



STATUTORY INSTRUMENTS.

S.I. No. 468 of 2009

EUROPEAN COMMUNITIES (DEMOCRATIC REPUBLIC OF CONGO)
(FINANCIAL SANCTIONS) REGULATIONS 2009

(Prn. A9/1714)

EUROPEAN COMMUNITIES (DEMOCRATIC REPUBLIC OF CONGO)
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I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving full effect to Council Regulation (EC) No. 889/2005 of 13 June 2005¹, as amended, and Council Regulation (EC) No. 1183/2005 of 18 July 2005², as amended, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Democratic Republic of Congo) (Financial Sanctions) Regulations 2009.

2. (1) In these Regulations—

“Council Regulation (EC) No. 889/2005” means Council Regulation (EC) No. 889/2005 of 13 June 2005¹, as amended by—

(a) Council Regulation (EC) No. 1377/2007 of 26 November 2007³, and

(b) Council Regulation (EC) No. 666/2008 of 15 July 2008⁴;

“Council Regulation (EC) No. 1183/2005” means Council Regulation (EC) No. 1183/2005 of 18 July 2005², as amended by—

(a) Council Regulation (EC) No. 1791/2006 of 20 November 2006⁵, and

(b) Commission Regulation (EC) No. 242/2009 of 20 March 2009⁶.

(2) A word or expression which is used in these Regulations and which is also used in Council Regulation (EC) No. 889/2005 or in Council Regulation (EC) No. 1183/2005 has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation concerned.

3. Subject to Regulation 4, a person commits an offence if he or she infringes the provisions of Council Regulation (EC) No. 889/2005 or Council Regulation (EC) No. 1183/2005 as regards—

(a) the provision of financing or financial assistance,

(b) the freezing of funds or economic resources,

¹OJ No. L.152, 15.6.05, p.1.

²OJ No. L.193, 23.7.05, p.1.

³OJ No. L.309, 27.11.07, p.1.

⁴OJ No. L.188, 16.7.08, p.1.

⁵OJ No. L.363, 20.12.06, p.1.

⁶OJ No. L.75, 21.3.09, p.8.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 4th December, 2009.*

- (c) the making available of funds or economic resources,
- (d) the supply of information to or cooperation with the competent authorities, or
- (e) the participation in activities to circumvent the requirements of Council Regulation (EC) No. 889/2005 as regards paragraph (a) or Council Regulation (EC) No. 1183/2005 as regards paragraph (b), (c) or (d).

4. Notwithstanding Regulation 3, a person who has received an authorisation under Article 3 of Council Regulation (EC) No. 889/2005 or an authorisation under Article 3 or Article 4 of Council Regulation (EC) No. 1183/2005 may, subject to compliance with the terms and conditions of such authorisation, do such of the things referred to in Regulation 3 as are so authorised.

5. The Central Bank and Financial Services Authority of Ireland may, for the purposes of the administration and enforcement of the provisions of these Regulations, give such directions or issue such instructions to a person as it sees fit.

6. A person who fails to comply with a direction or an instruction issued under Regulation 5 shall be guilty of an offence.

7. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first mentioned offence.

8. A person guilty of an offence under these Regulations is liable:

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both.

9. The European Communities (Democratic Republic of Congo) (Financial Sanctions) Regulations 2008 (S.I. No. 473 of 2008) are revoked.



GIVEN under my Official Seal,
27 November 2009.

BRIAN LENIHAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Statutory Instrument and does not purport to be a legal interpretation.)

These Regulations provide for enforcement of European Union financial sanctions contained in Council Regulation (EC) No. 889/2005 of 13 June 2005 and Council Regulation (EC) No. 1183/2005 of 18 July 2005 concerning restrictive measures against the Democratic Republic of Congo (DRC). The sanctions stem from successive United Nations Security Council Resolutions which impose an arms embargo on the DRC and contain sanctions against persons acting in its violation.

The financial sanctions include a) a prohibition on financing or financial assistance related to military activities in the DRC and b) the freezing of funds and economic resources belonging to persons who impede international efforts in disarmament, demobilisation and reintegration of combatants and the provision of humanitarian assistance in the eastern part of the DRC.

These Regulations also provide that the Central Bank and Financial Services Authority of Ireland (CBFSAI) may issue instructions for the purpose of giving full effect to the financial sanctions.

They create offences for breach of the Council Regulation or for failure to comply with the instructions of the CBFSAI with regard to implementation of the sanctions and they provide for appropriate penalties.

The European Communities (Democratic Republic of Congo) (Financial Sanctions) Regulations 2008 (S.I. No. 473 of 2008) are revoked.

The most recent amendment to these sanctions is contained in Commission Regulation (EC) No. 242/2009 of 20 March 2009 which replaces the list of natural and legal persons, entities or bodies subject to the asset-freeze and other restrictive financial measures under Council Regulation (EC) No. 1183/2005 of 18 July 2005.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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