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

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.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 264/2012. (See end of Document for details)*

(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).

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.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 264/2012. (See end of Document for details)*

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,	23.3.2012