



# Implementation of Sanctions Against Iran

European Union • Belgium • Cyprus • Estonia  
France • Greece • Ireland • Spain • United Kingdom

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**EUROPEAN UNION**

**IMPLEMENTATION OF SANCTIONS AGAINST IRAN**

*Executive Summary*

*The July 2010 sanctions regime against Iran imposed by the Council of the European Union (EU) was further endorsed by implementing Regulation 961/2010, which is binding and directly applicable within the legal systems of the EU Members as of October 25, 2010. The Regulation contains specific tasks to be carried out by the EU Members in applying and implementing the substantive provisions of the Regulation. These tasks relate to designating competent national authorities responsible for implementing restrictive measures, adoption of penalties for those who violate the provisions of the Regulation, and communication and exchange of information among the EU Members and the Commission regarding aspects of implementation, technical difficulties encountered, and cases arising in national courts. A survey of a few EU Members indicate that they are in compliance with their assigned tasks. However, an assessment of the substantive implementation in practice by the 27 EU Members remains premature in the absence of publicized data and a report from the European Commission.*

*At the EU level, monitoring of implementation of restrictive measures imposed against Iran falls within the competence of the Commission, which has the authority to institute proceedings before the EU court if an EU Member fails to implement Regulation 961/2010. The EU courts may impose stiff fines on an EU Member.*

*Within the Council, the Foreign Relation Counselors Working Party, in its formation as a committee on sanctions, oversees implementation of sanctions against Iran.*

*Regulations on sanctions and freezing of funds and other economic resources of legal and natural persons and entities (smart sanctions), included in Annex VII and VIII of Regulation 961/2010, are subject to judicial review by the General Court and Court of Justice of the EU on the grounds of illegality and violations of human rights. The most recent judgment of the General Court on the Kadi case, issued in 2010, is on point. The General Court, following an earlier judgment of the Court of Justice issued on appeal, held that regulations that include individuals on the list of people whose assets are frozen in implementation of United Nations Security Council Resolutions without an opportunity to be*

*heard and a right to review are illegal and can be annulled with regard to the individual concerned.*

*Currently, a number of such cases are pending before the General Court contesting the legality of Regulation 961/2010 based on a lack of legal basis or the wrong legal basis and violations of human rights.*

## I. Introduction

The European Union (EU) adopts sanctions, referred to in EU parlance as “restrictive measures” or “bilateral” country regimes,<sup>1</sup> to meet certain objectives of its Common Foreign and Security Policy.<sup>2</sup>

The sanctions regime against Iran was established by the EU on July 26, 2010, through the adoption of Common Foreign and Security Policy Decision 2010/413/CFSP.<sup>3</sup> Decision No. 413 endorsed the restrictive measures against Iran instituted in 2007 and also expanded such measures in order to implement United Nations Security Resolution 1929/2010.<sup>4</sup> The EU has the authority to adopt additional restrictions to those provided under the UNSC resolutions or to apply autonomous restrictions, independently of action by the UNSC.<sup>5</sup>

Because the scope of Decision 413/2010 of the Council fell within the ambit of the Treaty on the Function of the European Union, as amended by the Lisbon Treaty, it needed implementing legislation. It subsequently was adopted in the form of a Regulation with the objective of ensuring uniform application of sanctions throughout the EU. Regulation 961/2010 on Restrictive Measures Against Iran<sup>6</sup> was adopted on October 25, 2010, and repealed the previous 2007/423 Regulation, which had imposed sanctions against Iran in 2007.

## II. Subject Matter and Territorial Application of Regulation 961/2010

Briefly, Regulation 961/2010 prohibits the following:

- Sale, supply, transfer, or export of dual-use goods and technology;
- Investment in any Iranian enterprise engaged in the production of prohibited goods or technology;

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<sup>1</sup> *Sanctions or Restrictive Measures*, EUROPEAN UNION EXTERNAL ACTION, [http://eeas.europa.eu/cfsp/sanctions/index\\_en.htm](http://eeas.europa.eu/cfsp/sanctions/index_en.htm) (last visited May 5, 2011).

<sup>2</sup> Treaty on European Union art. 11, *as amended by* the Treaty of Lisbon.

<sup>3</sup> 2010 O.J. (L 195) 39.

<sup>4</sup> S/Res/1929 (2010) on Non-proliferation, *available at* [http://www.iaea.org/newscenter/focus/iaeairan/unsc\\_res1929-2010.pdf](http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1929-2010.pdf).

<sup>5</sup> *Sanctions or Restrictive Measures*, *supra* note 1, at 1.

<sup>6</sup> *Id.* Council Regulation No. 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No. 423/2007, 2010 O.J. (L 281) 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:281:0001:0077:EN:PDF> (official site).

- Sale, supply, transport, or export of technology or equipment related to the oil and gas industry to an Iranian individual or for use in Iran;
- Insurance or reinsurance of any Iranian entity or natural persons;<sup>7</sup>
- Transport services for goods and technology covered by the Common Military List.<sup>8</sup>

In addition, Regulation 961/2010 requires a notification for transfer of funds on amounts from 10.000 to 40.000 euro between the EU and Iran.<sup>9</sup> Transfers beyond this amount must be authorized by the competent authorities designated by the EU Members. The Regulation also expanded the categories of persons subject to freezing of funds and economic measures. Thus, in addition to persons, entities, and bodies designated by the United Nations Security Council or by the Sanctions Committee, provided in Annex II, the Regulation broadens the list.<sup>10</sup>

The Regulation's territorial application extends to<sup>11</sup>:

- the territory of the EU, including its airspace;
- airplanes and vessels that are under the jurisdiction of the EU Members;
- any national of a member State within or outside the territory of the EU and any legal person, entity, or body that is incorporated or constituted pursuant to the laws of an EU Member; and
- any legal person, entity, or body pertaining to business occurring in its entirety or in part in the EU territory.

### III. Implementation of Regulation 961/2010 by EU Members

Regulation 961/2010 was published in the Official Journal of the European Union on October 27, 2010, and entered into force on the date of its publication. As provided for in the Lisbon Treaty,<sup>12</sup> regulations are directly binding within the legal order of the 27 EU member States. Correct, efficient, and effective implementation of Regulation 961/2010 is consequently a task primarily entrusted to the 27 EU Member States. Even though there is no general need for implementing legislation by the EU countries, two common-law EU Members, the United Kingdom and Ireland, have adopted regulations to give full effect to 961/2010, while other Members may opt for a variety of means to further implement its provisions, including publication of summaries of the regulation in official registries, such as in France, or adoption of resolutions, circulars, or ministerial decisions, as in Spain or Greece.

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<sup>7</sup> *Id.* See arts. 5–15 of the Regulation.

<sup>8</sup> *Id.* art. 27.

<sup>9</sup> *Id.* art. 21.

<sup>10</sup> *Id.* art. 16.

<sup>11</sup> *Id.* art. 39.

<sup>12</sup> Consolidated Version of the Treaty on the Functioning of the EU art. 288, as amended by the Lisbon Treaty, 2010 O.J. (C 83) 47, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:EN:PDF> (official site).

Moreover, EU members are expected to provide efficient communication mechanisms and ensure effective coordination among the different government services, agencies, and bodies responsible for applying sanctions.

