



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 05.06.1998
COM(1998) 347 final

Proposal for a

COUNCIL REGULATION (EC)

concerning the reduction of certain economic and financial relations
with the Federal Republic of Yugoslavia and the Republic of Serbia

(presented by the Commission)

EXPLANATORY MEMORANDUM

The present proposal of the Commission for a reduction of certain economic relations with the Federal Republic of Yugoslavia, follows from the adoption by the Council of Common Positions 98/240/CFSP and 98/326/CFSP, dealing with the Kosovo situation, and the actions to be taken in this respect in order to obtain the fulfilment by the Governments of the Federal Republic of Yugoslavia and of Serbia of solving the Kosovo problem.

Regulation (EC) No 926/98 of 27 April 1998 already prohibits the supply to the Federal Republic of Yugoslavia of equipment which might be used for internal repression or terrorism, the provision and/or use of government and/or other official financial support, insurance and/or guarantees in respect of new export credit for trade with or investment in the Republic of Serbia and the provision or use of government and/or other official financing for privatisation's in that Republic.

For reasons of clear and transparent legislation the provisions of Regulation (EC) No 926/98 are fully integrated in this proposal, which will enable the repeal of that Regulation (Articles 5,6,7 and 8).

The other provisions in this proposal concern the freezing of the funds belonging to the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia.

The definitions in Article 1 of the proposal provide clear delimitations of the governmental bodies and of the funds concerned by the new Regulation.

Article 2 contains the provisions concerning the freezing of funds.

Articles 3, 4, 9, 10 and 14 deal with exceptions (for instance for daily expenses of embassies of the Federal Republic of Yugoslavia or for transfer of private pensions), and with a procedure for dealing with exceptions which can not yet be foreseen and for consultation on the application of the Regulation.

In order to ensure full compliance with the Regulation the competent authorities of the Member States should dispose of the necessary powers (Article 12).

The persons addressed by and the territorial scope of the Regulation are the same as those in Regulation (EC) No 926/98 (Article 15).

Council Regulation (EC) No/98
of 1998
concerning the reduction of certain economic and financial relations
with the Federal Republic of Yugoslavia and the Republic of Serbia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 73g and 228a,

Having regard to Common Positions 98/240/CFSP and 98/326/CFSP defined by the Council on the basis of Article J.2 of the Treaty on European Union on restrictive measures against the Federal Republic of Yugoslavia and the Republic of Serbia¹,

Having regard to the proposal from the Commission,

Whereas the said Common Positions provide for restrictive measures against the Federal Republic of Yugoslavia and/or the Republic of Serbia, including action by the Community for the reduction of certain economic relations;

Whereas certain of these measures fall under the scope of the Treaty establishing the European Community ;

Whereas, therefore, and notably with a view to avoiding distortion of competition, Community legislation is necessary for the implementation of these measures, as far as the territory of the Community is concerned; whereas such territory is deemed to encompass, for the purposes of this Regulation, the territories of the Member States to which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty;

Whereas procedures should be provided to authorise certain activities, amend the list of specially designated persons contained in Annex 1 and the list of competent services/authorities contained in Annex 3, or to amend the list of equipment for internal repression or terrorism contained in Annex 2 to this Regulation;

¹ OJ L 95, 27.3.98, p.1 and OJ L 143, 14.5.1998, p.1.

Whereas competent authorities of the Member States should, where necessary, be empowered to ensure compliance with this Regulation;

Whereas there is a need for Commission and Member States to inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, without prejudice to existing obligations with regard to certain items concerned;

Whereas for reasons of transparent legislation, this Regulation should encompass all the restrictive measures taken by the Community foreseen in the said Common Positions; whereas, therefore, Regulation (EC) No 926/98² can be repealed ;

HAS ADOPTED THIS REGULATION :

Article 1

For the purpose of this Regulation:

1. Government of the Federal Republic of Yugoslavia means: the Government of the Federal Republic of Yugoslavia, including the public administrations and agencies at the federal level, and the specially designated entities defined below;

2. Government of the Republic of Serbia means: the Government of the Republic of Serbia, including the public administrations and agencies at the central government level in the Republic of Serbia, and the specially designated entities defined below;

3. Specially designated entity means: any legal person owned or controlled by the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia and listed in Annex 1 to this Regulation;

4. Designated person means: a natural person acting for, on behalf of or to the benefit of the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia;

² OJ L 130, 1.5.1998, p.1

5. Funds means: any financial asset or resource of whatever kind or origin, including but not limited to, cash, liquid assets, dividends, interests or other income on shares, bonds, debt obligations or any other securities, or amounts derived from an interest in or the sale or other disposal of, or any other dealing with, tangible and intangible assets and property rights;

6. Freezing of funds means: preventing any change in volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds concerned.

