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## PORTUGAL

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

According to article 25° of the Charter of the United Nations and article 8°/3<sup>1</sup> of the Constitution of the Portuguese Republic, sanctions imposed by Security Council resolutions adopted under Chapter VII are automatically applicable in the Portuguese internal legal order by mere effect of such resolutions and need no incorporation.

Such Resolutions have been made public through publication in the Portuguese official journal (*Diário da República*).

In practice, reliance has mainly been placed upon the adoption of the sanction regimes by EU regulations. According to articles 8°/3 (and now also 8°/4)<sup>2</sup> of the Constitution of the Portuguese Republic and of the relevant dispositions of the Treaty of the European Union, such regulations have direct applicability in the Portuguese internal legal order, with no need of a formal transposition, binding both the State and private entities and individuals.

In 2002, criminal legislation was adopted by the Parliament establishing sanctions in case of violation of sanctions imposed by Security Council resolutions and EU Regulations (*Lei n.º 11/2002*, of 16 February 2002).

So far, there have been no case courts concerning this issue.

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

See the reply given *supra* in 1.

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 When sanctions are imposed for a fixed period of time which is not renewed, are they tacitly repealed within you domestic legal order or is any normative action required?**

According to the mechanism of article 8°/3 of the Constitution described above in 1., in principle, they should be tacitly repealed.

- 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 practice in this respect.

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<sup>1</sup> "Norms adopted by the competent organs of international organisations of which Portugal is a member apply directly in the domestic order, if such is provided in the respective constitutive treaties."

<sup>2</sup> "The dispositions of treaties that regulate the European Union and the norms adopted by their institutions, in the exercise of their respective competencies, are applicable in the domestic order as defined by the European Union law, in respect for the fundamental principles of the democratic State and the rule of law."

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

There is only one instance where such happened with regard to a Sanctions Committee, and the procedure for the Security Council resolutions was the same as described in reply to question 1.

**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? For example, have national courts assumed jurisdiction in cases where sanctions are challenged by individuals affected by sanctions:**  
**a) if implemented through EU-regulations?**  
**b) if implemented directly at national level?**

We are not aware of any court case in Portuguese courts.

**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?**

With regard to one sanctions regime, there were complaints regarding human rights issues brought before the *Ombudsman* and the Minister of Foreign Affairs, with no significant legal consequences.