Regulation 961/2010 imposes three key tasks on EU Members to ensure its implementation:

- a) *Designation of competent authorities to deal with all aspects of the Regulation, and identification of such authorities on the websites listed in Annex V.* Any changes to the list of competent authorities must also be sent to the Commission.<sup>13</sup> Annex V (see appendix) contains a list of the websites of national authorities that are primarily responsible for dealing with sanctions. In the majority of EU Members, the Ministry of Foreign Affairs is the primary Ministry to coordinate a range of various aspects related to international sanctions. The EU Members surveyed, including Belgium, Cyprus, Estonia, France, Greece, Ireland, Spain, and the United Kingdom, have designated additional competent national authorities authorized to deal with specific aspects of the Regulation, such as freezing of assets or import and export restrictions. For example, the United Kingdom has designated Her Majesty's Treasury and the Department for Business, Innovation and Skills. Spain authorized the Ministry of Economy and Finance to handle the freezing and transfer of funds and the department of customs and taxation of the Ministry of Finance for customs control. In France, the Ministry of Foreign and European Affairs is in charge of coordinating various aspects of sanctions, while the Ministry of Economy, Finance and Industry, through its appropriate directorates, has the task of implementing specific aspects of the Regulation. Greece designated the Ministry of Finance for the freezing of assets, and the Ministry of Economy and Finance for import and export restrictions, while in Estonia the Ministry of Finance and the Tax and Customs Board are assigned to deal with trade and customs sanctions issues. In Ireland, the Financial Section of the Central Bank of Ireland, the UN Co-ordination Section of the Department of Foreign Affairs, and the Licencing Unit of the Department of Enterprise, Trade and Innovation have been designated as competent authorities.
- b) *Adoption of "effective, proportionate and dissuasive" penalties for violations of the provisions of the Regulation and adoption of measures to ensure that such penalties are enforced.*<sup>14</sup> Such penalties could be criminal, civil, and/or administrative, and they are left to the EU Members' discretion. For example, the United Kingdom imposes imprisonment of up to three months and a fine of approximately US\$7,000 if the crime is tried summarily and a much heavier penalty and/or unlimited fine for more serious violations. Belgium may impose imprisonment from eight days to five years and a fine ranging from €25 to €25,000 (approximately US\$36 to US\$35,823), depending on the severity of the case. France has a special provision in its Customs Code that deals with violations of restrictive economic measures imposed either by

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<sup>13</sup> *Id.* art 38.

<sup>14</sup> *Id.* art. 37.

the EU or on the basis of international agreements, and that imposes maximum imprisonment of five years and a fine.

- c) *Informing the Commission and other EU Members of measures taken to enforce the Regulation, including information with respect to violations, enforcement problems, and judgments issued by national courts.*<sup>15</sup> On the basis of information provided by EU Members, the Commission/Council will amend the annexes of the Regulation accordingly. In the countries surveyed, no cases could be found involving infringements of the Regulation since it entered into force on October 27, 2010.

#### IV. Monitoring of Implementation of Restrictive Measures by EU Institutions

The Council, the Commission, and the Court of Justice of the EU, each one within its own area of competence, are involved in ensuring that restrictive measures against a third country or an organization are implemented in a uniform, consistent, and timely fashion by all Member States.

A specific body within the Council, the Foreign Relations Counselors Working Party, has been established to oversee implementation of restrictive measures. It convenes regularly in its “Sanctions Formation” (RELEX/Sanctions) and it is often joined by experts from the EU Members. Its mandate includes the following:

1. Gathering and exchanging information and experience with respect to the implementation of restrictive measures;
2. Developing best practice guidelines to assist EU Members. In this regard it has adopted Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the framework of the EU Common Foreign and Security Policy. The document is updated regularly<sup>16</sup>;
3. Collecting data on alleged violations of EU restrictive measures; and
4. Providing assistance in assessing the implementation of such measures.<sup>17</sup>

At the EU level in general, the European Commission, as the EU’s executive body, is responsible for monitoring implementation of EU law. Regulation 961/2010 also falls within the purview of the Commission.

If an EU Member fails to implement the restrictive measures against Iran, the Commission has the authority to institute proceedings before the Court of Justice of the EU. The Commission, in cooperation with the EU Credit Sector Federation, has established the

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<sup>15</sup> *Id.* art. 34.

<sup>16</sup> Council of the European Union, Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy 17464/09, Dec. 2009, available at [http://www.deaca.dk/file/15362/Guidelines\\_on\\_implementation.pdf](http://www.deaca.dk/file/15362/Guidelines_on_implementation.pdf).

<sup>17</sup> Council of the European Union, Update of the EU Best Practices for the Effective Implementation of Restrictive Measures, Foreign Relations Counselors Working Party (Relex/Working Party) para. 32, 866/1/08, Apr. 24, 2008, available at [http://www.deaca.dk/file/18602/EUs\\_Best\\_Practices\\_rev\\_08.pdf](http://www.deaca.dk/file/18602/EUs_Best_Practices_rev_08.pdf).

“Electronic-Consolidated Targeted Financial Sanctions List” (e-CTFSL), which is updated regularly and is open to credit and financial institutions and the public for review.<sup>18</sup>

Restrictive measures in the form of Regulations or decisions are subject to judicial review by the Court of Justice of the EU and the General Court in Luxembourg. The courts are granted competence to ensure that EU Members implement EU legislation and also review the legality of the legislative acts adopted by the EU institutions.

Annex VII of Regulation 961/2011 includes a list of persons, entities, and bodies referred to in Article 16(1) whose funds and economic resources shall be frozen. It also includes the persons, entities, and bodies that have been designated by the UNSC or by the Sanctions Committee of the UN. In addition, Annex VIII also includes legal and natural persons not included in Annex II whose funds and other sources shall be frozen. Those included in Annex VIII have been identified as being engaged in or associated with Iran’s nuclear activities.

Applicants before the General Court may institute proceedings claiming the illegality of regulations that order the freezing of funds primarily on two grounds: (a) a wrong legal basis or lack thereof; and (b) a violation of human rights, including violation of the right to property, the right to a fair trial, and the right to an effective legal remedy.

## V. Legal Challenges to Regulations/Decisions Imposing Restrictive Measures

### A. The *Kadi* and *Yusuf* Cases

The *Kadi* and *Yusuf* cases, elaborated below, illustrate that such lists can be challenged before the General Court in Luxembourg on violation of human rights grounds, including the right to property and right to an effective remedy.

#### *Kadi* Case: Decision of the Court of First Instance Issued in 2005<sup>19</sup>

The cases of Yassin Abdullah Kadi, a Saudi Arabian national and resident, Ahmed Ali Yusuf, a Swede national of Somali origin, and Al-Barakaat International Foundation, an organization based in Sweden, arose in 2001 when in implementation of a UNSC resolution, two EU regulations froze their funds and economic resources due to their alleged associations with Osama Bin Laden. The claimants filed a suit before the then-Court of First Instance where they challenged the legality of the EU regulation and also raised human rights issues. Specifically, Mr. Kadi claimed that the measures imposed by the regulations violated his right to be heard and his right to effective judicial protection, and he requested that the regulations be annulled with respect to the sections that related to him. The Court of First Instance issued its judgments in these two cases in 2005 and upheld the primacy of the UN resolutions over EU law and

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<sup>18</sup> Electronic List of Persons and Entities Subject to Financial Sanctions on the Day 2/5/2011, EUROPEAN COMMISSION, [http://ec.europa.eu/external\\_relations/cfsp/sanctions/list/version4/global/e\\_ctlview.html](http://ec.europa.eu/external_relations/cfsp/sanctions/list/version4/global/e_ctlview.html) (scroll down; list begins below search box) (last visited May 5, 2011).

