz – four individuals associated with BSGR – filed a High Court claim in London against Global Witness in December 2013. This followed Global Witness' refusal to produce personal data which it holds about the individuals, in breach of its obligations under the Data Protection Act, which is designed to protect individuals' rights and has been the law of the UK since 1998.

Global Witness first denied it held information on Mr Steinmetz, citing reasons subsequently dismissed as "contradictory" by the UK Information Commissioner. It then conceded it did hold such information but refused to disclose it. It has also not produced the data, which it holds on the other three claimants. The claimants have taken this action reluctantly, but have been forced to do so by Global Witness's refusal to comply with the DPA and a decision of the UK Information Commissioner.

[Back](#)

- [About Us](#)
- |
- [Mining & Metals](#)
- |
- [Energy](#)
- |
- [Community & Environment](#)
- |
- [Media](#)
- |
- [Contact](#)

About Us ▾

- [Legal Notice](#)
- |
- [Disclaimer](#)
- |
- [Cookies](#)
- |
- [©2013 BSG Resources Limited](#)

Privacy and Cookies Policy The attention of users is drawn to BSGR's Privacy & Cookies Policy which includes details on the use of performance, identification and targeting cookies (both our own and third parties) to enhance the functionality of the web-site, to enable the Group to monitor usage and to assist with future communications. By continuing to use this site users will be deemed to have accepted this policy and the use of cookies for these limited purposes only.

While every attempt has been made to ensure the accuracy of all statements at the time of writing, it must be born in mind that BSGR is constantly changing and developing in line with strategy and the markets in which it operates. We regularly check website content but cannot accept responsibility for actions or decisions based on information contained on this website. All questions regarding BSGR's most current status should be checked. Contact details can be found below.