

COUNCIL REGULATION (EU) No 264/2012

of 23 March 2012

amending Regulation (EU) No 359/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran

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 Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran ⁽¹⁾, and in particular Article 1 thereof,

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

Whereas:

- (1) Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran ⁽²⁾ prohibits the sale, supply, transfer or export from the Union to Iran of equipment which may be used for internal repression.
- (2) The measures adopted in Regulation (EU) No 961/2010 reflect the Council's concerns over the nature of Iran's nuclear programme, whereas the measures adopted in Regulation (EU) No 359/2011 ⁽³⁾ reflect its concerns about the deterioration of the human rights situation in Iran.
- (3) The prohibition on the sale, supply, transfer or export of equipment which may be used for internal repression is a measure taken primarily in view of the Council's concerns regarding the deterioration of the human rights situation in Iran, and as such, it should be included in Regulation (EU) No 359/2011. Regulation (EU) No 359/2011 should therefore be amended accordingly.
- (4) At the same time, Regulation (EU) No 961/2010 will be replaced by a new, consolidated Regulation which does not include the said measure to prevent internal repression.
- (5) In view of the gravity of the human rights situation in Iran, Decision 2012/168/CFSP of 23 March 2012 amending Decision 2011/235/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Iran ⁽⁴⁾ provides for an additional measure, namely a prohibition on the export of telecommunications monitoring equipment for use by the Iranian regime.
- (6) This measure falls within the scope of the Treaty and, therefore, notably with a view to ensuring its uniform

application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement it.

- (7) In view of the gravity of the human rights situation in Iran and in accordance with Decision 2011/235/CFSP, additional persons should be included in the list of natural and legal persons, entities and bodies subject to restrictive measures set out in Annex I to Regulation (EU) No 359/2011.
- (8) Annex II to Regulation (EC) No 359/2011, listing the competent authorities to which specific functions relating to the implementation of that Regulation are attributed, should also be updated on the basis of the information most recently provided by Member States regarding the identification of competent authorities.
- (9) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force on the day of publication,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 359/2011 is hereby amended as follows:

- (1) The following Articles are inserted:

"Article 1a

It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression as listed in Annex III, whether or not originating in the Union, to any person, entity or body in Iran or for use in Iran;
- (b) to provide, directly or indirectly, technical assistance or brokering services related to equipment which might be used for internal repression as listed in Annex III, to any person, entity or body in Iran or for use in Iran;
- (c) to provide, directly or indirectly, financing or financial assistance related to equipment which might be used for internal repression as listed in Annex III, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any person, entity or body in Iran or for use in Iran;
- (d) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a), (b) and (c).

⁽¹⁾ OJ L 195, 27.7.2010, p. 39.

⁽²⁾ OJ L 281, 27.10.2010, p. 1.

⁽³⁾ OJ L 100, 14.4.2011, p. 1.

⁽⁴⁾ See page 85 of this Official Journal.

Article 1b

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, equipment, technology or software identified in Annex IV, whether or not originating in the Union, to any person, entity or body in Iran or for use in Iran, unless the competent authority of the relevant Member State, as identified in the websites referred to in Annex II, has given prior authorisation.

2. The competent authorities of the Member States, as identified in the websites referred to in Annex II, shall not grant any authorisation under paragraph 1 if they have reasonable grounds to determine that the equipment, technology or software in question would be used for monitoring or interception, by Iran's government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction, of internet or telephone communications in Iran.

3. Annex IV shall include equipment, technology or software which may be used for the monitoring or interception of internet or telephone communications.

4. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this Article, within four weeks following the authorisation.

Article 1c

1. It shall be prohibited:

- (a) to provide, directly or indirectly, technical assistance or brokering services related to the equipment, technology and software identified in Annex IV, or related to the provision, manufacture, maintenance and use of the equipment and technology identified in Annex IV or to the provision, installation, operation or updating of any software identified in Annex IV, to any person, entity or body in Iran or for use in Iran;
- (b) to provide, directly or indirectly, financing or financial assistance related to the equipment, technology and software identified in Annex IV, to any person, entity or body in Iran or for use in Iran;

(c) to provide any telecommunication or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, Iran's government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction; and

(d) to participate, knowingly and intentionally, in any activity the object or effect of which is to circumvent the prohibitions referred to in point (a), (b) or (c) above;

unless the competent authority of the relevant Member State, as identified in the websites referred to in Annex II, has given prior authorisation, on the basis set out in Article 1b(2).

