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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 preaccession 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 (Authority of Defence Industry and Export Control of the Hungarian Trade Licensing Office). The relevant government decrees (Gov. Decree No. 160/2011 on licensing of export, import, transfer and transit of military equipment and service and on certification of undertakings; Gov. Decree No. 13/2011 on the foreign trade authorisation of dual-use items) 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.

- **Trade** and **financial** restrictions are applied by means of EU legislation. 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 Union and therefore Member States are obliged to abstain from any legislation in this field. As for financial sanctions, the Union has also the exclusive right to legislate in this field. EU regulations are binding in their entirety and directly applicable in all Member States.

(http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf);

As regards financial sanctions, as a member of the EU, Hungary freezes funds and assets of terrorists on the basis of EC Regulations and complementary domestic legislation. Act No. CLXXX of 2007 on the Implementation of Financial and Asset-Related Restrictions Ordered by the EU (FRM Act) came into force on 1 February 2008. The FRM Act determines the procedure if the persons and entities subject to economic and financial restrictive measures have funds or economic resources in Hungary or persons or entities on the EU terrorist lists intend to transact funds. Hungary does not independently list EU terrorists to supplement the EU Regulations.

Also as regards the fight against terrorist financing the Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing is in force.

Hungary has established an effective procedure for the purpose of sanctions delisting in relation to the UN Security Council resolutions by the resolution of the Government adopted on December 20, 2011 (No. 1444/2011. /XII.20./). The Ministry of Foreign Affairs has prepared and made available

on the website of the government the guidelines, informing the public how to proceed with both UN and EU delisting requests. (www.kormany.hu/download/b/3b/70000/ENSZBT-ET-szankcios-tajekoztato.pdf)

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 EU 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.

Updated lists can be found: http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf.

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.

The Ministry of Foreign Affairs has prepared and made available on the website of the government the guidelines, informing the public how to proceed with both UN and EU delisting requests. It also covers export restrictions and the Hungarian authority responsible: the Hungarian Trade Licencing Office.

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 Council Regulations to give legal effect to designations of persons, groups and entities made by the Sanctions Committee. Council Regulations are executed directly.

If exemptions must be granted by a UN Sanctions Committee, the 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 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.