Article 2

1. All funds held outside the territory of the Federal Republic of Yugoslavia and belonging to the Government of the Federal Republic of Yugoslavia and/or to the Government of the Republic of Serbia shall be frozen.

2. No funds shall be made available to either or both those Governments.

3. Designated persons holding any funds belonging to the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia shall put those funds into a separate account with a bank or financial institution in order to enable the bank or institution to freeze those funds.

Article 3

Authorisations for the use of frozen funds of the Government of the Federal Republic of Yugoslavia and/or the government of the Republic of Serbia, or for making available new funds to these Governments may be given under the conditions of this Regulation.

Article 4

On the condition that the funds concerned are kept in separate accounts with banks or other financial institutions within the Community, Article 2 does not apply to funds exclusively used for the following purposes:

- a. Usual business activities within the Community of specially designated entities established, incorporated or constituted under the law of the Member States not resulting, directly or indirectly, in a transfer of funds to the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia;
- b. Payment for current expenses, including salaries of local staff, of embassies, consular posts or diplomatic missions of the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia within the Community;
- c. Transfer of social security or pension payments from the Community to natural persons resident in the Federal Republic of Yugoslavia.
- d. The implementation of the Education Agreement of September 1996, signed by President Milosevic and the leader of the ethnic Albanian community Dr. Ibrahim Rugova;
- e. Payments through banks or financial institutions, directly or indirectly, to natural or legal persons in Serbia for the supply of goods or services by these persons to the Community, unless there exists a reasonable suspicion that the supply of goods or services has not taken place in fact or not at normal commercial conditions;
- f. Payments by other means, directly or indirectly, for the supply of goods or services by natural or legal persons in Serbia for the supply of goods or services by these persons to the Community, on the condition that conclusive evidence is given to the competent authorities of the Member States listed in Annex 3 that the supply of goods or services has taken place in fact and at normal commercial conditions.

Article 5

The supply or sale, directly or indirectly, to the Federal Republic of Yugoslavia of equipment intended for internal repression or terrorism such as that in Annex 2 shall be prohibited, except under the conditions established therein. The Annex shall not include items specially designed or modified for military use already subject to the arms embargo established on the basis of Common Positions 96/184/CFSP and 98/240/CFSP.

Article 6

As foreseen in Article 3 of Common Position 98/240/CFSP, the following shall be prohibited :

- a) the provision and/or use of government and/or other official financial support, insurance and/or guarantees in respect of new export credit for trade or investment in the Republic of Serbia or in relation with renewal or extension of existing export credit, if the execution of the contract or transaction for which the export credit has been provided has not yet been started;
- b) the provision or use of government and/or other official financing for privatisations in the Republic of Serbia in respect of which no legally binding commitments have been undertaken so far.

Article 7

1. The participation, knowingly and intentionally in related activities, the object or effect of which is, directly or indirectly, to circumvent the provisions of Articles 2,3 and 4, or to promote the transactions or activities referred to in Articles 5 and 6, shall be prohibited.

2. Any natural or legal person must notify the Commission directly or through the competent authorities of the Member States listed in Annex 3 to this Regulation of any information coming to their knowledge, or known by them, which will enable it to determine if an entity should be added to or deleted from the list of specially designated entities in Annex 1.

Article 8

The Council shall adopt by qualified majority amendments to the list contained in Annex 2 on the basis of a proposal from the Commission in accordance with Article 5 of this Regulation.

Article 9

For the implementation of this Regulation and in accordance with the provisions of Article 10 the Commission shall be empowered to:

- a. amend Annex 1 to this Regulation, containing the names and addresses of the specially designated entities;
- b. grant authorisations for the use of frozen funds of the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia, or for making available new funds to these Governments;

c. to amend Annex 3 containing the names and addresses of the competent services/authorities or coordinating service/authority of the Commission and the Member States referred to in Articles 4,7 and 12;

Article 10

For the purposes of the implementation of Article 9, the Commission shall be assisted by the committee composed of the representatives of the Member States and chaired by the representative of the Commission, established under Council Regulation (EC) No. 2271/96³, in accordance with the following provisions.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 11

Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions must be effective, proportionate and dissuasive.