<sup>19</sup> Judgment of the General Court, Case T-85/09 Yassin Abdullah Kadi v. European Commission, available at <http://curia.europa.eu> (last visited May 9, 2011).



concluded that it did not have the power to review UNSC resolutions, unless such resolutions violated *jus cogens* (peremptory norms of law, accepted by all states, from which no derogation is permitted).<sup>20</sup>

#### Kadi Case: Decision of the Court of Justice Issued in 2008

In 2005, Kadi and Uusuf appealed the legal basis of a contested regulation before the Court of Justice. Kadi also argued that the Court of First Instance had erred when it held that the EU was obliged to implement the UNSC resolution without affording the right to review for those individuals who were listed erroneously. Yusuf claimed that his right to a fair hearing was violated. In 2008, the Court of Justice set aside the judgment of the Court of First Instance. In confirming the autonomous character of the EU as a legal system that cannot be prejudiced by an international agreement, the Court proceeded to review the legality of the regulation. As far as the right to property, the Court held that restrictive measures may be justified, but without granting the right to review, the applicant's right to property was disproportionately restricted. With regard to the rights to a fair trial and to an effective remedy, which Kadi argued were violated due to the absence of a chance to be heard after the sanctions were imposed and his lack of an opportunity to object to his inclusion on the list of persons whose assets should be frozen, the Court annulled the regulation as it applied to the applicant.

Subsequently, the Commission informed the applicant of the reasons his name was included on the list, as provided by the Sanctions Committee, and stated that it intended to adopt a new regulation that would maintain his name on the list.

#### Kadi Case: Decision of the General Court (DG) Issued on September 30, 2010<sup>21</sup>

Kadi filed a new suit against regulation No. 1190/2008, which maintained his name on the list, before the (DG) and argued that the Court should adopt a procedural rule that would require the Commission to disclose all documents related to the contested regulation and also requested again that the Court annul the section of the regulation that concerned him. The General Court concurred with the decision of the Court of Justice issued in 2008 and held that it must subject the contested regulation to a "full and rigorous review." The DG held that the new regulation was "characterized by an absence or any safeguards of the rights of the defense, which may be the subject of effective judicial review."<sup>22</sup> It annulled the contested regulation and ordered the Commission to pay the costs and those of Kadi.

The Commission, the Council and the United Kingdom filed an appeal against the Decision of the DG and argued that the DG misconstrued the decision of the Court of Justice in

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<sup>20</sup> Vienna Convention of the Law on Treaties art. 59, available at <http://www.worldtradelaw.net/misc/viennaconvention.pdf> (last visited May 9, 2011).

<sup>21</sup> Judgment of the General Court (Seventh Chamber) of Sept. 30, 2010, Yassin Abdullah Kadi v. European Commission, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009A0085:EN:HTML>.

<sup>22</sup> *Id.* Judgment of the General Court (Seventh Chamber), Case T-85/09, Yassin Abdullah Kadi v. European Commission, para. 187.

so far as the regulation ordering the freezing of funds should be subject to a “full and rigorous review” and in requiring the transmission of the evidence to the designated person on the list.<sup>23</sup>

## **B. Pending Cases Before the General Court**

The following legal actions contesting the application of Regulation 961/2010 as it refers to the legal entities and seeking its annulment are pending before the DG:

- Bank Refah Kargaran (Tehran, Iran) v. Council (Case T-24/11);<sup>24</sup>
- HTTS Hanseatic Trade Trust & Shipping (Hamburg, Germany) v. Council (Case T-562/10);<sup>25</sup>
- Export Development Bank of Iran v. Council (Case T-5/11);<sup>26</sup>
- Bank Kargoshaei and Others (Bank Melli Iran Investment Co., Bank Melli Iran Printing and Publishing Co., Cement Investment & Development Co., Mazandaran Cement Co., Melli Agrochemical Co., Shomal Cement Co.) v. Council (Case T-8/11);<sup>27</sup>
- Sina Bank v. Council (Case T-15/11);<sup>28</sup> and
- Kyokera Mita Europe v. Commission (Case T-35/11).<sup>29</sup>

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<sup>23</sup> 2011 O.J. (C 72) 9–10, Mar. 5, 2011.

<sup>24</sup> 2011 O.J. (C 80) 23, Mar. 12, 2011.

<sup>25</sup> 2011 O.J. (C 46) 14, Feb. 12, 2011.

<sup>26</sup> 2011 O.J. (C72) 22, Mar. 5, 2011.

<sup>27</sup> 2011 O.J. (C72) 42, Mar. 3, 2011.

<sup>28</sup> 2011 O.J. (C72) 43, Jan. 6, 2011.

<sup>29</sup> 2011 O.J. (C80) 49, Mar. 12, 2011.

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### BELGIUM

#### IMPLEMENTATION OF SANCTIONS AGAINST IRAN

##### I. National Implementation Process

Following the publication of Council Regulation (EU) No. 961/2010<sup>1</sup> on restrictive measures against Iran, two documents were published in the *Moniteur Belge*, Belgium's official gazette. The first was a notification stating that any Belgian citizen or any other foreign national acting from the Belgium territory was prohibited from directly or indirectly providing technical assistance regarding goods and technologies listed in the Regulation to any Iranian individual, entity, or organization. This notification was published on December 15, 2010.<sup>2</sup> The second document, a ministerial regulation dated April 20, 2011, and effective October 27, 2010, requires an export license for equipment destined to Iran and related to the exploration, production, and refinement of crude oil and natural gas.<sup>3</sup> Belgium also has in place a Law of May 13, 2003, on the Implementation of Sanctions Adopted by the Council of the European Union against States, Certain Persons or Entities that authorizes the King to take all implementing measures necessary that have been agreed upon by the Council of Ministers.<sup>4</sup>

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<sup>1</sup> Council Regulation (EU) No. 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No. 423/2007, 2010 O.J. (L 281) 1, <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2010:281:SOM:EN:HTML> (official site).

<sup>2</sup> Mesures restrictives spécifique à l'encontre de l'Iran – Avis d'interdiction – Règlement (UE) n° 961/2010 du conseil du 25 Octobre 2010 [Prohibition notification – Iran sanctions – Regulation 961/2010], MONITEUR BELGE [M.B.] [Official Gazette of Belgium], Dec. 14, 2010, available at <http://www.ejustice.just.fgov.be/cgi/welcome.pl> (choose language, then under “Autre sommaire” enter 2010-12-15; scroll down until you find the notification, click on 2010011471).

<sup>3</sup> Arrêté ministériel soumettant à licence l'exportation des marchandises à destination de l'Iran [Ministerial regulation requiring an export licence for merchandise destined for Iran], M.B., Apr. 28, 2011, available at <http://www.ejustice.just.fgov.be/cgi/welcome.pl> (choose language, then under “Autre sommaire” enter 2011-04-28; scroll down until you find the regulation, click on 2011011113).

