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SWEDEN

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?

The Swedish Act on Certain International Sanctions (1996:95) contains regulations for the implementation of international sanctions. According to this Act, the Government may decree that UN sanctions shall be implemented. The decree shall then be submitted to the Riksdag (Swedish parliament) for approval. Sanctions that can be implemented through such decrees are limited to prohibitions relating to a state under blockade regarding 1) the residence or sojourn in Sweden of foreign nationals, 2) the import or export of goods, money or any other assets, 3) manufacture, 4) communications, 5) granting of credits, 6) business activities, 7) the circulation of traffic, and 8) education and vocational training. A prohibition may not apply to property that is intended only for the personal use of the owner.

However, since Sweden entered the European Union (EU) in 1995, no UN sanctions have been implemented through the above-mentioned act. In addition, all decrees adopted before the membership have now been repealed. Instead, UN sanctions are implemented jointly through EU Common Positions (political instruments covering all UN sanctions) and European Community (EC) regulations (legal instruments covering those measures that fall within the competence of the EC). Such EC-regulations are binding in their entirety and directly applicable in Sweden. The remaining measures, that are covered by EU Common Positions, but cannot be regulated through EC-regulations since they fall within the competence of the EU Member States, are regulated by Member States. Examples of such measures are arms embargoes and travel restrictions. So far, since Sweden became a member of the EU, there has been no need to enact new legislation covering such measures, due to the fact that the existing Swedish legislation on these areas already covers a situation where sanctions are imposed. Concerning arms embargoes for example, the Swedish Military Equipment Act states that anyone who wants to export military equipment needs a licence and if the UN imposes sanctions, no such licence can be obtained.

Although UN sanctions normally are implemented through measures on the EU level, there are examples where Security Council resolutions, due to an insufficient legal basis in the EC-treaty, in part have not been met by community legislation. This is the case with UNSCR 1373 (2001) on the freezing of funds, financial assets and economic resources of persons or entities involved in terrorism, in respect to persons or entities having their roots, main activities and objectives within the EU. Sweden is about to launch an official commission that will, among other things, deal with this issue on the national level.

Another measure that is legally complicated to implement is the obligation in paragraph 23 of resolution 1483(2003), to *transfer* frozen funds to the Development Fund for Iraq. If such a transfer is not agreed to by the owner, the so called transfer can in effect be considered to include a confiscation of the funds. This question will also be dealt with by the official commission mentioned above.

We have no knowledge of any case law of relevance to this question.

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

Yes, as explained above, some measures fall within the competence of the EC and some within the competence of its Member States. The procedure therefore totally depends on the specific measures taken.

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.

Concerning those measures regulated by EC-regulations, normative action is normally required since such regulations have to be repealed.

Regarding the measures covered by Swedish legislation, normative action is normally not required. It's more a matter of a change in the application of the laws.

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?

Yes, that is the standard procedure. Even in the instruments at the EU-level, authorities of the Member States are appointed as competent authorities. In Sweden the National Board of Trade is normally appointed as the competent authority to authorize exemptions from export embargoes.

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

Yes, that is common practice regarding measures that are implemented through EC-regulations, where such regulations are drafted in accordance with the conditions in the specific sanctions regime. We have little experience of such conditions in the area of Member State-competence but they do exist, for example concerning travel restrictions, where Sanctions Committees have been entrusted to make decisions on certain exemptions. So far there has been no need to specify such procedures in domestic law, it could be applied anyway if need be.

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?

A number of EC-regulations on sanctions have been challenged in the Court of First Instance of the European Communities. For more information on these challenges we refer to the European Commission's reply to this questionnaire.

We have no knowledge of any act on sanctions, either an EC-regulation or a national regulation, being challenged in a Swedish court for being in violation of human rights.

7. Are there decisions of national courts or state practise concerning the relationship between sanctions directed towards individuals and the human rights of these individuals?

No decisions in this regard have been taken by national courts.

Concerning state practice the EC Court of First Instance has made a decision (Order of 7 May 2002 in Case T-306/01, Aden et al. v. Council and Commission) on interim measures which concerns three Swedish citizens. At the time of that decision, the sanctions regime in question (resolutions 1267(1999), 1333(2000) and 1390(2002) was not as sophisticated as it is today

(following resolution 1452(2002)), offering no explicit exemptions for basic or extraordinary expenses. Nevertheless, the decision shows that the families of the three Swedes who were targeted by freezing-measures at least received, or had the possibility to receive, social assistance and family allowances whilst they had their housing benefits frozen. This shows that the Swedish municipal authorities who, according to the Swedish Social Services Law, have the ultimate responsibility for Swedish citizens' economic and social security, let that responsibility take precedence over their obligations according to the sanctions regime.

Furthermore it is a well established position of the Swedish government that all sanctions regimes should include a clause that makes it possible to make exemptions from freezing measures to cover basic and extraordinary expenses. The EC has also taken steps to ensure this. The EC has even, when implementing resolution 1373(2001) through Council Regulation (EC) No 2580/2001, included a clause allowing exemptions i.a. with a view to the interests of its citizens (article 6), even though this possibility is not mentioned in resolution 1373.