

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 419 final

Brussels, 05.10.1994

Proposal for a

COUNCIL REGULATION (EC)

suspending certain elements of the embargo of the Federal Republic of Yugoslavia

(Serbia and Montenegro)

Proposal for a

COUNCIL REGULATION (EC)

introducing a further discontinuation of the economic and financial relations between the

European Community and the areas of Bosnia Herzegovina under the control

of Bosnian Serb forces

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Security Council of the United Nations has decided to suspend the embargo of the Federal Republic of Yugoslavia (Serbia and Montenegro) with regard to some flights to and from Belgrade airport, the ferryservice Bar-Bari and cultural and sport exchanges.

The suspension is a consequence of the the support by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to the proposed territorial settlement for the Republic of Bosnia and Herzegovina and for the decision of the said authorities to close the border between the Federal Republic of Yugoslavia (Serbia and Montenegro) and the areas of the Republic of Bosnia and Herzegovina under control of the Bosnian Serb forces for almost all commercial trade, and for thir willingness to obtain international assistance with regard to this closure.

As a result of the decision of the Security Council, the legislation in the European Community has to be adapted.

The present proposal of the Commission to the Council aims to introduce the necessary changes in the legislation with regard to the subjects falling under the EC Treaty.

REGULATION (EC) No/94

suspending certain elements of the embargo of the Federal Republic of Yugoslavia
(Serbia and Montenegro)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular
Articles 228A and 73G thereof,

Having regard to Council Decision 94/.../CFSP of 1994, concerning the Common
position, defined on the basis of Article J2 of the Treaty on European Union, regarding
the suspension of certain elements of the embargo of the Federal Republic of Yugoslavia
(Serbia and Montenegro) as decided upon by the United Nations Security Council in its
resolution 943 (1994),

Having regard to the proposal of the Commission,

Having regard to the opinion of the Monetary Committee,

Whereas the United Nations Security Council, in view of the support by the authorities of
the Federal Republic of Yugoslavia (Serbia and Montenegro) to the proposed territorial
settlement for the Republic of Bosnia and Herzegovina and in view of the report of the
Secretary General of the United Nations with regard to the closure of the border between
the Federal Republic of Yugoslavia (Serbia and Montenegro) and the areas of the
Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces, has
decided in its Resolution 943 (1994) to suspend certain elements of the Federal Republic
of Yugoslavia (Serbia and Montenegro)

Whereas the same Security Council has also decided in the said resolution under which conditions the suspension may be extended or terminated ;

Whereas under these conditions the Community has to adapt the existing legislation accordingly, and in particular Council Regulation (EEC) No 990/93,

Whereas the conditions agreed upon by the Security Council for the extension or termination of the suspension of restrictions call for a mechanism which will enable the European Community to extend or terminate the suspension within the time limits imposed by the Security Council;

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 paragraph 2(a) of Council Regulation (EEC) No. 990/93 is suspended, insofar as civilian passenger flights, carrying only passengers and personal effects and no cargo, to and from Belgrade airport are concerned.

Article 2

Article 1 paragraph 1 c) of Council Regulation (EEC) No 990/93 is suspended insofar as the ferry service, carrying only passengers and personal effects and no cargo, between Bar in the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bari in Italy is concerned.

Article 3

All restrictions with regard to the provision of goods and services to the Federal Republic of Yugoslavia (Serbia and Montenegro) and in particular the provisions of Article 1 paragraph 1 a, b, d and e of Regulation (EEC) 990/93 are suspended as far as the flights and ferry service permitted under Articles 1 and 2 above are concerned.

Article 4

The provisions of Article 8 of Council Regulation (EEC) No 990/93 are suspended with regard to vessels and aircraft, which has not been impounded at 23 September 1994, insofar they are used for the purpose of the ferry service or flights permitted under this Regulation. .

Article 5

1. This Regulation shall be in force till 1994 .
2. The Commisison is hereby empowered to extend or to repeal this Regulation in accordance with the decisions by the Security Council of the United Nations under the provisions of its resolution 943 (1994).

