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COUNCIL REGULATION (EC) No 1763/2004

of 11 October 2004

imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY)

(OJ L 315, 14.10.2004, p. 14)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Regulation (EC) No 1965/2004 of 15 November 2004	L 339	4	16.11.2004
►M2	Commission Regulation (EC) No 2233/2004 of 22 December 2004	L 379	75	24.12.2004
►M3	Commission Regulation (EC) No 295/2005 of 22 February 2005	L 50	5	23.2.2005
►M4	Commission Regulation (EC) No 607/2005 of 18 April 2005	L 100	17	20.4.2005
►M5	Commission Regulation (EC) No 830/2005 of 30 May 2005	L 137	24	31.5.2005
►M6	Commission Regulation (EC) No 1208/2005 of 27 July 2005	L 197	19	28.7.2005
►M7	Commission Regulation (EC) No 1636/2005 of 6 October 2005	L 261	20	7.10.2005
►M8	Commission Regulation (EC) No 23/2006 of 9 January 2006	L 5	8	10.1.2006
►M9	Commission Regulation (EC) No 416/2006 of 10 March 2006	L 72	7	11.3.2006
►M10	Commission Regulation (EC) No 1053/2006 of 11 July 2006	L 189	5	12.7.2006
►M11	Council Regulation (EC) No 1791/2006 of 20 November 2006	L 363	1	20.12.2006
►M12	Commission Regulation (EC) No 789/2007 of 4 July 2007	L 175	27	5.7.2007
►M13	Commission Regulation (EC) No 738/2008 of 28 July 2008	L 201	33	30.7.2008
►M14	Commission Regulation (EC) No 895/2008 of 12 September 2008	L 247	19	16.9.2008
►M15	Council Regulation (EU) No 556/2010 of 24 June 2010	L 159	9	25.6.2010
►M16	Commission Implementing Regulation (EU) No 715/2011 of 19 July 2011	L 191	19	22.7.2011

Corrected by:

►C1 Corrigendum, OJ L 104, 23.4.2005, p. 46 (607/2005)

►C2 Corrigendum, OJ L 139, 2.6.2005, p. 29 (830/2005)

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COUNCIL REGULATION (EC) No 1763/2004

of 11 October 2004

imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60, 301 and 308 thereof,

Having regard to Common Position 2004/694/CFSP on further measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia ([1]),

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

(1) The International Criminal Tribunal for the former Yugoslavia (ICTY) was established by means of UN Security Council Resolutions 808 and 827 (1993), which are based on Chapter VII of the UN Charter. The ICTY has the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. The Security Council argued that the widespread and flagrant violations of humanitarian law occurring within the territory of the former Yugoslavia constituted a threat to international peace and security and that the establishment, as an ad hoc measure, of an international tribunal and the prosecution of persons responsible for serious violations of international humanitarian law would contribute to the restoration and maintenance of peace.

(2) On 28 August 2003, UN Security Council Resolution 1503 (2003) called on the ICTY to complete all work in 2010 and on all States to intensify cooperation with and render all necessary assistance to the ICTY, particularly to bring all fugitive indictees to the ICTY.

(3) Common Position 2004/694/CFSP stipulates that certain funds and economic resources should be frozen in support of effective implementation of the mandate of the ICTY. These additional restrictive measures should be used so as to control all dealings with funds and economic resources owned by persons indicted by the ICTY who are still at large and to ban any support they might receive from within the Community.

(4) These measures fall within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement these measures as far as the Community is concerned. For the purposes of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

([1]) See page 52 of this Official Journal.

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(5) For reasons of expediency, the Commission should be empowered to amend the Annexes to this Regulation.

(6) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day of its publication,

(7) The Treaty, in Articles 60 and 301, empowers the Council to take, under certain conditions, measures aimed at the interruption or reduction of payments or movement of capital and of economic relations with regard to third countries. The measures laid down in this Regulation, targeted at individual persons not directly linked to the government of a third country, are necessary to attain this objective of the Community and Article 308 of the Treaty empowers the Council to take such measures if no other specific powers are provided for in the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions shall apply:

1. ‘funds’ means financial assets and benefits of every kind, including but not limited to:

   (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

   (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

   (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

   (d) interest, dividends or other income on or value accruing from or generated by assets;

   (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;

   (f) letters of credit, bills of lading, bills of sale;

   (g) documents evidencing an interest in funds or financial resources;

   (h) any other instrument of export financing;

2. ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;

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3. ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

4. ‘freezing of economic resources’ means preventing their use to obtain funds, goods or services in any way, including, but not limited to, the selling, hiring or mortgaging of them.

Article 2

1. All funds and economic resources belonging to, or owned or held by, natural persons indicted by the ICTY, and listed in Annex I, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural persons listed in Annex I.

3. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to at paragraphs 1 and 2 shall be prohibited.

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Article 3

1. By way of derogation from Article 2, the competent authorities in the Member States, as indicated in the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

(a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;

(b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;

(c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; or

(d) necessary for extraordinary expenses, provided that the Member State concerned has notified the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks before the authorisation.

2. Member States shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

▼M15

Article 4

1. By way of derogation from Article 2, the competent authorities in the Member States, as indicated in the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, if the following conditions are met:

(a) The funds or economic resources are subject of a judicial, administrative or arbitral lien established prior to the date on which the natural person referred to in Article 2 was included in Annex I or of a judicial, administrative or arbitral judgment rendered prior to that date;

(b) The funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) The lien or judgment is not for the benefit of a natural person listed in Annex I;

(d) Recognising the lien or judgment is not contrary to public policy in the Member State concerned.