<sup>4</sup> Loi relative à la mise en oeuvre des mesures restrictives adoptées par le Conseil de l'Union européenne à l'encontre d'Etats, de certaines personnes et entités [Law of May 13, 2003, on the Implementation of Sanctions Adopted by the Council of the European Union against States, Certain Persons or Entities], M.B., June 6, 2003, available at <http://www.ejustice.just.fgov.be/cgi/welcome.pl> (choose language, then under “Autre sommaire” enter 2003-06-13; choose Edition 1, the law is the first item, click on 2003015064).

## II. Competent Authorities

The competent authority named in Council Regulation (EU) No. 961/2010 is the Belgian Ministry of Foreign Affairs.<sup>5</sup> In turn, this Ministry lists, for each type of sanctions, the federal and regional authorities charged with implementation of the sanctions. They are as follows:<sup>6</sup>

Type of Sanction	Implementing Authority
Freezing of funds, financing, and financial assistance	Federal Public Service Finance, Belgian Federal Treasury <sup>7</sup>
Disclosure of suspicious financial transactions	Belgian Financial Intelligence Unit (CTIF-CFI) <sup>8</sup>
Controls relating to fiscal and nonfiscal measures	Federal Public Service Finance, General Administration of Customs and Excise Duties <sup>9</sup>
Goods, technical assistance, and other services (general import-export licenses)	Federal Public Service Economy, SMEs, Self-employed and Energy, Direction Générale du Potentiel Economique , Service Licences <sup>10</sup>
Goods, technical assistance, and other services (general import-export licenses)	Federal Public Service Economy, SMEs, Self-employed and Energy, Direction Générale du Potentiel Economique, Service Licences <sup>11</sup>

<sup>5</sup> *Belgian authorities in charge of the implementation of the restrictive measures of the European Union*, KINGDOM OF BELGIUM FOREIGN AFFAIRS, FOREIGN TRADE AND DEVELOPMENT COOPERATION, [http://diplomatie.belgium.be/en/policy/policy\\_areas/peace\\_and\\_security/sanctions/competent\\_belgian\\_authorities/](http://diplomatie.belgium.be/en/policy/policy_areas/peace_and_security/sanctions/competent_belgian_authorities/) (last visited May 5, 2011).

<sup>6</sup> *Id.*

<sup>7</sup> *Questions Financières, Internationales et Européennes (IEFA) Trésorerie: Embargos Financiers*, SERVICE PUBLIC FÉDÉRAL FINANCES, [http://iefa.fgov.be/fr/Topics\\_Sanctions.htm](http://iefa.fgov.be/fr/Topics_Sanctions.htm) (last visited May 5, 2011).

<sup>8</sup> BELGIAN FINANCIAL INTELLIGENCE PROCESSING UNIT (CTIF-CFI), <http://www.ctif-cfi.be/website/index.php?lang=en> (last visited May 5, 2011).

<sup>9</sup> SERVICE PUBLIC FÉDÉRAL FINANCES, <http://fiscus.fgov.be/interfdaNL/fr/index.htm> (last visited May 5, 2011).

<sup>10</sup> *Organigramme de la Direction générale du Potentiel économique*, SERVICE PUBLIC FÉDÉRAL, ECONOMIE, P.M.E., CLASSES MOYENNES ET ÉNERGIE, [http://economie.fgov.be/fr/spf/structure/Directions\\_generales/potentiel\\_economique/](http://economie.fgov.be/fr/spf/structure/Directions_generales/potentiel_economique/) (click on red box, “Potentiel économique,” to access mission statement) (last visited May 5, 2011).

<sup>11</sup> *Id.*

Finally, the Ministry of Foreign Affairs mentions the regional authorities in charge of other export, import, and transit licenses for weapons, military, and paramilitary equipment and dual use goods for the Brussels, Wallonia, and Flemish regions.<sup>12</sup> The Ministry of Foreign Affairs has also published an overview of the sanctions against Iran with additional links to the Ministries involved.<sup>13</sup>

### III. Penalties for Breaching the Regulations

Violations of the sanctions set forth by Council Regulation (EU) No. 961/2010 or similar regulations are punishable by the penalties provided in article 6 of the Law of May 13, 2003, on the Implementation of Sanctions Adopted by the Council of the European Union against States, Certain Persons or Entities—the Law mentioned above in Part I of this report.<sup>14</sup> Violations are punishable by a term of imprisonment of eight days to five years and a fine of €25 to €25,000 (approximately US\$36 to US\$36,000).<sup>15</sup>

### IV. Cases of Violations

No record of any publicized prosecution for a violation of the Regulation was found in the databases and Belgium newspapers consulted.

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<sup>12</sup> *Belgian authorities in charge of the implementation of the restrictive measures of the European Union*, KINGDOM OF BELGIUM FOREIGN AFFAIRS, FOREIGN TRADE AND DEVELOPMENT COOPERATION, [http://diplomatie.belgium.be/en/policy/policy\\_areas/peace\\_and\\_security/sanctions/competent\\_belgian\\_authorities/](http://diplomatie.belgium.be/en/policy/policy_areas/peace_and_security/sanctions/competent_belgian_authorities/) (last visited May 5, 2011).

<sup>13</sup> *Overview of the restrictive measures by the European Union against Iran*, KINGDOM OF BELGIUM, FOREIGN AFFAIRS, FOREIGN TRADE AND DEVELOPMENT COOPERATION, [http://diplomatie.belgium.be/en/policy/policy\\_areas/peace\\_and\\_security/sanctions/eu\\_sanctions/sanctions\\_iran/overzicht/](http://diplomatie.belgium.be/en/policy/policy_areas/peace_and_security/sanctions/eu_sanctions/sanctions_iran/overzicht/).

<sup>14</sup> Loi relative à la mise en oeuvre des mesures restrictives adoptées par le Conseil de l'Union européenne à l'encontre d'Etats, de certaines personnes et entités [Law of May 13, 2003, on the Implementation of Sanctions Adopted by the Council of the European Union against States, Certain Persons or Entities], M.B., June 6, 2003, <http://www.ejustice.just.fgov.be/cgi/welcome.pl> (choose language, then under "Autre sommaire" enter 2003-06-13; choose Edition 1, the law is the first item, Click on 2003015064).

<sup>15</sup> *Id.*

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**CYPRUS**

**IMPLEMENTATION OF SANCTIONS AGAINST IRAN**

**I. National Implementation Process**

The Ministry of Foreign Affairs<sup>1</sup> of Cyprus is the primary national authority in charge of coordinating all aspects of implementation of Council Regulation (EU) 961/2010 on restrictive measures against Iran,<sup>2</sup> which is directly applicable in the legal system of Cyprus. The specific section of the Ministry of Foreign Affairs that deals with international sanctions publicizes all existing sanctions against countries, including Iran, on its website.<sup>3</sup>

**II. Competent Authorities**

The Ministry of Foreign Affairs lists the following national authorities for implementation of international sanctions based on United Nations (UN) Security Council Resolutions under Chapter VII of the UN Charter, or those imposed by the European Union on its own:

- Ministry of Finance for banking-related issues, insurance, and related matters, with the Customs Office of the Ministry of Finance in charge for import and export restrictions and related issues, and the Section on Control of Insurance Companies handling insurance issues;
- Ministry of Commerce, Industry and Tourism for issuance of permits on imports and exports of goods and technology;
- Ministry of Transportation for transporting through vessels under the Cyprus flag;
- Ministry of Internal Affairs for updating lists of targeted persons, or entities whose funds are frozen;
- MOKAS, for implementation of anti-money laundering issues;
- Central Bank for freezing of accounts; and
- Police Authorities for surveillance of targeted persons.