Article 6

The provisions of this Regulation are applicable without prejudice to the provisions of Council Regulation (EC) 1733/94 of 11 July 1994,

Article 7

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, 1994

For the Council

EXPLANATORY MEMORANDUM

In view of the refusal of the Bosnian Serb party to accept the territorial settlement for BH accepted by all other interested parties, the Security Council of the United Nations has decided in its resolution 942 (1994) to reinforce and extend the measures imposed by its previous resolutions with regard to the areas of BH under the control of the Bosnian Serb forces.

The present proposal of the Commission to the Council aims to introduce the necessary legislation to give effect to the decisions of the Security Council for the subjects falling under the EC Treaty.

introducing a further discontinuation of the economic and financial relations between the European Community and the areas of Bosnia Herzegovina under the control of Bosnian Serb forces

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Articles 228A and 73G thereof,

Having regard to Council Decision 94/.../CFSP of1994, concerning the Common position, defined on the basis of Article J.2 of the Treaty on European Union, regarding the further discontinuation of the economic and financial relations between the European Community and the areas of Bosnia Herzegovina under the control of Bosnian Serb forces,

Having regard to the proposal of the Commission,

Having regard to the opinion of the Monetary Committee

Whereas the United Nations Security Council, in view of the refusal of the Bosnian Serb party to accept the settlement accepted by all other interested parties, and acting under Chapter VII of the Charter of the United Nations, has decided in its resolution 942 (1994) to reinforce and extend the measures imposed by its previous resolutions with regard to the areas of the Republic of Bosnia Herzegovina under the control of Bosnian Serb forces,

Whereas under these conditions the The European Community has to reinforce and extend the measures imposed by Council Regulation (EEC) No. 990/93,

HAS ADOPTED THIS REGULATION:

DEFINITIONS

Article 1

For the purpose of this Regulation

1) 'economic activities' means:

a) all activities of an economic nature, including commercial, financial and industrial activities and transactions, in particular all activities of an economic nature involving the use of or dealing in, with or in connection with property, or interest in property;

b) the exercise of rights relating to property or interests in property; and

c) the establishment of any new body or change in management of an existing body.

2) 'property or interest in property' means :

funds, financial, tangible and intangible assets, property rights and publicly and privately traded securities and debt instruments, and any other financial and economic resources.

3) 'to freeze funds or other financial assets or resources' means:

to take action to prevent any change in volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds or other financial assets or resources concerned.

4) 'funds or other financial assets or resources' means:

funds or other financial assets or resources of whatever kind or origin, including, but not limited to, cash, liquid assets, dividends, interest or other income on shares, interest, bonds or debt obligations 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.

5) 'designated person or body means' means:

a) any body, wherever incorporated or constituted, which is owned or controlled, directly or indirectly, by

(i) any person in, or resident in, or any body, including any commercial, industrial or public utility undertaking, in the areas concerned; or

(ii) any body incorporated in or constituted under the law of the areas concerned;

as well as

b) any person or body, including those identified by States for the purpose of Resolution 942 (1994) of the Security Council of the United Nations, found to be acting for or on behalf of and to the benefit of any body, including any commercial, industrial or public utility undertaking, in the areas concerned, or any body mentioned under a) above.

6) 'areas concerned' means:

those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.

PROHIBITION OF ECONOMIC ACTIVITIES

Article 2

No economic activities shall be carried on by any designated person or body unless they have been authorized by the competent authorities of the Member States .

Article 3

The competent authorities of the Member States may authorize an economic activity by a designated person or body, having satisfied themselves on a case-by-case basis that the activity does not result in the transfer of property or interest in property to any designated person or body.

Article 4

Existing authorizations under Article 3 shall be revoked by the competent authorities of the Member States, and no further authorizations issued in respect of any person or body violating the measures imposed by this Regulation or violating any measures imposed by Regulations (EEC) 990/93 or (EC) 1733/94 , where these latter violations have occurred after the entry into force of this Regulation.

