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CZECH REPUBLIC

- 1. Which are the procedures for the incorporation of Security Council resolutions imposing sanctions into the internal legal order of your State? Are they incorporated through legislation, regulations or in any other way? Has the implementation given rise to any constitutional or other legal problems at national level? Is there any relevant case-law?**
- 2. Does the choice depend on the content and the legal nature of the Security Council Resolution?**

The choice of incorporation procedure depends on the nature of the restrictive measure. Measures implementing or reducing economic relations with third countries fall within European Community competence. In such instances the Council regulations are used as a tool to impose restrictive measures to help attain the objectives of the EU Common Foreign and Security Policy (articulated by Council Common Position). Regulations are directly applicable and have direct effect in the Member States. They are applied and enforced by the competent authorities of the Member States and the Commission. No further legislative action of the Member states is required to transpose them.

The restrictive measures, which fall within EU member States competence, such as embargoes relating to military goods, are imposed by a Council Common Position and enforced on the basis of export control legislation of Member States. Such national legislation must conform to the Common Position. The legislation adopted by member States in the field of export control is complemented by the EU "Code of conduct on arms exports" adopted in June 1998 which defines the criteria EU member States apply for their exports control policy concerning arms. Likewise, restrictions on admission (visa and travel bans) provided for in Council Common Positions are enforced on the basis of Member States national legislation on admission of foreigners.

Restrictive measures, which fall within Member States competence, are implemented in the Czech Republic by means of the Act No. 98/2000 Coll., on the implementation of international sanctions to maintain international peace and security (currently under amendment procedure). According to this act, the Government of the Czech republic can, after having obtained the approval of the pertinent Committee of the House of Representatives of the Parliament, promulgate Government Decrees by means of which it can impose, alter, suspend, repeal or renew the bans and other restrictions in compliance with the resolutions of the UN Security Council or EU Council imposing international sanctions. Government Decrees have lower normative force than legislative acts adopted by the Parliament.

The Act No. 98/2000 Coll. provides for administrative sanction that shall apply should the provisions of the Government Decree adopted on the basis of the act be infringed. Sanction consists of penalty payment the amount of which is established with regard to the extent of the threat to foreign and security policy of the State as well as with regard to the actually incurred material losses.

The Act No. 98/2000 Coll. is based on the traditional system of implementation of international sanctions: it makes the application of sanctions against individuals dependant on the imposition of sanctions against subjects of international law (e.g. sanctions against individuals can be enforced only if the individuals are linked to a subject of international law which is in itself target of sanctions). The sanctions directed against individuals are implemented through EU Regulations.

Certain restrictive measures - specifically embargoes relating to military goods - may be implemented via individual administrative acts adopted by Czech authorities within the limits of their discretion set up by legislative act. Such administrative acts are binding only to their addressee - specific natural or legal person. The Act No. 38/1994 Coll., on foreign trade in military material, provides for the following mechanism of implementation of international sanctions: the traders – holders of a special concession - have to apply for an import or export licence for every single contract whose object is military material. When the UN Security Council imposes an arms embargo against certain country, the competent authority, which is Ministry of Industry and Trade, refrains from issuing of the licence (after having consulted the Ministry of Foreign Affairs). The Ministry of Industry and Trade may also repeal an already issued licence as soon as a new embargo is imposed.

Another example of the implementation of international sanctions by means of an administrative act is the non-issuance of visa by the Ministry of Interior or Ministry of Foreign Affairs in case of travel bans imposed on citizens of a specific country.

The implementation of UN sanctions in the Czech Republic has not given rise to any constitutional or other legal problems at national level. There is no relevant case law.

3. When sanctions are imposed for a fixed period of time which is not renewed, are they tacitly repealed within your domestic legal order or is any normative action required?

The process of abrogation of sanctions depends on the manner in which they were implemented. When a Council Regulation (adopted according to the EC Treaty) or a Government Decree (adopted according to the Act No. 98/2000 Coll.) imposes sanctions for a definite period of time, the sanctions cease to be in force on the expiry date provided in the respective Regulation or Decree. In the absence of an expiry date, another Council Regulation or Government Decree must be adopted to repeal them.

4. When a Security Council resolution imposing an export embargo provides for exceptions while not establishing a committee to authorise such exceptions, does the incorporating act appoint a national authority which is competent to authorise export?

There is no special authority within the Czech legal system generally endowed with the power to authorise exceptions from sanctions. In concrete cases, which do not fall within the EC/EU competence, the Czech Government designates, in accordance with the Act No. 98/2000 Coll., by means of a Government Decree specific authorities within the state apparatus (usually ministries) to authorise such exceptions.

5. Are Sanctions Committee decisions specifying Security Council sanctions or setting conditions for their activation incorporated into domestic law?

The Sanctions Committee decisions - as long as they do not fall within the EC/EU competence - are incorporated in domestic law by means of Government Decree adopted by the Czech Government on the basis of the Act No. 98/2000 Coll., on the implementation of international sanctions to maintain international peace and security.

6. Have there been cases where the act incorporating sanctions in the domestic legal order was challenged in court for being in violation of human rights?

There has not been any case of act incorporating sanctions in the domestic law being challenged in court for violation of human rights.

7. **Are there decisions of national courts or state practice concerning the relationship between sanctions directed towards individuals and the human rights of these individuals?**

There are no such decisions of national Courts.