2. For the purposes of paragraph 1(c), "telecommunication or internet monitoring or interception services" means those services that provide, in particular using equipment, technology or software as identified in Annex IV, access to and delivery of a subject's incoming and outgoing telecommunications and call-associated data for the purpose of its extraction, decoding, recording, processing, analysis and storing or any other related activity."

- (2) The persons listed in Annex I to this Regulation are added to the list set out in Annex I
- (3) The text set out in Annex II to this Regulation is added as Annex III.
- (4) The text set out in Annex III to this Regulation is added as Annex IV.
- (5) Annex II is replaced by the text set out in Annex IV to this Regulation.

Article 2

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.

Done at Brussels, 23 March 2012.

For the Council
The President
C. ASHTON

ANNEX I

List of persons referred to in point 2 of Article 1

	Name	Identifying information	Reasons	Date of listing
1.	ZARGHAMI Ezzatollah		As Head of Islamic Republic of Iran Broadcasting (IRIB), he is responsible for all programming decisions. IRIB has broadcast forced confessions of detainees and a series of "show trials" in August 2009 and December 2011. These constitute a clear violation of international provisions on fair trial and the right to due process.	23.3.2012
2.	TAGHIPOUR Reza	POB: Maragheh (Iran) DOB: 1957	Minister for Information and Communications. As Minister for Information, he is one of the top officials in charge of censorship and control of internet activities and also all types of communications (notably mobile phones). During interrogations of political detainees, the interrogators make use of the detainees' personal data, mail and communications. On several occasions following the last presidential election and during street demonstrations, mobile lines and text messaging were blocked, satellite TV channels were jammed and the internet locally suspended or at least slowed down.	23.3.2012
3.	KAZEMI Toraj		Colonel of the technology and communications police, he recently announced a campaign for the recruitment of government hackers in order to achieve better control of information on the internet and attack "dangerous" sites.	23.3.2012
4.	LARIJANI Sadeq	POB: Najaf (Iraq) DOB: 1960 or August 1961	Head of the Judiciary. The Head of the Judiciary is required to consent to and sign off every qisas (retribution), hodoud (crimes against God) and ta'zirat (crimes against the state) punishment. This includes sentences attracting the death penalty, floggings and amputations. In this regard, he has personally signed off numerous death penalty sentences, contravening international standards, including stoning (16 people are currently under stoning sentence), executions by suspension strangulation, execution of juveniles, and public executions such as those where prisoners have been hung from bridges in front of crowds of thousands. He has also permitted corporal punishment sentences such as amputations and the dripping of acid into the eyes of the convicted. Since Sadeq Larijani took office, arbitrary arrests of political prisoners, human rights defenders and minorities have increased markedly. Executions have also increased sharply since 2009. Sadeq Larijani also bears responsibility for systemic failures in the Iranian judicial process to respect the right to a fair trial.	23.3.2012

	Name	Identifying information	Reasons	Date of listing
5.	MIRHEJAZI Ali		Deputy Chief of the Supreme Leader's Office and Head of Security. Part of the Supreme Leader's inner circle, responsible for planning the suppression of protests which has been implemented since 2009.	23.3.2012
6.	SAEEDI Ali		Representative of the Guide for the Pasdaran since 1995 after spending his whole career within the institution of the military, and specifically in the Pasdaran intelligence service. This official role makes him the key figure in the transmission of orders emanating from the Office of the Guide to the Pasdaran's repression apparatus.	23.3.2012
7.	RAMIN Mohammad-Ali	POB: Dezful (Iran) DOB: 1954	Main figure responsible for censorship as Vice-Minister in charge of the Press up to December 2010, he was directly responsible for the closure of many reforming newspapers (Etemad, Etemad-e Melli, Shargh, etc), closure of the Independent Press Syndicate and the intimidation and arrest of journalists.	23.3.2012
8.	MORTAZAVI Seyyed Solat	POB: Meibod (Iran) DOB: 1967	Deputy Interior Minister for Political Affairs. Responsible for directing repression of persons who speak up in defence of their legitimate rights, including freedom of expression.	23.3.2012
9.	REZVANI Gholomani		Deputy Governor of Rasht. Responsible for grave violations of the right to due process.	23.3.2012
10.	SHARIFI Malek Ajdar		Head of the judiciary in East Azerbaijan. Responsible for grave violations of the right to due process.	23.3.2012
11.	ELAHI Mousa Khalil		Prosecutor of Tabriz. Responsible for directing grave human rights violations of the right to due process.	23.3.2012
12.	FAHRADI Ali		Prosecutor of Karaj. Responsible for grave violation of human rights in demanding the death sentence for a juvenile.	23.3.2012
13.	REZVANMANESH Ali		Prosecutor. Responsible for grave violation of human rights in demanding the death sentence for a juvenile.	23.3.2012
14.	RAMEZANI Gholamhosein		Commander of IRGC Intelligence. Responsible for grave human rights violation of persons who speak up in defence of their legitimate rights, including freedom of expression. Heads Department responsible for the arrest and torture of bloggers/journalists.	23.3.2012
15.	SADEGHI Mohamed		Colonel and Deputy of IRGC technical and cyber intelligence. Responsible for the arrests and torture of bloggers/journalists.	23.3.2012

