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HUNGARY

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?**

The adequate transformation of international obligations into the Hungarian legal system and the introduction of executive orders varies by the characteristics of the restrictive measures. It is also to be noted that Hungary's accession to the EU has profoundly altered the process. The pre-accession phase shows examples of Acts of Parliament or Government Decrees or publication of the UN sanctions in the Official Gazette as announcements by the Foreign Minister. Now the joint application of EU and domestic legal institutions provides for speedy execution of UN Security Council resolutions.

The procedures for incorporation are depending on the types of sanctions imposed by them.

There are currently 4 different types of sanctions, and they are executed differently:

- **Arms** embargoes and restrictions on **dual-use** products are automatically put into effect by Hungarian authorities (Hungarian Trade Licensing Office). The relevant government decrees (Gov. Decree No. 16/2004 on licensing of export, import, transfer and transit of military equipment and service; Gov. Decree No. 50/2004 on licensing of international trade of dual-use products and technologies) provide that the authority shall not grant export or import licence for individuals or entities whom the SC Resolution applies to. The authority is obliged by the law to follow the conditions set out in the SC Resolutions.
- Comparable procedure applies for **travel** restrictions. In line with the provisions of the Act No. XXXIX of 2001 on the entry and stay of foreigners the Office of Immigration and Nationality of the Ministry of the Interior includes the names of individuals whom the SC Resolutions apply to the list of persons whose application for entry should be turned down and even their residency permit may be withdrawn.
- **Trade** and **financial** restrictions are applied by means of EU legislation – however the Act LXXXVIII of 2001 on fighting terrorism and prevention of money laundering also contains provisions for restrictions independently from EU law. In the presently applied process the Council adopts regulations in order to implement SC Resolutions imposing sanctions. Trade matters –and sanctions- are within exclusive competency of the European Community and therefore Member States are obliged to abstain from any legislation in this field. As for financial sanctions, the Community has also the exclusive right to legislate in this field. Community regulations are binding in their entirety and directly applicable in all Member States.

As the EU implements SC Resolutions imposing sanctions based on Chapter VII of the UN Charter without delay and latest within 30 days of the adoption of the UNSC Resolution, Member States are enabled to implement them quickly as well.

2. Does the choice depend on the content and the legal nature of the Security Council resolution?

To the extent explained above.

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?

In case of arms embargoes and restrictions on dual-use products, as well as travel restrictions no repeal takes place. There is no need for normative action either. According to the new normative background provided by SC Resolution the authorities cease to apply them.

Trade and financial restrictions remain applicable directly until Community Regulations cease to apply. The expiration date set forth in Regulations is adjusted to the date in the SC Resolutions. If there is no expiration date the Council repeals them according to SC Resolutions.

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?

In case of arms and dual-use embargoes, the competent national authority mentioned under point No.1. has the competency to grant exemptions if the conditions set forth in the SC Resolutions are met. The same applies to the other types of sanctions.

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

In case of travel restrictions and arms embargoes Hungarian law empowers national authorities to apply the specified lists created by the UN bodies, therefore, further legislation is not needed.

As for financial and trade restrictions the EC Commission is empowered to amend EC Council Regulations to give legal effect to designations of persons, groups and entities made by the Sanctions Committee. EC Council Regulations are executed directly.

If exemptions must be granted by a UN Sanctions Committee, the EC Council Regulations stipulate that requests must be sent to the competent authorities, which will then take the matter to the Sanctions Committee and inform the applicant of the decision. In order to provide the clarity that is needed, any conditions for granting exemptions laid down in the UN Security Council resolution are included in the EC Council Regulation.

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?

Presently there is no such case filed at Hungarian Courts. Similarly Hungary can not report any judicial or state practice concerning the relation between sanctions and human rights of individuals.