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<sup>1</sup> MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF CYPRUS, [http://www.mfa.gov.cy/mfa/mfa2006.nsf/eu10\\_en/eu10\\_en?OpenDocument](http://www.mfa.gov.cy/mfa/mfa2006.nsf/eu10_en/eu10_en?OpenDocument) (last visited May 9, 2011).

<sup>2</sup> Council Regulation (EU) 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) 423/2007, 2010 O.J. (L281) 1, <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2010:281:SOM:EN:HTML> (official site).

<sup>3</sup> MINISTRY OF FOREIGN AFFAIRS, *supra* note 1.

### **III. Penalties for Breaching the Regulation**

No penalties could be found in the materials available at the Library of Congress.

### **IV. Cases of Violations**

No such cases could be found.

Prepared by Theresa Papademetriou  
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May 2011

## LAW LIBRARY OF CONGRESS

### ESTONIA

## IMPLEMENTATION OF SANCTIONS AGAINST IRAN

### I. National Implementation Process

Estonia considers all sanctions initiated by international organizations in which the country is a member as legally binding and undertakes those measures required to enforce them. This principle is defined by the International Sanctions Act, the main legal act that regulates the implementation of a legal sanctions regime in Estonia. This Act was approved by the Estonian legislature on May 12, 2010.<sup>1</sup>

### II. Competent Authorities

The International Sanctions Act defines government agencies designated as responsible authorities for implementation of sanctions depending on the sanction's object. In regard to the sanctions prescribed by Council Regulation (EU) No. 961/2010, it appears that the Ministry of Finance and the Tax and Customs Board are responsible for the implementation of sanctions in the field of trade and financial operations. The Ministry of Foreign Affairs is the designated authority for implementing and monitoring sanctions aimed at prohibiting or restricting the export, import, and transit of strategic goods. An updated list of the designated authorities for the implementation of sanctions regime is available on the website of the Estonian Ministry of Foreign Affairs.<sup>2</sup>

At the Luxembourg meeting of the EU Foreign Ministers in June 2010, the Foreign Minister of Estonia expressed his country's support of sanctions against Iran introduced by the Council Regulation (EU) 961/2010.<sup>3</sup>

### III. Penalties for Breaching the Regulations

Chapters 4 and 5 of the International Sanctions Act establish the penalties for noncompliance with the measures prescribed by designated authorities and for violations of the sanctions regime. Penalties may include detention for a period of time defined by the Penal

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<sup>1</sup> RIIGI TEATAJA [OFFICIAL GAZETTE], RT I 2010, 26, 129, <https://www.riigiteataja.ee/akt/13320494> (official publication).

<sup>2</sup> *Estonian competent authorities for the implementation of EU restrictive measures*, ESTONIAN MINISTRY OF FOREIGN AFFAIRS, <http://www.vm.ee/?q=node/4459> (last visited May 5, 2011).

<sup>3</sup> Press Release, Foreign Affairs Ministry of Estonia, EU to Help Victims of Kyrgyzstan Conflict (June 17, 2010), <http://www.vm.ee/?q=en/node/9639>.



Code or fines in the amount of 300,000 kroons (approximately equal to US\$30,000), or 20,000 kroons (US\$2,000) per each 80,000 kroons (about US\$8,000) of trade volume.

Article 93-1 of the Estonian Penal Code states that a knowing violation of international sanctions must be punished with up to five years of imprisonment if committed by an individual or with a fine if committed by a legal entity. A seizure of property may also be imposed.

#### **IV. Cases of Violations**

A review of government publications and major Estonian newspapers did not reveal any information on violations of sanctions committed by Estonian businesses or individuals.

Prepared by Peter Roudik  
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May 2011

LAW LIBRARY OF CONGRESS

FRANCE

IMPLEMENTATION OF SANCTIONS AGAINST IRAN

**I. National Implementation Process**

France does not need specific legislation to implement European Union regulations. It regularly publishes in its official gazette summaries of the contents of the Official Journals of the European Union. A summary of the Official Journal of October 27, 2010, which contains Council Regulation (EU) No. 961/2010, was published in the French official gazette of November 3, 2010.<sup>1</sup>

Ministers are given the authority to implement EU regulations through ministerial regulations or orders. The Customs Code, for example, provides that “the Minister in charge of customs takes by way of ministerial regulations all necessary measures to implement regulations set forth by the European Union or treaties and international agreements duly approved and ratified by France, which the custom administration must implement.”<sup>2</sup> In addition, the Minister of Economy has the authority to freeze assets for six months, renewable, in case of international sanctions prescribed either by the United Nations or the European Union, as provided by the Financial and Monetary Code.<sup>3</sup>

**II. Competent Authorities**

The central competent authority for sanctions implementation named in Council Regulation (EU) No. 961/2010 is the French Ministry of Foreign and European Affairs.<sup>4</sup> In addition, the Ministry of Economy, Finance and Industry through its General Treasury

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<sup>1</sup> Council Regulation (EU) No. 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No. 423/2007, JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], Nov. 3, 2011, <http://journal-officiel.gouv.fr/frameset.html> (enter the date as requested: 03/11/2010).

<sup>2</sup> CODE DES DOUANES art. 17 bis, LEGIFRANCE, [http://legifrance.gouv.fr/affichCode.do?sessionId=29A2CABA82A7B3CC58C0DD88BF9A5C98.tpdjo04v\\_1?idSectionTA=LEGISCTA000006138831&cidTexte=LEGITEXT000006071570&dateTexte=20110505](http://legifrance.gouv.fr/affichCode.do?sessionId=29A2CABA82A7B3CC58C0DD88BF9A5C98.tpdjo04v_1?idSectionTA=LEGISCTA000006138831&cidTexte=LEGITEXT000006071570&dateTexte=20110505) (last visited May 5, 2011).

<sup>3</sup> CODE MONETAIRE ET FINANCIER art. L.562.2, LEGIFRANCE, [http://legifrance.gouv.fr/affichCode.do?sessionId=111D498168342C62D18DE395013376BA.tpdjo08v\\_1?idSectionTA=LEGISCTA000020196812&cidTexte=LEGITEXT000006072026&dateTexte=20110506](http://legifrance.gouv.fr/affichCode.do?sessionId=111D498168342C62D18DE395013376BA.tpdjo08v_1?idSectionTA=LEGISCTA000020196812&cidTexte=LEGITEXT000006072026&dateTexte=20110506) (last visited May 6, 2011).

<sup>4</sup> *Mesures restrictives: sanctions adoptées par l'UE*, MINISTERE DES AFFAIRES ETRANGERES ET EUROPEENNES, AUTORITES SANCTIONS, [http://www.diplomatie.gouv.fr/fr/autorites-sanctions\\_16066/mesures-restrictives-sanctions-adoptees-par-ue\\_82881.html](http://www.diplomatie.gouv.fr/fr/autorites-sanctions_16066/mesures-restrictives-sanctions-adoptees-par-ue_82881.html) (last visited May 5, 2011).

