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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1901/98

of 7 September 1998

concerning a ban on flights of Yugoslav carriers between the Federal Republic of Yugoslavia and the European Community

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 228A thereof,

Having regard to Common Position 98/426/CFSP of 29 June 1998 defined by the Council on the basis of Article J.2 of the Treaty on European Union, concerning a ban on flights by Yugoslav carriers between the Federal Republic of Yugoslavia and the European Community ([1]),

Having regard to the proposal from the Commission,

Whereas the developments regarding Kosovo have already led the Security Council of the United Nations to impose an arms embargo against the Federal Republic of Yugoslavia (FRY) under Chapter VII of the Charter of the United Nations, and to the consideration of additional measures in case of failure to make constructive progress towards the peaceful resolution of the situation in Kosovo;

Whereas the European Union has already decided on additional measures as envisaged by Common Positions 98/240/CFSP ([2]), 98/326/CFSP ([3]) and 98/374/CFSP ([4]) and the ensuing Council Regulations (EC) Nos 926/98 ([5]), 1295/98 ([6]) and 1607/98 ([7]);

Whereas the Government of the FRY has not stopped the use of indiscriminate violence and brutal repression against its own citizens, which constitute serious violations of human rights and international humanitarian law, and has not taken effective steps to find a political solution to the issue of Kosovo through a process of peaceful dialogue with the Kosovar Albanian Community in order to maintain the regional peace and security;

Whereas, therefore, Common Position 98/426/CFSP foresees a ban on flights by Yugoslav carriers between the Federal Republic of Yugoslavia (FRY) and the European Community as a further measure to obtain from the Government of the FRY the fulfilment of the requirements of UNSC Resolution 1160 (1998) and of the said Common Positions;

Whereas this further measure falls 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 there is a need to provide for certain specific exemptions;

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,

HAS ADOPTED THIS REGULATION:

Article 1

1. 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, shall be prohibited from flying between the Federal Republic of Yugoslavia and the European Community.

2. All operating authorisations granted to Yugoslav carriers are hereby revoked.

([1]) OJ L 190, 4. 7. 1998, p. 3.
([2]) OJ L 95, 27. 3. 1998, p. 1.
([3]) OJ L 143, 14. 5. 1998, p. 1.
([4]) OJ L 165, 10. 6. 1998, p. 1.
([5]) OJ L 130, 1. 5. 1998, p. 1.
([6]) OJ L 178, 23. 6. 1998, p. 33.
([7]) OJ L 209, 25. 7. 1998, p. 16.

Article 2

No new operating authorisations shall be granted or existing ones renewed enabling aircraft registered in the Federal Republic of Yugoslavia to fly to or from airports in the Community.

Article 3

1. Articles 1 and 2 shall not apply to

(a) emergency landings on the territory of the Community and ensuing take-offs;

(b) authorisations for charter series flights between Leipzig and Tivat by Montenegro Airlines.

2. Nothing in this Regulation shall be construed as limiting any existing rights of Yugoslav carriers and aircraft registered in the FRY other than rights to land in or to take off from the territory of the Community.

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.

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

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 8

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, 7 September 1998.

For the Council

The President

W. SCHÜSSEL