Article 5

Nothing in this Regulation shall prevent the competent authorities of the Member States to issue an authorization if the economic activity concerned serves solely the purpose of providing supplies intended strictly for medical purposes and foodstuffs notified to the Committee established by resolution 724 (1991) of the said Security Council, or commodities and products for essential humanitarian needs approved by this Committee.

FREEZING OF FUNDS OR OTHER FINANCIAL ASSETS OR RESOURCES

Article 6

All funds or other financial assets or resources belonging to or accruing to any designated person or body or to any body in the areas concerned, including any commercial, industrial or public undertaking, shall be frozen.

Article 7

Provided that the competent authorities of the Member States are satisfied that payments to persons outside their territories will be used for the purposes or in connection with the activities and transactions for which an authorization is sought, Article 6 does not apply with regard to payments

a) made in connection with authorized economic activities and after the competent authorities of the Member States having been satisfied on a case-by-case basis that the payments do not result in the transfer of funds or other financial assets or resources to any designated person or body.

b) made in connection with transactions authorized by the Government of the Republic of Bosnia and Herzegovina with regard to persons or bodies within its territory.

PROHIBITION OF PROVISION OF SERVICES

Article 8

It shall be prohibited to provide financial and/or non-financial services to any person or body for the purposes of any business carried on in the areas concerned.

Article 9

Provided that the competent authorities of the Member States are satisfied that the conditions below are met, Article 8 does not apply to

a) telecommunications, postal services and legal services consistent with this Regulation as well as with Regulations (EEC) 990/93 and (EC) 1377/94;

b) services whose supply may be necessary for humanitarian or other exceptional purposes, as approved on a case-by-case basis by the abovementioned Committee; and

c) services authorized by the Government of the Republic of Bosnia and Herzegovina.

Article 10

Commercial riverine traffic shall not enter any port in the areas concerned unless authorized on a case-by-case basis by the abovementioned Committee, by the Government of the Republic of Bosnia and Herzegovina for its territory or in case of force majeure.

Article 11

All shipments of commodities and products destined for the areas concerned shall be properly manifested and either be physically inspected by the Sanctions Assistance Missions or the competent authorities at loading to verify and seal their contents, or be laden in a manner which permits adequate physical verification of the contents.

Article 12

The competent authorities of the Member States shall, in notifying or submitting applications to the said Committee in respect of supplies intended strictly for medical purposes and foodstuffs and essential humanitarian supplies in respect of the areas

concerned, report to the Committee for information purposes on the source of funds from which payment for the supplies is to be made.

GENERAL PROVISIONS

Article 13

1. Member States shall take the necessary measures to ensure the implementation of this Regulation, including the imposition of sanctions where the provisions of this Regulation are infringed.

2. Member States shall inform the Commission and the Member States concerned of the measures taken under paragraph 1 and of all other relevant information at their disposal in connection with this Regulation, in particular on the identity of designated persons and of authorizations given under Article 3.

3. The names and addresses of the competent authorities of the Member States referred to in this Regulation are contained in the Annex.

4. The Commission is hereby empowered to amend the Annex on the basis of notifications of the Member States. Such amendments shall be published in the Official Journal of the European Communities.

Article 14

The provisions of this Regulation shall not apply to activities related to UNPROFOR, the International Conference on the Former Yugoslavia or the European Community Monitoring Missions.

Article 15

The provisions of this Regulation are applicable without prejudice to the provisions of Council Regulation (EEC) 990/93, in particular its Articles 3, 4 and 5,

Article 16

This Regulation shall apply within the territory of the Community including its air space and in any aircraft or on any vessel under the jurisdiction of a Member State and to any person elsewhere who is a national of a Member State and any body elsewhere which is incorporated or constituted under the law of a Member State.

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.

Done at, 1994

For the Council

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