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## **GERMANY**

Germany aligns itself to the answers provided for by the European Commission (see note of the Commission's Legal Service to the Chair of CAHDI from February 3, 2005) in particular with regard to **questions 2, 3, 4 and 5**, and would like to give additional information on the implementation of those measures under UN Security Council resolutions which do not fall under the exclusive competence of the European Community according to Article 15 of the EU Treaty and are thus taken at a national level.

- 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?**

### UN arms embargos

According to Art. 34 para.4 of the German Foreign Trade and Payment Act ("Außenwirtschaftsgesetz") any person who violates this act or a regulation based on this act or a legal provision of the European Communities on the restriction of foreign trade and payments published in the Federal Law Gazette or the Federal Gazette intended to implement an economic measure of the United Nations pursuant to chapter VII of the UN Charter shall be punished by imprisonment for at least two years. According to the German export control legislation every export of arms is subject to a license granted by the competent authority. In case of an existing arms embargo such license will not be granted unless the export is meant to further the purposes specified in the relevant Security Council resolution or is otherwise approved by the Security Council sanctions committee.

### UN Travel restrictions

As regards the implementation of the international obligations deriving from UN Security Council resolution 1390 aiming to prevent the entry and transit of terrorists included in the list of UN Security resolutions 1267, 1333 and 1455, those listed persons have been included in the data files on foreigners to whom entry is refused. Germany draws attention to the fact that a person who has been included in such list may only be refused entry and transit if that person can be clearly identified on the basis of the information given in the list. The data of those persons for whom sufficient identifying information is available have also been entered in the Schengen Information System for the refusal of entry. The relevant national data files can be accessed by all offices charged with border control tasks in the Federal Republic of Germany; the Schengen Information System can be accessed by all police and border police authorities of the Schengen Contracting States.

- 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?**
- 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?**

Germany is currently preparing a comprehensive survey of the exact number of cases where the act incorporating sanctions in the German legal system was challenged in a legal proceeding before a German court. Once the data will have been established the survey will be provided to the Council of Europe.