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FINLAND

- 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 following complements the reply provided by the European Union.

Sanctions imposed by the UNSC or the EU are implemented at the national level by virtue of the *Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union* ("Sanctions Act", Act No 659/1967 as amended by Act No 824/1990, 705/1997, 191/2000, 882/2001 and 364/2002). The Act provides a basis for prompt implementation of provisions of Council sanctions regulations in a case where regulations are adopted on the basis of Article 60, 301 or 308 of the Treaty establishing the European Union.

The Sanctions Act, together with the Penal Code, provides for the sanctions and forfeitures to be imposed for violations of UNSC resolutions or Council regulations. According to Chapter 46, section 1 (11) of the Finnish Penal Code, a person who violates or attempts to violate a regulatory provision in a sanctions regulation, adopted on the basis of Article 60, 301 or 308 of the Treaty establishing the European Community, shall be sentenced for a regulation offence to a fine or to imprisonment for at most four years.

The Act further provides a basis for implementing binding UNSC resolutions in the absence of a corresponding Council regulation. In such a case, the resolution would be implemented through a government decree on the enforcement of obligations arising from the applicable resolution. For practical reasons, and in order to avoid undesired parallel legislation, government decrees have not been issued if the Council regulation is expected to be adopted.

The arms embargoes imposed by the UNSC and the EU are implemented at the national level by virtue of the *Act on the Export and Transit of Defence Materiel* (Act No. 242/1990, as amended by Acts 197/1995, 893/2001, 385/2002, and 900/2002). According to the Act, the export, transit or brokerage of defence materiel is subject to specific authorisation (export and brokerage licence). A licence to export or broker shall not be granted if it jeopardizes Finland's security or is inconsistent with Finland's foreign policy. *The General Guidelines for Export, Transit and Brokerage of Defence Materiel* adopted by the Government (1000/2002, as amended by Government decision 101/2003) provide that economic sanctions and arms embargoes imposed by the United Nations Security Council or by the European Union shall be complied with when granting an export licence or licence to the transshipment of defence materiel. The relevant economic sanctions and arms embargoes are listed in annexes of the General Guidelines for Export, Transit and Brokerage of Defence Materiel, which are kept up to date by the Finnish Ministry for Foreign Affairs. A reference to the relevant EU or UNSC decisions is included in these annexes after their entry into force.

According to section 7 of the Act on the Export and Transit of Defence Materiel, a person who commits an export offence shall be fined or imprisoned for a maximum period of four years.

Furthermore, the *Firearms Act* (Act No 1/1998) provides that the transfer, import, export and transit for commercial purposes of firearms, firearm components, cartridges and specially dangerous projectiles shall be subject to an authorisation. The licensing authority shall when appropriate

establish with the Ministry for Foreign Affairs that there are no foreign or security policy obstacles for the granting of an export or transit permit.

In the case of travel restrictions, the Ministry for Foreign Affairs informs the visa-issuing officials as well as the Finnish Frontier Guard of the relevant EU common positions. The names of persons designated as being subject to restrictive measures have been included into the national electronic visa register to which the Finnish Frontier Guard also has access.

As to the relevant case law, there have been no such cases before national courts in Finland.

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

The choice depends on the nature of the measure that must be taken (see answer to question 1).

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?

See the reply by the European Union.

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?

A reference to the competent national authorities is made in the annexes of the relevant EU Council Regulations.

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

See the reply by the European Union.

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?

There have been no such cases before national courts in Finland.

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.

None.