Directorate,<sup>5</sup> the General Customs Directorate,<sup>6</sup> and the Ministry of Defense<sup>7</sup> (with regard to export control of armaments) are generally responsible for the implementation of international and/or European sanctions.

### III. Penalties for Breaching the Regulations

The Customs Code provides in its chapter dealing with “financial transactions with foreign countries” that attempting to violate or violating restrictive economic or financial measures set forth by European Union regulations or by treaties or international agreements duly approved and ratified by France is punishable by a maximum term of imprisonment of five years and/or a fine, with a minimum fine equal to the amount of the unlawful transaction and a maximum fine equal to twice that amount.<sup>8</sup> The Financial and Monetary Code refers back to this specific provision when addressing violations of the “financial transactions with foreign countries.”<sup>9</sup>

### IV. Cases of Violations

No record of any publicized prosecution for a violation of the Regulation was found in the databases and French newspapers consulted.

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May 2011

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<sup>5</sup> *Sanctions Financières Internationale, Iran*, MINISTÈRE DE L'ÉCONOMIE, DES FINANCES ET DE L'INDUSTRIE, DIRECTION GÉNÉRALE DU TRÉSOR, [http://www.economie.gouv.fr/directions\\_services/dgtpe/sanctions/sanctionsiran.php](http://www.economie.gouv.fr/directions_services/dgtpe/sanctions/sanctionsiran.php) (last visited May 5, 2011).

<sup>6</sup> DIRECTION GÉNÉRALE DES DOUANES, <http://douane.gouv.fr/> (last visited May 5, 2011).

<sup>7</sup> *Le contrôle des exportations*, MINISTÈRE DE LA DÉFENSE, DÉLÉGATION AUX AFFAIRES STRATÉGIQUES, [http://www.defense.gouv.fr/das/maitrise-des-armements/node\\_73891/le-controle-des-exportations](http://www.defense.gouv.fr/das/maitrise-des-armements/node_73891/le-controle-des-exportations) (last visited May 5, 2011).

<sup>8</sup> CODE DES DOUANES art. 459, LEGIFRANCE, [http://legifrance.gouv.fr/affichCode.do;jsessionid=0ACF6322AF6A19DA3CF81939B5B465B7.tpdjo04v\\_1?idSectionTA=LEGISCTA000006122141&cidTexte=LEGITEXT000006071570&dateTexte=20110505](http://legifrance.gouv.fr/affichCode.do;jsessionid=0ACF6322AF6A19DA3CF81939B5B465B7.tpdjo04v_1?idSectionTA=LEGISCTA000006122141&cidTexte=LEGITEXT000006071570&dateTexte=20110505) (last visited May 5, 2011).

<sup>9</sup> CODE MONÉTAIRE ET FINANCIER art. L.165.1, LEGIFRANCE, [http://legifrance.gouv.fr/affichCode.do;jsessionid=92860BE2E0AE05DDB9E54843AD392F3A.tpdjo08v\\_1?idSectionTA=LEGISCTA000006154015&cidTexte=LEGITEXT000006072026&dateTexte=20110506](http://legifrance.gouv.fr/affichCode.do;jsessionid=92860BE2E0AE05DDB9E54843AD392F3A.tpdjo08v_1?idSectionTA=LEGISCTA000006154015&cidTexte=LEGITEXT000006072026&dateTexte=20110506) (last visited May 5, 2011).

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### GREECE

#### IMPLEMENTATION OF SANCTIONS AGAINST IRAN

##### I. National Implementation Process

Council Regulation (EU) 961/2010 on restrictive measures against Iran<sup>1</sup> is binding and directly applicable in Greece. There is no need for implementing law. The Hellenic Financial Intelligence Unit publicizes European Union regulations and decisions on restrictive measures, as well as sanctions imposed by United Nations Security Council resolutions, on its website.<sup>2</sup> Orders are issued as indicated below in the case of freezing of funds.

When EU regulations, decisions, or resolutions issued by the United Nations Security Council order the freezing of assets of natural and legal persons, the Greek Ministry of Foreign Affairs forwards such measures to the Financial Sanctions Unit of the Anti-Money Laundering, Counter-Terrorism Financing and Source of Funds Investigation Authority as provided for in Law No. 3691/2008 Terrorism Financing and Anti-Laundering, which keeps a detailed list of designated persons and entities. The Financial Sanctions Unit issues an order to freeze the funds, bank accounts, and safe-deposit boxes of the affected persons and entities. The freezing of funds is automatic; the order, which is served upon the persons and entities affected, simply assists those persons and entities in appealing the freeze before administrative courts.

##### II. Competent Authorities

To implement United Nations Security Council (UNSC) Resolutions under Chapter VII of the Charter of the United Nations or European Union Regulations and Decisions implementing UNSC resolutions or imposing autonomous sanctions, Greece has designated the following competent authorities:

- The Ministry of Foreign Affairs is responsible for dealing with international sanctions in general;
- The Ministry of Finance, General Directorate for Economic Policy, Directorate for Credit and Fiscal Affairs, is responsible for the freezing of assets; and

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<sup>1</sup> Council Regulation (EU) 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) 423/2007, 2010 O.J. (L 281) 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:281:0001:0077:EN:PDF> (official site).

<sup>2</sup> *Iran Sanctions List*, HELLENIC FINANCIAL INTELLIGENCE UNIT, [http://www.hellenic-fiu.gr/index.php?option=com\\_content&view=article&id=84:2011-04-2](http://www.hellenic-fiu.gr/index.php?option=com_content&view=article&id=84:2011-04-2) (last visited May 9, 2011).

- The Ministry of Economy and Finance, General Directorate of International Economic Policy, Directorate of Import-Export Regimes and Trade Instruments, is responsible for trade and import and export aspects.<sup>3</sup>

### III. Penalties for Breaching the Rules on Freezing of Funds

The recently enacted Law No. 3932/2011 on the Authority for Combating Money Laundering and Terrorist Financing and Source of Funds Investigations<sup>4</sup> provides penalties for violations of the rules on the freezing of assets of natural or legal persons or entities, ordered by the United Nations Security Council or EU regulations or decisions in order to combat terrorism financing and for reasons other than terrorist financing, as provided in specific regulations or decisions. Guidance adopted on April 4, 2011, further elucidates that other reasons may include the prevention of proliferation of weapons of mass destruction, as provided for in Regulation 961/2010.<sup>5</sup>

Thus, article 6, entitled Enforcement of Sanctions Imposed by International Organizations, imposes the penalty of imprisonment for up to ten years and a fine of €10,000 to €500,000 (approximately US\$14,500 to US\$725,049) on an employee or an officer who intentionally conceals any information concerning the identity or the existence of a business relationship of assets or refuses to freeze the assets. If the person commits the above acts due to negligence, the penalty is imprisonment of up to two years and a fine of €5,000 to €200,000<sup>6</sup> (approximately US \$7,250 to US\$290,000).

### IV. Cases of Violations

No reported cases involving violations of Regulation 961/2010 could be found.

