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EUROPEAN COMMISSION

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Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC) No 2488/2000 maintaining a freeze of funds in relation to Mr  
Milosevic and those persons associated with him**

(presented jointly by the Commission and the High Representative of the EU  
for Foreign Affairs and Security Policy)

## **EXPLANATORY MEMORANDUM**

- (1) Council Regulation (EC) No 2488/2000, as last amended by Council Regulation (EC) No 1791/2006, confirmed certain restrictive measures in relation to former President Milosevic and persons associated with him.
- (2) It is appropriate to align Regulation (EC) No 2488/2000 with recent developments in sanctions practice regarding the identification of competent authorities, liability for certain infringements, protection of personal data and drafting of the article on Union jurisdiction.
- (3) For the sake of clarity, those Articles to which amendments need to be made should be republished in full.

Proposal for a

## **COUNCIL REGULATION**

### **amending Regulation (EC) No 2488/2000 maintaining a freeze of funds in relation to Mr Milosevic and those persons associated with him**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 (2) thereof,

Having regard to Council Common Position 2000/599/CFSP of 9 October 2000 on support to a democratic FRY and the immediate lifting of certain restrictive measures<sup>1</sup>, and to Council Common Position 2000/696/CFSP of 10 November 2000 on the maintenance of specific restrictive measures directed against Mr Milosevic and persons associated with him<sup>2</sup>,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission,

After consulting the European Data Protection Supervisor,

Whereas:

- (1) Council Regulation (EC) No 2488/2000 of 10 November 2000 maintaining a freeze of funds in relation to Mr Milosevic and those persons associated with him and repealing Regulations (EC) Nos 1294/1999 and 607/2000 and Article 2 of Regulation (EC) No 926/98<sup>3</sup> confirmed certain restrictive measures in accordance with Common Positions 2000/599/CFSP and 2000/696/CFSP.
- (2) It is appropriate to align Regulation (EC) No 2488/2000 with recent developments in sanctions practice regarding the drafting of provisions on freezing of funds, the identification of competent authorities, liability for certain infringements, protection of personal data and drafting of the article on Union jurisdiction. The wording of the Regulation should also be adapted to take into account the death of Slobodan Milosevic. For the sake of clarity, those Articles to which amendments need to be made should be republished in full.
- (3) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union<sup>4</sup> and notably the right to an effective remedy and to a fair trial, the right to property and the

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<sup>1</sup> OJ L 261, 14.10.2000, p. 1.

<sup>2</sup> OJ L 287, 14.11.2000, p. 1.

<sup>3</sup> OJ L 287, 14.11.2000, p. 19.

<sup>4</sup> OJ C 364, 18.12.2000, p. 1.

right to protection of personal data. This Regulation should be applied in accordance with those rights and principles.

- (4) Any processing of personal data of natural persons under this Regulation should respect Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>5</sup> and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>6</sup>.
- (5) Regulation (EC) No 2488/2000 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2488/2000 is amended as follows:

- (1) The title is replaced by the following:

“Council Regulation (EC) No 2488/2000 of 10 November 2000 maintaining a freeze of funds in relation to Slobodan Milosevic and persons associated with him”

- (2) Article 1 is replaced by the following:

*“Article 1*

1. All funds belonging to, or owned, held or controlled by Slobodan Milosevic or natural persons associated with him, as listed in Annex I, shall be frozen.
2. No funds shall be made available, directly or indirectly, to or for the benefit of any natural person listed in Annex I.
3. For the purpose of this Regulation:
  - (a) ‘funds’ means financial assets and benefits of every kind, including but not limited to:
    - (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
    - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

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<sup>5</sup> OJ L 8, 12.1.2001, p. 1.

<sup>6</sup> OJ L 281, 23.11.1995, p. 31.

- (iii) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
  - (iv) interest, dividends or other income on or value accruing from or generated by assets;
  - (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
  - (vi) letters of credit, bills of lading, bills of sale;
  - (vii) documents evidencing an interest in funds or financial resources;
- (b) ‘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.
4. The prohibition set out in paragraph 2 shall not give rise to liability of any kind on the part of the natural or legal persons, entities or bodies who made funds available, if they did not know, and had no reasonable cause to suspect, that their actions would infringe this prohibition.”
- (3) Article 2 is replaced by the following:

*“Article 2*

The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures set out in Article 1(1) and (2) shall be prohibited.”

- (4) The following Article 2a is inserted:

*“Article 2a*

1. Article 1(2) shall not apply to the addition to frozen accounts of interest or other earnings on those accounts, provided that any such interest, other earnings and payments continue to be subject to Article 1(1).
2. Article 1(2) shall not prevent financial or credit institutions in the Union from crediting frozen accounts where they receive funds transferred to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall inform the competent authorities about such transactions without delay.
3. The freezing of funds or the refusal to make funds 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, entity or body

implementing it, or its directors or employees, unless it is proved that the funds were frozen as result of negligence.”