	Name	Identifying information	Reasons	Date of listing
16.	JAFARI Reza		Head of special prosecution of cyber crime. In charge of arrests, detentions and prosecutions of bloggers and journalists.	23.3.2012
17.	RESHTE-AHMADI Bahram		Deputy Prosecutor in Tehran. Runs Evin prosecution centre. Responsible for the denial of rights, including visits and other prisoner's rights, to human rights defenders and political prisoners.	23.3.2012

ANNEX II

The following text shall be added as Annex III to Regulation (EU) No 359/2011:

"ANNEX III

List of equipment which might be used for internal repression as referred to in Article 1a

1. Fire-arms, ammunition and related accessories therefor, as follows:
 - 1.1 Firearms not controlled by ML 1 and ML 2 of the Common Military List;
 - 1.2 Ammunition specially designed for the firearms listed in item 1.1 and specially designed components therefor;
 - 1.3 Weapon-sights not controlled by the Common Military List.
2. Bombs and grenades not controlled by the Common Military List.
3. Vehicles as follows:
 - 3.1 Vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
 - 3.2 Vehicles specially designed or modified to be electrified to repel borders;
 - 3.3 Vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
 - 3.4 Vehicles specially designed for the transport or transfer of prisoners and/or detainees;
 - 3.5 Vehicles specially designed to deploy mobile barriers;
 - 3.6 Components for the vehicles specified in items 3.1 to 3.5 specially designed for the purposes of riot control.

Note 1 This item does not control vehicles specially designed for the purposes of fire-fighting.

Note 2 For the purposes of item 3.5 the term "vehicles" includes trailers.
4. Explosive substances and related equipment as follows:
 - 4.1 Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflaters, electric-surge arresters of fire sprinkler actuators);
 - 4.2 Linear cutting explosive charges not controlled by the Common Military List;
 - 4.3 Other explosives not controlled by the Common Military List and related substances as follows:
 - a. amatol;
 - b. nitrocellulose (containing more than 12,5 % nitrogen);
 - c. nitroglycol;
 - d. pentaerythritol tetranitrate (PETN);
 - e. picryl chloride;
 - f. 2,4,6-trinitrotoluene (TNT).
5. Protective equipment not controlled by ML 13 of the Common Military List as follows:
 - 5.1 Body armour providing ballistic and/or stabbing protection;

5.2 Helmets providing ballistic and/or fragmentation protection, anti-riot helmets, antiriot shields and ballistic shields.

Note: This item does not control:

— *equipment specially designed for sports activities;*

— *equipment specially designed for safety of work requirements.*

6. Simulators, other than those controlled by ML 14 of the Common Military List, for training in the use of firearms, and specially designed software therefor.
 7. Night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the Common Military List.
 8. Razor barbed wire.
 9. Military knives, combat knives and bayonets with blade lengths in excess of 10 cm.
 10. Production equipment specially designed for the items specified in this list.
 11. Specific technology for the development, production or use of the items specified in this list."
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ANNEX III

The following text shall be added as Annex IV to Regulation (EU) No 359/2011:

"ANNEX IV

Equipment, technology and software referred to in Articles 1b and 1c**General Note**

Notwithstanding the contents of this Annex, it shall not apply to:

- (a) equipment, technology or software which are specified in Annex I to Council Regulation (EC) 428/2009 ⁽¹⁾ or the Common Military List; or
- (b) software which is designed for installation by the user without further substantial support by the supplier and which is generally available to the public by being sold from stock at retail selling points, without restriction, by means of:
 - (i) over the counter transactions;
 - (ii) mail order transactions;
 - (iii) electronic transactions; or
 - (iv) telephone order transactions; or
- (c) software which is in the public domain.

The categories A, B, C, D and E refer to the categories referred to in Regulation (EC) No 428/2009.

