

**COUNCIL REGULATION (EC) No 1295/98**

of 22 June 1998

**concerning the freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

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

*Article 1*

For the purpose of this Regulation:

Having regard to Common Position 98/326/CFSP of 7 May 1998 defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning the freezing of funds held abroad by the Federal Republic of Yugoslavia (FRY) and Serbian Governments<sup>(1)</sup>,

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.
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.
3. 'Funds' means: funds of any kind, including interest, dividends or other value accruing to or from any such funds.
4. '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.

Having regard to the proposal from the Commission,

Whereas the said common position provides for a freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia;

Whereas this measure falls within the scope of the Treaty establishing the European Community;

*Article 2*

Except as permitted by Article 3:

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;

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, directly or indirectly, to or for the benefit of, either or both, those Governments.

Whereas circumvention of this Regulation, notably by entities owned by the said governments should be countered with an adequate system of information and, where appropriate, consideration of appropriate remedial measures, including additional Community legislation;

*Article 3*

Article 2 shall not apply to funds exclusively used for the following purposes:

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

- (a) payment for current expenses, including salaries of local staff, 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;
- (b) transfer from the Community to natural persons resident in the Federal Republic of Yugoslavia of social security or pension payments as well as the transfer of other payments to protect entitlements in the area of social insurance;

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,

<sup>(1)</sup> OJ L 143, 14. 5. 1998, p. 1.

- (c) payments for democratisation projects or humanitarian activities carried out by the European Community and or the Member States, including the implementation of the Education Agreement of September 1996, signed by President Milosevic and the leader of the ethnic Albanian community Dr Ibrahim Rugova;
- (d) payments of debts incurred with the Federal Republic of Yugoslavia and Serbian Governments before the entry into force of this Regulation, on the condition that these payments are made into accounts held by those Governments with banks or financial institutions within the Community;
- (e) payments for essential transit services provided by the Federal Republic of Yugoslavia and Serbian Governments, on the condition that the supply of such services takes place at the usual rates.

#### *Article 4*

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 and 4 shall be prohibited.
2. Without prejudice to the Community rules concerning confidentiality, the competent authorities of the Member States shall have the power to require banks, other financial institutions and other bodies and persons to provide all relevant information necessary for ensuring compliance with this Regulation.
3. Any information that the provisions of Article 2 are being, or have been circumvented shall be notified to the competent authorities of the Member States and/or the Commission as listed in Annex.

#### *Article 5*

For the purposes of implementing this Regulation, the Commission shall be empowered, on the basis of the

information supplied by the Member States, to amend the Annex.

#### *Article 6*

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.

#### *Article 7*

The Commission and the Member States shall inform each other of the measures taken under this Regulation and supply each other with the relevant information at their disposal in connection with this Regulation, including information received in accordance with Article 4(3), such as breaches and enforcement problems, judgments handed down by national courts or decisions of relevant international forums.

#### *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,
- 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 Luxembourg, 22 June 1998.

*For the Council*

*The President*

J. BATTLE

*ANNEX*

List of names and addresses of the competent authorities/services or coordinating service/authority of the Commission and Member States as referred to in Article 4.

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