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May 2011

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<sup>3</sup> *International Sanctions*, MINISTRY OF FOREIGN AFFAIRS, <http://www.mfa.gr/www.mfa.gr/en-US/Policy/Multilateral+Diplomacy/Global+Issues/International+Sanctions/> (last visited May 9, 2011).

<sup>4</sup> EPHEMERIS TES KYVERNESEOS TES HELLENIKES DEMOKRATIAS [E.K.E.D.] [OFFICIAL GAZETTE OF THE HELLENIC REPUBLIC], Part A, No. 49. (March 10, 2011). The 2011 law amends Law 3691/2008.

<sup>5</sup> Financial Sanctions Unit, Guidance on Implementation of Law 3691/2008, as amended by Law 3932/2011.

<sup>6</sup> *Id.*

## LAW LIBRARY OF CONGRESS

### IRELAND

#### IMPLEMENTATION OF SANCTIONS AGAINST IRAN

##### I. National Implementation Process

Council Regulation (EU) No. 961/2010 was implemented in Ireland by the Financial Transfers (Iran) (Prohibition) (No. 3) Order 2010.<sup>1</sup> The Explanatory Note to this statutory instrument states that it gives “full effect” to Council Regulation 961/2010 and specifically mentions restrictions on trade in dual-use goods and technology, equipment that might be used for internal repression, key equipment and technology, investment in the Iranian oil and gas industry, Iranian investment in uranium mining and the nuclear industry, transfers of funds, the Iranian banking sector, access to insurance and bonds, and services to Iranian ships and aircraft.<sup>2</sup>

Thus, the term “financial transfers” refers not only to transfers of money, but also to transfers of goods and services having monetary value.

##### II. Competent Authorities

The designated competent authorities for EU Restrictive Measures in Ireland are the following:

- Central Bank of Ireland  
Financial Sanctions Section  
Enforcement Department
- Department of Foreign Affairs  
UN Co-ordination Section  
Political Division
- Department of Enterprise, Trade and Innovation  
Licencing Unit<sup>3</sup>

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<sup>1</sup> Financial Transfers (Iran) (Prohibition) (No. 3) Order 2010 (S.I. No. 586), available at [http://www.bailii.org/cgi-bin/markup.cgi?doc=/ie/legis/num\\_reg/2010/0586.html&query=title+\(+iran+\) &method=boolean](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ie/legis/num_reg/2010/0586.html&query=title+(+iran+) &method=boolean) (last visited May 4, 2010).

<sup>2</sup> *Id.*

<sup>3</sup> *Ireland: Competent Authorities for EU Restrictive Measures*, DEPARTMENT OF FOREIGN AFFAIRS, <http://www.dfa.ie/home/index.aspx?id=28519> (last updated Mar. 25, 2011).

### III. Penalties for Breaching the Regulations

The Financial Transfers (Iran) (Prohibition) (No. 3) Order 2010 does not set out any criminal penalties that may be imposed upon persons who violate its provision. However, the Explanatory Note states that “the Financial Transfers Act 1992 allows for control of financial transfers between the State and other countries, creates an offence for the breach of any Order made under it and provides for appropriate penalties.”<sup>4</sup> Section 6 of this statute states as follows:

- 6.—(1) A person guilty of an offence under this Act shall be liable—
- a) on summary conviction, to a fine not exceeding £1,000, or to imprisonment for any term not exceeding twelve months or, at the discretion of the court, to both such fine and such imprisonment, or
  - b) on conviction on indictment, to a fine not exceeding £10,000,000 or twice the amount of the capital in respect of which the offence was committed, whichever is the greater, or to imprisonment for a term not exceeding ten years or, at the discretion of the court, to both such fine and such imprisonment.
- (2) Where a person, after conviction of an offence under this Act, continues to contravene the provision, he shall be guilty of an offence on every day on which the contravention continues and for each such offence he shall be liable to a fine, on summary conviction, not exceeding £200 or, on conviction on indictment, not exceeding £100,000.

The distinction between summary convictions and convictions on indictment in Ireland is similar to the distinction between convictions for misdemeanors and felonies in the United States.

### IV. Cases of Violations

There are no reported cases of any persons being charged with committing a crime for violating the provisions of the Financial Transfers (Iran) (Prohibition) (No. 3) Order 2010.

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May 2011

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<sup>4</sup> *Id.*

## LAW LIBRARY OF CONGRESS

### SPAIN

## IMPLEMENTATION OF SANCTIONS AGAINST IRAN

### I. National Implementation Process

The EU adopted a fourth round of sanctions against Iran under Council Regulation (EU) No. 961/2010<sup>1</sup> that included additional restrictions on trade, technical assistance, or brokering services related to dual-use products, technology, equipment, or material that might be used for nuclear proliferation, sensitive activities, the development of weapons of mass destruction, or domestic repression. Restrictions also apply to trade related to equipment or investment in the Iranian oil and gas industry, and in the uranium, mining, and petroleum industries.<sup>2</sup>

In furtherance of the EU mandate, Spain has adopted measures to implement the EU sanctions against Iran through a Resolution of the Secretary of Economy (*Secretaría de Estado de Economía*) (RSEE) of December 1, 2010.<sup>3</sup> The RSEE provides for the procedure applicable to the freezing of restricted funds transferred from those listed in Council Regulation (EU) 961/2010 and the process of prior notification and authorization for the transfer of funds originated or destined to any Iranian individual or entity.<sup>4</sup>

The request for authorization to transfer funds to or from Iran may be done in electronic form through the website of the Ministry of Economy and Finance (*Ministerio de Economía y Finanzas*).<sup>5</sup>

### II. Competent Authorities

Spain has designated the Directorate General of the Treasury and Financial Policy, Sub-Directorate General of Inspection and Control of Capital Flows (*Dirección General del Tesoro y*

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<sup>1</sup> Council Regulation (EU) 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No. 423/2007, 2010 O.J. (L 281) 1, <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2010:281:SOM:EN:HTML> (official site).

<sup>2</sup> *Id.*

<sup>3</sup> Resolución de 1 de diciembre de 2010, de la Secretaría de Estado de Economía, Ministerio de Economía y Hacienda (RSEE), BOLETÍN OFICIAL DEL ESTADO [B.O.E.] [OFFICIAL GAZETTE] 2010, 294, <http://www.boe.es/boe/dias/2010/12/04/pdfs/BOE-A-2010-18653.pdf> (official site).

<sup>4</sup> *Medidas Restrictivas Contra Iran*, TESOROPÚBLICO (Ministerio Economía y Hacienda), [http://www.tesoro.es/SP/expcam/Medidas\\_restrictivas.asp](http://www.tesoro.es/SP/expcam/Medidas_restrictivas.asp) (official site) (last visited May 6, 2011).

<sup>5</sup> Forms available at TESOROPÚBLICO (Ministerio Economía y Hacienda), [https://www.tesoropublico.gob.es/carga\\_contenido.aspx?sec=114](https://www.tesoropublico.gob.es/carga_contenido.aspx?sec=114) (official site) (last visited May 6, 2011).