The 'equipment, technology and software' referred to in Article 1b is:

A. List of equipment

- Deep Packet Inspection equipment
- Network Interception equipment including Interception Management Equipment (IMS) and Data Retention Link Intelligence equipment
- Radio Frequency monitoring equipment
- Network and Satellite jamming equipment
- Remote Infection equipment
- Speaker recognition/processing equipment
- IMSI ⁽²⁾, MSISDN ⁽³⁾, IMEI ⁽⁴⁾, TMSI ⁽⁵⁾ interception and monitoring equipment

⁽¹⁾ Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

⁽²⁾ IMSI stands for International Mobile Subscriber Identity. It is a unique identification code for each mobile telephony device, integrated in the SIM card and which allows identification of such SIM via GSM and UMTS networks.

⁽³⁾ MSISDN stands for Mobile Subscriber Integrated Services Digital Network Number. It is a number uniquely identifying a subscription in a GSM or a UMTS mobile network. Simply put, it is the telephone number to the SIM card in a mobile phone and therefore it identifies a mobile subscriber as well as IMSI, but to route calls through him.

⁽⁴⁾ IMEI stands for International Mobile Equipment Identity. It is a number, usually unique to identify GSM, WCDMA and IDEN mobile phones as well as some satellite phones. It is usually found printed inside the battery compartment of the phone. interception (wiretapping) can be specified by its IMEI number as well as IMSI and MSISDN.

⁽⁵⁾ TMSI stands for Temporary Mobile Subscriber Identity. It is the identity that is most commonly sent between the mobile and the network.

- Tactical SMS ⁽¹⁾ /GSM ⁽²⁾ /GPS ⁽³⁾ /GPRS ⁽⁴⁾ /UMTS ⁽⁵⁾ /CDMA ⁽⁶⁾ /PSTN ⁽⁷⁾ interception and monitoring equipment
- DHCP ⁽⁸⁾ /SMTP ⁽⁹⁾, GTP ⁽¹⁰⁾ information interception and monitoring equipment
- Pattern Recognition and Pattern Profiling equipment
- Remote Forensics equipment
- Semantic Processing Engine equipment
- WEP and WPA code breaking equipment
- Interception equipment for VoIP proprietary and standard protocol

B. Not used

C. Not used

D. "Software" for the "development", "production" or "use" of the equipment specified in A above.

E. "Technology" for the "development", "production" or "use" of the equipment specified in A above.

Equipment, technology and software falling within these categories is within the scope of this Annex only to the extent that it falls within the general description 'internet, telephone and satellite communications interception and monitoring systems'.

For the purpose of this Annex 'monitoring' means acquisition, extraction, decoding, recording, processing, analysis and archiving call content or network data."

⁽¹⁾ SMS stands for Short Message System.
⁽²⁾ GSM stands for Global System for Mobile Communications.
⁽³⁾ GPS stands for Global Positioning System.
⁽⁴⁾ GPRS stands for General Package Radio Service.
⁽⁵⁾ UMTS stands for Universal Mobile Telecommunication System.
⁽⁶⁾ CDMA stands for Code Division Multiple Access.
⁽⁷⁾ PSTN stands for Public Switch Telephone Networks.
⁽⁸⁾ DHCP stands for Dynamic Host Configuration Protocol.
⁽⁹⁾ SMTP stands for Simple Mail Transfer Protocol.
⁽¹⁰⁾ GTP stands for GPRS Tunnelling Protocol.

ANNEX IV

Annex II to Regulation (EU) No 359/2011 shall be replaced by the following text:

"ANNEX II

Websites for information on the competent authorities and address for notifications to the European Commission

BELGIUM

<http://www.diplomatie.be/eusanctions>

BULGARIA

<http://www.mfa.bg/en/pages/view/5519>

CZECH REPUBLIC

<http://www.mfcr.cz/mezinarodnisankce>

DENMARK

<http://um.dk/da/politik-og-diplomati/retsorden/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://www1.mfa.gr/en/foreign-policy/global-issues/international-sanctions.html>

SPAIN

http://www.maec.es/es/MenuPpal/Asuntos/Sanciones%20Internacionales/Paginas/Sanciones_%20Internacionales.aspx

FRANCE

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

ITALY

http://www.esteri.it/MAE/IT/Politica_Europea/Deroghe.htm

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/

MALTA

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

NETHERLANDS

<http://www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/sancties>

AUSTRIA

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

POLAND

<http://www.msz.gov.pl>

PORTUGAL

<http://www.min-nestrangeiros.pt>

ROMANIA

<http://www.mae.ro/node/1548>

SLOVENIA

http://www.mzz.gov.si/si/zunanja_politika_in_mednarodno_pravo/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

www.fco.gov.uk/competentauthorities

Address for notifications to the European Commission:

European Commission
Service for Foreign Policy Instruments (FPI)
Office EEAS 02/309
B-1049 Bruxelles/Brussel (Belgium)
E-mail: relex-sanctions@ec.europa.eu.