³ OJ L 309, 29.11.1996, p.1

Article 12

Without prejudice to the EC rules of confidentiality, the competent authorities shall have the power to require banks, financial institutions and other bodies or persons to provide all relevant information necessary for ensuring compliance with this Regulation.

Article 13

The Commission and the Member States shall, insofar as they are not otherwise obliged to do so, inform each other of the measures taken under this Regulation and supply each other with other relevant information at their disposal in connection with this Regulation, such as breaches and enforcement problems, judgments handed down by national courts or decisions of relevant international fora.

Article 14

The committee referred to in Article 10 of this Regulation may examine any question concerning the application of this Regulation, which may be raised either by the chairman or by a representative of a Member State.

Article 15

This Regulation shall apply :

- within the territory of the Community including its airspace,
- on board any aircraft or any vessel under the jurisdiction of a Member State,
- to any person elsewhere who is a national of a Member State,
- to any body which is incorporated or constituted under the law of a Member State.

Article 16

Regulation (EC) No 926/98 is hereby repealed.

Article 17

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

For the Council

The President

Done at

ANNEX 1

List of specially designated entities referred to in Article 1

ANNEX 2

Equipment for internal repression or terrorism, envisaged by Article 5

(the following list does not include items which have been specially designed or modified for military use and are covered by the arms embargo established on the basis of Common Positions 96/184/CFSP and 98/240/CFSP)

- helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor
- specially designed fingerprint equipment
- power controlled searchlights
- construction equipment provided with ballistic protection
- hunting knives
- specially designed production equipment to make shotguns
- ammunition hand loading equipment
- communications intercept devices
- solid state optical detectors
- image intensifier tube
- telescopic weapon sights
- smooth bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor, except : (a) signal pistols (b) air or cartridge powered guns designed as industrial tools or humane animal stunners.
- simulators for training in the use of firearms and specially designed or modified components and accessories therefor.

- bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
- body armour, and specially designed components therefor.
- all wheel drive utility vehicles capable of off road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.
- water cannon and specially designed or modified components therefor.
- vehicles equipped with water cannon.
- vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
- acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
- leg-irons, gangchains, shackles and electric-shock belts, specially designed for restraining human beings except handcuffs for which the maximum overall dimension including chain does not exceed 240mm when locked.
- portable devices designed or modified for the purpose or riot control or self-protection by the administration of an incapacitating substance such as tear gas or pepper spray, and specially designed components therefor.
- portable devices designed or modified for the purpose or riot control or self-protection by the administration of an electric shock (including electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.
- electronic equipment capable of detecting concealed explosives and specially designed components therefor except : TV or x-ray inspection equipment.
- electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised explosive devices and specially designed components therefor.

- equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except: those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions e. g., car air bag inflaters, electric-surge arresters of fire sprinkler actuators.⁴⁾
- equipment and devices specially designed for explosive ordnance disposal; except: (1) bomb blankets; (2) containers designed for holding objects known to be, or suspected of being improvised explosive devices.
- linear cutting explosive charges 4)
- explosives and related substances as follows 4):
 - amatol;
 - nitrocellulose (containing more than 12.5% nitrogen);
 - nitroglycol;
 - pentaerythritol tetranitrate (PETN);
 - picryl chloride;
 - trinitrophenylmethylnitramine (tetryl);
 - 2, 4, 6-trinitrotoluene (TNT).
- night vision and thermal imaging equipment and image intensifier or solid state sensors therefor.
- software and technology related to all listed items.

⁴⁾ When they have obtained conclusive evidence that the end-use of the items is not internal repression or terrorism and under the conditions of Article 4 of this Regulation the competent authorities of the Member States may authorise the sale or supply of these items to the Federal Republic of Yugoslavia.

ANNEX 3

List of competent authorities/services of the Commission and Member States
as referred to in Article 12.

ISSN 0254-1475

COM(98) 347 final

DOCUMENTS

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11 10 09 02

Catalogue number : CB-CO-98-358-EN-C

ISBN 92-78-36894-6

Office for Official Publications of the European Communities

L-2985 Luxembourg