



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.05.1999
COM(1999) 246 final

Proposal for a

COUNCIL REGULATION (EC)

**imposing a ban on flights between the territories of the Community
and the Federal Republic of Yugoslavia,
and repealing Council Regulation (EC) No 1901/98**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Further to Common Position 98/426/CFSP the Council enacted its Regulation (EC) No 1901/98 concerning a ban on flights of Yugoslav carriers between the Federal Republic of Yugoslavia and the European Community. Subsequently that Regulation was amended so as to allow Montenegro Airlines to execute charter flights under certain conditions.
2. On 26 April 1999, the General Affairs Council decided that the ban on flights by Yugoslav carriers should be made into a comprehensive flight ban. This was confirmed by Common Position 99/... /CFSP.
3. The present proposal for a Council Regulation is made to allow the implementation of that Common Position. To that end not only flights by Yugoslav carriers between the Community and the Federal Republic of Yugoslavia should be prohibited, but also flights between these territories by Community and third country carriers. In addition, aircraft registered in the Federal Republic of Yugoslavia or operated by Yugoslav carriers should not be allowed to land in or take off from Community territory (Article 1). The prohibition to fly is complemented by the revocation of operating authorisations and a prohibition to grant or renew such authorisations (Article 2).
4. Although the proposed prohibition should be a comprehensive one, it is proposed that, as regards aircraft other than Yugoslav aircraft, it should apply to commercially operated aircraft and aircraft operated for private purposes only, and that exceptions should be made for landings in case of emergencies as well as flights for strictly humanitarian purposes.
5. Apart from the usual provisions concerning circumvention of the prohibitions, the scope of the Regulation and the exchange of information between Member States and the Commission, the proposed Regulation also contains a provision to ensure continuity as regards the existing prohibitions applying to Yugoslav carriers (Article 5(2)). Such provision is considered necessary since Council Regulation (EC) 1901/98 is made redundant by the proposed Regulation.

Proposal for a

COUNCIL REGULATION (EC)

**imposing a ban on flights between the territories of the Community
and the Federal Republic of Yugoslavia,
and repealing Council Regulation (EC) No 1901/98**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to Common Position 99/ 1/CFSP, defined by the Council on the basis of Article 15 of the Treaty on European Union, concerning additional restrictive measures against the Federal Republic of Yugoslavia¹,

Having regard to the proposal from the Commission,

- (1) Whereas the Council, in the light of the continued violation by the governments of the Federal Republic of Yugoslavia and of the Republic of Serbia of the relevant UN Security Council resolutions and the pursuance of extreme and criminally irresponsible policies, including repression against its own citizens, which constitute serious violations of human rights and international humanitarian law, expressed its strong and continuing support for maximum pressure from the international community on President Milosevic and his regime;
- (2) Whereas, therefore, all flights between the territory of the Community and that of the Federal Republic of Yugoslavia should be prohibited;
- (3) Whereas this measure falls under the scope of the Treaty establishing the European Community;
- (4) Whereas, therefore, and notably with a view to avoiding distortion of competition, Community legislation is necessary for the implementation of this measure, 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;
- (5) Whereas there is a need to allow emergency landings and ensuing take-offs, and to allow exceptions for flights which serve strictly humanitarian purposes;

¹ OJ L ... , ... 1999, p. ...

- (6) Whereas there is a need for the 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;
- (7) Whereas Council Regulation (EC) No 1901/98², as amended by Council Regulation (EC) No 214/99, may be repealed since this Regulation prohibits *inter alia* flights by Yugoslav carriers, this being without prejudice to the national legislation determining the sanctions to be imposed if its provisions are infringed,

HAS ADOPTED THIS REGULATION:

Article 1

It shall be prohibited to take off from or land in the territory of the Community for

- any aircraft operated, directly or indirectly, by a Yugoslav carrier, that is a carrier having its principal place of business or its registered office in the Federal Republic of Yugoslavia;
- any aircraft registered in the Federal Republic of Yugoslavia; and
- any civil aircraft, that is an aircraft operated for commercial or private purposes, if it has taken off from or is destined to land in the territory of the Federal Republic of Yugoslavia.

Article 2

1. All operating authorisations for scheduled air services between any point in the territory of the Community and any point in the Federal Republic of Yugoslavia are herewith revoked and no new operating authorisations for such services shall be granted.
2. All authorisations for charter flights, be they individual or series flights, between any point in the territory of the Community and any point in the Federal Republic of Yugoslavia are herewith revoked and no new authorisations for such flights shall be granted.
3. No new operating authorisations shall be granted or existing ones renewed enabling aircraft that are either registered in the Federal Republic of Yugoslavia or operated by Yugoslav carriers, to fly to or from airports in the Community.

Article 3

1. Article 1 shall not apply to emergency landings and ensuing take-offs.

² OJ L 248, 8. 9. 1998, p. 7

2. Notwithstanding the provisions of Articles 1 and 2, the competent authorities of the Member States may authorise on a case-by-case basis and subject to the consultation procedure of paragraph 3, that civil aircraft take off from or land in the territory of the Community, if conclusive evidence is given to these authorities that the flight to or from the territory of the Federal Republic of Yugoslavia serves strictly humanitarian purposes.
3. The competent authorities of a Member State which intend to authorise a take off or landing in accordance with the previous paragraph shall notify to the competent authorities of the Member States and to the Commission the grounds on which they intend to authorise the take off or landing concerned.

If, within one working day after the receipt of the said notification, a Member State or the Commission has given notice to the other Member States or the Commission of conclusive evidence that the intended flight will not serve the indicated humanitarian purposes, the Commission will convene within one working day of the said notice a meeting with the Member States in order to consult on the relevant evidence.

The Member State which intends to authorise the take off or landing shall take a decision with regard to this authorisation only either when no objections have been raised, or after the consultations on the conclusive evidence have taken place at the meeting convened by the Commission. In case an authorisation is granted after such meeting, the Member State concerned shall notify to the other Member States and the Commission the grounds on which its decision to authorise has been taken.

4. Nothing in this Regulation shall be construed as limiting the right of aircraft referred to in Article 1 to fly over the territories of the Community and the Federal Republic of Yugoslavia for transit purposes in accordance with applicable regulations.

Article 4

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

Article 5

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.

Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed shall be those determined by the Member States in accordance with Article 5 of Council Regulation (EC) No 1901/98.

Article 6

The Commission and the Member States shall inform each other of the measures taken under this Regulation and supply each other with any 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 7

Council Regulation (EC) No 1901/98, as amended by Council Regulation (EC) No 214/99, is hereby repealed and replaced by the provisions of this Regulation.

Article 8

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, and
- to any body which is incorporated or constituted under the law of a Member State.

Article 9

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.

Done at Brussels,

*For the Council
The President*

ISSN 0254-1475

COM(1999) 246 final

DOCUMENTS

EN

11 07 02 06

Catalogue number : CB-CO-99-241-EN-C

Office for Official Publications of the European Communities
L-2985 Luxembourg