- (5) Article 3 is replaced by the following:

*“Article 3*

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:
  - (a) supply immediately the competent authorities indicated in the websites listed in Annex II, in the country where they are resident or located, with any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 1, and, directly or indirectly, supply such information to the Commission; and
  - (b) cooperate with the competent authorities indicated in the websites listed in Annex II in any verification of this information.
2. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.”

- (6) Article 4 is replaced by the following:

*“Article 4*

1. The measures necessary for the implementation of this Regulation relating to the matters referred to in paragraph 2(a) and (b) shall be adopted in accordance with the management procedure referred to in Article 5(2).
2. The Commission shall be empowered:
  - (a) to amend Annex I, taking into account decisions implementing Common Position 2000/696/CFSP,
  - (b) on an exceptional basis, to grant exemptions to Articles 1 and 2 for strictly humanitarian purposes,
  - (c) to amend Annex II on the basis of information supplied by Member States.
3. Any request by, on behalf of or for the benefit of a listed person, such as a request for an exemption referred to in paragraph 2 (b) or for an amendment of Annex I, shall be made through the competent authorities indicated in the websites listed in Annex II.

When a competent authority receives such a request, it shall verify, to the fullest extent possible, the information provided by the natural or legal person, entity or body making a request.

4. The competent authority shall send the request and its findings on it to the Commission.”

(7) The following Article 4a is inserted:

*“Article 4a*

1. The Commission shall process personal data in order to carry out its tasks under this Regulation. These tasks shall include:
  - (a) preparing amendments of Annex I to this Regulation;
  - (b) consolidating the contents of Annex I in the electronic, consolidated list of persons, groups and entities subject to EU financial sanctions available on the Commission website<sup>7</sup>;
  - (c) processing of information concerning the grounds for listing; and
  - (d) processing of information on the impact of the measures of this Regulation such as the value of frozen funds and information on authorisations granted by the competent authorities.
2. Annex I shall only include the following information on listed natural persons:
  - (a) surname and given names, including alias names and titles, if any;
  - (b) date and place of birth;
  - (c) nationality;
  - (d) passport and ID card numbers;
  - (e) fiscal and social security numbers;
  - (f) sex;
  - (g) address or other information on whereabouts;
  - (h) function or profession;
  - (i) the grounds for listing if the function does not qualify as such.
3. Annex I may also include information on family members of the persons listed, provided that the inclusion of this information is necessary in a specific case for the sole purpose of verifying the identity of the listed natural person in question.
4. The Commission may process relevant data relating to criminal offences committed by listed natural persons, and to criminal convictions or security measures concerning such persons, only to the extent that such processing is necessary for the preparation of a statement of reasons and review of the views on it expressed by the natural person concerned, subject to appropriate specific safeguards. Such data shall not be made public or exchanged.

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<sup>7</sup> [http://ec.europa.eu/external\\_relations/cfsp/sanctions/list/consol-list.htm](http://ec.europa.eu/external_relations/cfsp/sanctions/list/consol-list.htm)

5. For the purposes of this Regulation, the Commission unit listed in Annex II is designated as “controller” within the meaning of Article 2(d) of Regulation (EC) No 45/2001, in order to ensure that the natural persons concerned can exercise their rights under Regulation (EC) No 45/2001.”

(8) The following Article 8a is inserted:

*“Article 8a*

1. Member States shall designate the competent authorities referred to in Articles 3 and 4 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 their contact details, by 15 July 2010 and shall notify it without delay of any subsequent amendment.”

(9) Article 10 is replaced by the following:

*“Article 10*

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.”
- (10) Annex II is replaced by the text in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the third day following that 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.

Done at Brussels,

*For the Council  
The President*

**ANNEX**

**“ANNEX II**

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

*(to be completed by Member States)*

BELGIUM

BULGARIA

CZECH REPUBLIC

DENMARK

GERMANY

ESTONIA

IRELAND

GREECE

SPAIN

FRANCE

ITALY

CYPRUS

LATVIA

LITHUANIA

LUXEMBOURG

HUNGARY

MALTA

NETHERLANDS

AUSTRIA

POLAND

PORTUGAL

ROMANIA

SLOVENIA

SLOVAKIA

FINLAND

SWEDEN

UNITED KINGDOM

Address for notifications and requests 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)

E-mail: [relex-sanctions@ec.europa.eu](mailto:relex-sanctions@ec.europa.eu)

Tel. (32 2) 295 55 85

Fax: (32 2) 299 08 73”