2. Member States shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

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Article 5

Article 2(2) shall not apply to the addition to frozen accounts of:

(i) interest or other earnings on those accounts; or

(ii) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to this Regulation,

provided that any such interest, other earnings and payments continue to be subject to Article 2(1).

Article 6

Article 2(2) shall not prevent the crediting of the frozen accounts by financial institutions that receive funds transferred by third parties to the account of the listed person or entity, provided that any such additions to such accounts will also be frozen. The financial institution shall inform the competent authorities about such transactions without delay.

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Article 7

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

(a) supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2, to the competent authorities

▼M15

of Member States as indicated in the websites listed in Annex II for the country where they are resident or located and shall transmit such information, directly or through the competent authority as indicated in the websites listed in Annex II, to the Commission; and

(b) cooperate with that competent authority in any verification of this information.

2. Any additional information directly received by the Commission shall be made available to the Member State concerned.

3. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

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Article 8

The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person or entity implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as a result of negligence.

Article 9

The Commission and the Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 10

The Commission shall be empowered to:

(a) amend Annex I, taking into account the Council Decisions implementing Common Position 2004/694/CFSP, and

(b) amend Annex II on the basis of information supplied by Member States.

Article 11

The Member States shall lay down the rules on sanctions applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

The Member States shall notify those rules to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

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Article 11a

1. Member States shall designate the competent authorities referred to in Articles 3, 4 and 7 and identify them in the websites as listed in Annex II. Member States shall notify the Commission of any changes to the addresses of their websites listed in Annex II before such changes take effect.

2. Member States shall notify the Commission of their competent authorities, including the contact details of those competent authorities, by 15 July 2010 and shall notify the Commission without delay of any subsequent amendment.

Article 12

This Regulation shall apply:

(a) within the territory of the Union, including its airspace;

(b) on board any aircraft or any vessel under the jurisdiction of a Member State;

(c) to any person inside or outside the territory of the Union who is a national of a Member State;

(d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;

(e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

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Article 13

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

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

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ANNEX I

▼M1

List of persons referred to in Article 2

▼M4 _____

▼M5 _____

▼M2 _____

▼M12 _____

▼M8 _____

▼M1

6. Hadzic, Goran. Date of birth: 7.9.1958. Place of birth: Vinkovci, Republic of Croatia. Nationality: Serbia and Montenegro.

▼M4 _____

▼M14 _____

▼M3 _____

▼M9 _____

▼M7 _____

▼M4
▼C1 _____

▼M2 _____

▼M16 _____

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▼M13 _____

▼M12 _____

▼**M15**

ANNEX II

Websites for information on the competent authorities referred to in Articles 3, 4 and 7, and address for notifications to the European Commission

BELGIUM

http://www.diplomatie.be/eusanctions

BULGARIA

http://www.mfa.government.bg

CZECH REPUBLIC

http://www.mfcr.cz/mezinarodnisankce

DENMARK

http://www.um.dk/da/menu/Udenrigspolitik/FredSikkerhedOgInternationalRetsorden/Sanktioner/

GERMANY

http://www.bmwi.de/BMWi/Navigation/Aussenwirtschaft/Aussenwirtschaftsrecht/embargos.html

ESTONIA

http://www.vm.ee/est/kat_622/

IRELAND

http://www.dfa.ie/home/index.aspx?id=28519

GREECE

http://www.mfa.gr/www.mfa.gr/en-US/Policy/Multilateral+Diplomacy/Global+Issues/International+Sanctions/

SPAIN

http://www.maec.es/es/MenuPpal/Asuntos/SancionesInternacionales/Paginas

FRANCE

http://www.diplomatie.gouv.fr/autorites-sanctions/

ITALY

http://www.esteri.it/UE/deroghe.html

CYPRUS

http://www.mfa.gov.cy/sanctions

LATVIA

http://www.mfa.gov.lv/en/security/4539

LITHUANIA

http://www.urm.lt/sanctions

LUXEMBOURG

http://www.mae.lu/sanctions

HUNGARY

http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemzetkozi_szankciok/felelos_illetekes_hatosagok.htm

MALTA

http://www.doi.gov.mt/EN/bodies/boards/sanctions_monitoring.asp

NETHERLANDS

http://www.minbuza.nl/nl/Onderwerpen/Internationale_rechtsorde/Internationale_Sancties/Bevoegde_instanties_algemeen

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AUSTRIA

http://www.bmeia.gv.at/view.php3?f_id=12750&LNG=en&version=

POLAND

http://www.msz.gov.pl

PORTUGAL

http://www.mne.gov.pt/mne/pt/AutMedidasRestritivas.htm

ROMANIA

http://www.mae.ro/index.php?unde=doc&id=32311&idlnk=1&cat=3

SLOVENIA

http://www.mzz.gov.si/si/zunanja_politika/mednarodna_varnost/omejevalni_ukrepi/

SLOVAKIA

http://www.foreign.gov.sk

FINLAND

http://formin.finland.fi/kvyhteistyo/pakotteet

SWEDEN

http://www.ud.se/sanktioner

UNITED KINGDOM

http://www.fco.gov.uk/en/about-us/what-we-do/services-we-deliver/business-services/export-controls-sanctions/

Address for notifications to the European Commission:

European Commission

DG External Relations

Directorate A. Crisis Platform and Policy Coordination in Common Foreign and Security Policy

Unit A2. Crisis Response and Peace Building

CHAR 12/106

B-1049 Bruxelles/Brussel (Belgium)

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