*Política Financiera, Subdirección General de Inspección y Control de Movimientos de Capitales*) as the competent authority to process the requests for authorizations related to funds frozen under Council Resolution (EU) 961/2010.<sup>6</sup>

The list of competent authorities for the enforcement of sanctions in Spain, referred to in Annex V of Council Regulation (EU) 961/2010, are as follows:<sup>7</sup>

Type of Sanction	Implementing Authority
Import, Export and Transit of Weapons and Military Equipment, and of Goods and Technology Subject to Dual Use	<b>Ministry of Industry, Tourism and Trade</b> Secretary of State for Foreign Trade and Investments, Sub-Directorate General for Foreign Trade of Military Equipment and of Dual Use
Foreign Investment Operations	<b>Ministry of Industry, Tourism and Trade</b> Secretary of State for Foreign Trade, Sub-Directorate General for Foreign Investment
Freezing of Funds and of Other Financial Assets	<b>Ministry of Economy and Finance</b> Directorate General of the Treasury and Financial Policy, Sub-Directorate General for the Inspection and Control of Capital Flows
Transfer of Funds, Notifications and Authorizations	<b>Ministry of Economy and Finance</b> Directorate General of the Treasury and Financial Policy
Customs Control	<b>Ministry of Economy and Finance</b> Government Tax Administration Agency, Department of Customs and Special Taxation

### III. Penalties for Breaching the Regulations

The RSEE does not provide for specific penalties in cases of violations of the Council Regulation's prohibitions, restrictions, and reporting requirements but instead delegates to the head of the Directorate General of the Treasury and Financial Policy (*Dirección General del Tesoro y Política Financiera*) the authority to take those measures necessary to effectively

<sup>6</sup> RSEE art. 1.

<sup>7</sup> *International Sanctions: Competent Authorities for the Enforcement of Sanctions in Spain*, MINISTERIO DE ASUNTOS EXTERIROS Y DE COOPERACIÓN, <http://www.maec.es/en/MenuPpal/Asuntos/internationalsanctions/Paginas/internationalsanctions.aspx> (official site) (in English; last visited May 6, 2011).

enforce the RSEE.<sup>8</sup> It also specifies the financial institutions that are required to report controlled financial transactions and to take all necessary steps to comply with Council Regulation (EU) 961/2010.<sup>9</sup>

Law 19/2003 on the Legal Framework of the Movement of Funds and Foreign Economic Transactions<sup>10</sup> does provide for sanctions to violations of the Council Regulation's prohibitions, restrictions, and required authorizations and reporting related to controlled commercial and financial transactions.<sup>11</sup> Penalties range from fines of a minimum of €30,000 (approximately US\$43,000) for the most serious violations to a minimum of €3,000 (approximately US\$4,300) for lesser infractions, in addition to public or private admonitions.<sup>12</sup>

#### IV. Cases of Violations

No cases of violations of sanctions on Iran under Regulation 961/2010 were found.

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May 2011

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<sup>8</sup> RSEE art. 3.

<sup>9</sup> RSEE art. 4.

<sup>10</sup> Ley 19/2003 sobre el Régimen Jurídico de los Movimientos de Capitales y de transacciones Económicas con el Exterior [Law 19/2003 on the Legal Framework of the Movement of Funds and Foreign Economic Transactions] of July 4, 2003, arts. 5.3 & 8–12, B.O.E. 2003, 160, <http://www.boe.es/boe/dias/2003/07/05/pdfs/A26166-26174.pdf> (official site) (last visited May 6, 2011), *as amended by* Law 10/2010 of April 28, 2010, Disposición Adicional Segunda Prevención del Blanqueo de Capitales y de la Financiación del Terrorismo [Prevention of Money Laundering and Financing of Terrorism], B.O.E. 2010, 103, <http://www.boe.es/boe/dias/2010/04/29/pdfs/BOE-A-2010-6737.pdf> (official site) (last visited May 6, 2011).

<sup>11</sup> Law 19/2003 art. 1.

<sup>12</sup> Law 19/2003 arts. 8–12.

## LAW LIBRARY OF CONGRESS

### UNITED KINGDOM

## IMPLEMENTATION OF SANCTIONS AGAINST IRAN

### I. National Implementation Process

The United Kingdom (UK) has incorporated Council Regulation (EU) No. 961/2010<sup>1</sup> on restrictive measures against Iran into its domestic legislation through a Statutory Instrument.<sup>2</sup>

### II. Competent Authorities

The overarching competent authority in the UK for sanctions implementation is the Foreign and Commonwealth Office (FCO), the office responsible for the UK's foreign affairs. The FCO has been described as the competent authority “hub”<sup>3</sup> for all sanctions implementation, and has a Sanctions Team within its International Organisations Department.<sup>4</sup> There are two additional competent authorities under this Regulation. These are Her Majesty's Treasury<sup>5</sup> and the Department for Business, Innovation and Skills.<sup>6</sup>

### III. Penalties for Breaching the Regulations

It is a criminal offense to breach the Regulations and the crime may be tried either summarily (in front of a Magistrates Judge) or on indictment (in the Crown Courts). If the crime is tried summarily, it is punishable by up to three months' imprisonment and/or a fine of up to £5,000 (approximately US\$7,000).<sup>7</sup> If the crime is tried on indictment it is punishable by up to

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<sup>1</sup> Council Regulation (EU) 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No. 423/2007, 2010 O.J. (L 281) 1, <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2010:281:SOM:EN:HTML> (official site).

<sup>2</sup> The Iran (European Union Financial Sanctions) Regulations 2010, SI 2010/2937, [http://www.hm-treasury.gov.uk/d/iran\\_european\\_union\\_financial\\_sanctions\\_regulation\\_111210.pdf](http://www.hm-treasury.gov.uk/d/iran_european_union_financial_sanctions_regulation_111210.pdf). A Statutory Instrument is secondary legislation.

<sup>3</sup> Telephone Interview with Sanctions Team, Foreign and Commonwealth Office (May 2, 2011, at 7:20 a.m.).

<sup>4</sup> *Competent Authorities*, FOREIGN & COMMONWEALTH OFFICE, <http://www.fco.gov.uk/en/about-us/what-we-do/services-we-deliver/export-controls-sanctions/competent-authorities> (last visited May 3, 2011).

<sup>5</sup> HM TREASURY, <http://www.hm-treasury.gov.uk/> (last visited May 3, 2011).

<sup>6</sup> DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS, <http://www.bis.gov.uk/> (last visited May 3, 2011).

<sup>7</sup> The Iran (European Union Financial Sanctions) Regulations 2010, SI 2010/2937, ¶ 20, [http://www.hm-treasury.gov.uk/d/iran\\_european\\_union\\_financial\\_sanctions\\_regulation\\_111210.pdf](http://www.hm-treasury.gov.uk/d/iran_european_union_financial_sanctions_regulation_111210.pdf).

two years' imprisonment and/or an unlimited fine.<sup>8</sup> These penalties are specifically provided for in the new regulations.

The consent of either the Attorney General in England and Wales or the Advocate General for Northern Ireland is required to prosecute offenses on indictment under the Regulations.

#### **IV. Cases of Violations**

There have been no recent publicized prosecutions in the UK under these specific sanctions. In August 2010, the Royal Bank of Scotland was fined £5.6 million (approximately US\$9,000,000) for failing to have an adequate system of controls in place between December 2007–December 2008. During this period the bank did not adequately screen its customers and check them against the sanctions lists.<sup>9</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> *RBS fined £5.6m for anti-terror failings*, BBC NEWS, (Aug. 3, 2010), <http://www.bbc.co.uk/news/business-10850093>.