

**DRAFT COMMUNITY PROVISIONS (PROHIBITION ON  
FLIGHTS OF YUGOSLAV CARRIERS) (JERSEY)  
REGULATIONS 199**

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**Lodged au Greffe on 11th May 1999  
by the Policy and Resources Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

## **Explanatory Note**

The purpose of these draft Regulations is to give effect in the Bailiwick to Council Regulation (EC) No. 1901/98 concerning a ban on flights of Yugoslav carriers between the Federal Republic of Yugoslavia and the European Community.

*Regulation 1* defines the Community provisions.

*Regulation 2* describes the modifications to the Community provisions necessary for their application to the Bailiwick.

*Regulation 3* makes it a criminal offence for a Yugoslav carrier to operate an aircraft on a flight between Yugoslavia and Jersey contrary to Article 1(1) of the Community provisions as applied to the Bailiwick, or to circumvent Articles 1 and 2 of those provisions (which prohibit any authorizations from being granted to such carriers to operate such flights). The maximum penalty imposed for these offences is a fine and/or imprisonment for 2 years.

*Regulation 4* contains provisions concerning offences by bodies corporate and makes it an offence to assist in the commission of any offence under the Regulations.

*Regulation 5* is the citation and commencement provision.

The text of the Community provisions as modified follows the draft Regulations, for the purpose of information only.

**European Communities (Implementation) (Jersey) Law 1996**

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COMMUNITY PROVISIONS (PROHIBITION ON FLIGHTS OF  
YUGOSLAV CARRIERS) (JERSEY) REGULATIONS 199

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(Promulgated on the      day of      199 )

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**STATES OF JERSEY**

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The      day of      199

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**THE STATES**, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996,<sup>1</sup> have made the following Regulations -

1. In these Regulations “the Community provisions” means the provisions of Council Regulation (EC) No. 1901/98 of 7 September 1998 concerning a ban on flights between the Federal Republic of Yugoslavia and the European Community (OJ No. L248, 8.9.98, p.1).

2. The Community provisions shall have full force and effect in the Bailiwick subject to the following modifications -

- (a) in paragraph 1 of Article 1 the expression “European Community” shall be read as a reference to the Bailiwick;
- (b) in each place where it occurs in Articles 2, 3 and 7 the expression “the Community” shall be read as a reference to the Bailiwick;
- (c) sub-paragraph (b) of paragraph 1 of Article 3 shall be omitted;

<sup>1</sup> Recueil des Lois, Volume 1996-1997, page 4.

- (d) in Article 5 the expression “Each member state” shall be read as a reference to the Bailiwick;
- (e) in Article 6 the expression “the Member States” shall be read as a reference to the Bailiwick; and
- (f) in Article 7 -
  - (i) in each place where it occurs the expression “a Member State” shall be read as a reference to the Bailiwick; and
  - (ii) the third paragraph shall be omitted.

3.-(1) Any person who operates an aircraft on a flight between the Federal Republic of Yugoslavia and the Bailiwick contrary to paragraph 1 of Article 1 of the Community provisions commits an offence under these Regulations.

(2) Any person who, knowingly and intentionally, participates in activities the object or effect of which is, directly or indirectly, to circumvent the provisions of Articles 1 and 2 of the Community provisions contrary to Article 4 of those provisions commits an offence under these Regulations.

(3) A person who commits an offence under these Regulations is liable to a fine or to imprisonment for a term not exceeding two years, or to both.

4.-(1) Where a body corporate commits an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in a like capacity, he, as well as the body corporate, commits that offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) of this Regulation applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Any person who aids, abets, counsels or procures the commission of an offence under these Regulations is liable to be dealt with, tried and punished as a principal offender.

5. These Regulations may be cited as the Community Provisions (Prohibition on Flights of Yugoslav Carriers) (Jersey) Regulations 199 and shall come into force on the day following promulgation.

THE TEXT OF THE COMMUNITY PROVISIONS AS MODIFIED IS  
SET OUT BELOW FOR INFORMATION ONLY AND DOES NOT  
FORM PART OF THE REGULATIONS

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<sup>(2)</sup>,

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<sup>(3)</sup>,  
98/326/CFSP<sup>(4)</sup> and  
98/374/CFSP<sup>(5)</sup> and the ensuing  
Council Regulations (EC)  
Nos. 926/98<sup>(6)</sup>, 1295/98<sup>(7)</sup> and  
1607/98<sup>(8)</sup>;

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;

<sup>(3)</sup> OJ L.95, 27.3.1998, p.1.

<sup>(4)</sup> OJ L.143, 14.5.1998, p.1.

<sup>(5)</sup> OJ L.165, 10.6.1998, p.1.

<sup>(6)</sup> OJ L.130, 1.5.1998, p.1.

<sup>(7)</sup> OJ L.178, 23.6.1998, p.33.

<sup>(8)</sup> OJ L.209, 25.7.1998, p.16.

<sup>(2)</sup> OJ L.190, 4.7.1998, p.3.

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 Bailiwick].

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

### *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 Bailiwick].

### *Article 3*

1. Articles 1 and 2 shall not apply to

(a) emergency landings on the territory of [the Bailiwick] and ensuing take-offs;

(b) \* \* \*

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 Bailiwick].

*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*

[The Bailiwick] 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 Bailiwick] shall inform each other of the measures taken under this Regulation and supply each other with any other relevant information as their disposal in connection with this Regulation, such as breaches and enforcement problems, judgements handed down by

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

Done at Brussels, 7 September 1998.

national courts or decisions of relevant international fora.

*Article 7*

This Regulation shall apply:

- within the territory of [the Bailiwick] including its airspace,
- on board any aircraft or any vessel under the jurisdiction of [the Bailiwick],
- \* \* \*
- to any body which is incorporated or constituted under the law of [the Bailiwick].

*Article 8*

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

*For the Council*  
*The President*  
 W. SCHUSSEL