



March 2006

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RUSSIAN FEDERATION

- 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?**

In the Russian Federation sanctions imposed by the UN Security Council are implemented through **Decrees of the President**¹ which are followed by more detailed lower level acts such as Orders and Instructions of the Government, acts and regulations of federal ministries, the Central Bank, etc.

This practice of implementation of Security Council resolutions is based on the provisions of the **Constitution of the Russian Federation** stipulating that being the Head of State (para.1 art.80) the President acts as the guarantor of the rights and freedoms, consolidates unified functioning of the state institutions (para. 2 art.80), supervises external relations (para.“a” art.86).

There are also a number of **Federal Laws** which specify legal framework for such a practice. For instance, according to para.1 art.13 of the Federal Law *On Basics of State Regulation of International Commercial Activities of 8 December, 2003* “imposing bans and restrictions on external trade in goods, services and intellectual property for the purposes of participation of the Russian Federation in the international sanctions” is the President’s prerogative. Several other Federal Laws (*On military technical cooperation of the Russian Federation with foreign states of 19 July, 1998; On action against legalization (laundering) of criminal profits and financing of terrorism of 7 August, 2001*) contain similar provisions.

The wording of above mentioned Presidential Decrees usually starts with “in line with Security Council Resolution No....”

I order state institutions, industrial, commercial, transport and other companies, banks, other legal and natural persons to proceed in their activities from the following”. Afterwards comes the description of the restrictions applied.

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

All Security Council resolutions imposing sanctions are implemented in the same procedural way.

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 When sanctions are imposed for a fixed period of time which is not renewed, are they tacitly repealed within your domestic legal order or is any normative action required.**

The sanctions imposed by the Security Council including ones with a fixed period of duration which is not renewed are lifted following the same procedure – by the adoption of the **Decree of the President**.

¹ Examples of such Decrees: Decree N968 of 18 August 2003 *On the measures to implement the UN Security Council resolution 1483 of 22 May, 2003*; Decree N1097 of 21 September, 2003 *On the measures to implement the UN Security Council Resolution 1493 of 28 July, 2003*; Decree N6 of 10 January 2002 *On the measures to implement the UN Security Council resolution 1373 of 28 September, 2001*; etc.

4. When a Security Council regulation 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?

With the adoption of the Decrees of the President the matter of “national competent authority” does not arise as a rule since the norms contained in Security Council resolutions are implemented by the federal institutions, bodies and organizations in the areas of their competence drawn up in the Constitution, Federal Laws and other acts of legal order. Nevertheless the Decrees usually contain a paragraph obliging institutions and bodies “to provide implementation of measures set in the present Decree in the area of competence”.

According to the legislation in force the responsibility for coordination of international activities of various federal and local authorities including those related to international sanctions lies on the Ministry for Foreign Affairs.

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

The Ministry for Foreign Affairs of the Russian Federation advises national competent bodies, institutions and organizations on the decisions taken by Sanctions Committee specifying Security Council sanctions. In the presence of the Presidential Decree on the measures to be taken to implement Security Council resolutions this information provided by the MFA is generally sufficient for the adoption of the relevant acts by such bodies aimed at the implementation of the decisions of the Sanctions Committee. In a number of cases the Decrees contain direct links to future decisions of the Sanctions Committee (for instance the Decree of the President of the Russian Federation of 2 September, 1997 *On the measures to implement Security Council resolutions creating international permanent monitoring and control mechanism in respect of deliveries in Iraq*).

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 nations courts or state practice concerning the relationship between sanctions directed towards individuals and the human rights of these individuals ?

In Russia until now there have been neither court applications registered seeking compensation of damages occurring as a result of adoption of implementing legislation nor proceedings initiated in order to interpret relationship between sanctions towards individuals and Human Rights of those individuals.

Nevertheless it is worth mentioning that the Constitution and legislation in force make it possible for the natural and legal persons to seek compensation in these cases in court. General principles stating that damages inflicted on person or property of an individual or the property of a legal entity are to be compensated by the party inflicting those damages and, moreover, that the party even not being the inflicting one can be hold liable for the damages (para.1 art.1064 of the Civil Code of the Russian Federation) are fully applicable in the cases of sanctions.

In the context of the Russia’s participation in the international sanctions para.3 art.1064 of the Civil Code is worth special attention. It states that damages occurred as a result of lawful acts are to be compensated in the cases mentioned in the laws. Such laws in this particular situation exist as it is pointed out above (*Federal Law On Basics of State Regulation of International Commercial Activities, Federal Law On military technical cooperation of the Russian Federation with foreign states*). For instance, according to para.11 art.4 and para.1-2 art.18 of the *Federal Law On Basics of State Regulation of International Commercial Activities* an actor in international commerce has

the right to challenge decisions, acts or lack thereof of the state authority if in his opinion they lead to violation of his rights and lawful interests or creating obstacles on the track of realisation of these rights or interests.

Art.1069 of the Civil Code further stipulates that damages occurring as the result of unlawful acts of state authorities must be compensated by the federal or local budgets. Such an “unlawful act” could for instance occur when a competent authority fails to take up proceedings on the application of a *bona fide* party for damages resulting from the participation of the Russian Federation in the regime of the international sanctions. Taking into account art.15 of the Civil Code in these cases one can seek full compensation of the damages including losses to cover restitution of the right, loss of property or damage thereto, lost profit.