

INTERNATIONALIZATION AND REGIONALIZATION OF SANCTIONS POLICY:

The Case of the Czech Republic

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Abstract

As the enforcement of obligations in international relations is not fully governed by an international or supranational authority, *sanctions* represent a tool by which states can put through their rights and interests. Smaller states are limited in the enforcement of their claims by various power asymmetries, including the threat of possible counter-actions or the worsening of economic and foreign-trade performance. They rely on collective action on the international level rather than on self-help. Regardless of the mixed records of multilateral sanctions effectiveness, they have become important for many small states. Since the Czech Republic belongs to such cases, its sanctions activities are strongly influenced by international organizations, namely the EU and the UN, and partially by the OSCE. The article examines the validity of the assumption that it was primarily the authority of the European Union which induced the recent changes within the Czech sanctions policy and created the conditions for an increased efficiency of the mechanisms for imposing sanctions by the country as a state participating in sanctions regimes (in the role of a sender of sanctions).

Keywords: European Union, United Nations, international sanctions, the Czech Republic, international relations.

Introduction

Since the end of the Cold War, substantial changes have occurred in international sanctions regimes and policies. The changes include general shifts in sanctions activity from unilateral measures, applied by individual states (especially the powerful ones, such as the United States – USA), to multilateral ones, performed increasingly often within international organizations (such as the United Nations – UN, the European Union – EU, or the Organization for Security and Cooperation in Europe – OSCE). In

addition, some partial initiatives emerged, especially with the aims of: reducing the formerly high degree of politicization of the area (particularly on the level of the UN Security Council – SC); adapting the existing scale of sanctions tools to new international threats (such as escalating intrastate conflicts or global terrorism); limiting the negative effects of sanctions in relation to civil population; strengthening the human rights protection when implementing sanctions; or increasing the often unsatisfactory effectiveness of particular sanctions regimes.

The developments have attracted attention among both practitioners and scholars. The theory of international relations and security studies have contributed with a critical assesment of the existing sanctions tools, as well as with the identification of new security threats at the turn of the millenium. Quantitative interdisciplinaty research, combining the approaches of political science, economics, and statistics, has extensively dealt with the impact and effectiveness of santions regimes. However, the problematique of sanctions effectiveness has been so far and primarily examined from a target perspective, i.e. with regard to the ability to achieve goals and change policies or other behaviour of a targeted state or other entity (target). It is only one part of the story as the effectiveness is a comprehensive issue and, indeed, ends at the target but begins with a state sending the sanctions measures (sender). We adopt the latter perspective and pay attention to the sender side.¹ As the theory of international regimes suggests, important aspects of regime effectiveness, including the effectiveness of sanctions regimes, are “that it achieves certain objectives or fulfils certain purposes” *and* “that its members abide by its norms and rules” (so called “regime strength”) (Hasenclever, Mayer, and Rittberger 1997, 2).

According to Biersteker et al. (2005, 89), the changing practice of international sanctions requires that the senders: have legal authority to implement sanctions at the national level; designate an official body or bodies to administer sanctions; develop guidance for banks and financial institutions and disseminate information to those affected by sanctions; undertake compliance activities; decide upon exemptions and exceptions; specify what constitutes a violation of sanctions, and impose penalties for breaches. The requirements relate to general aspects of sanctions

¹ Simultaneously, we focus on economic sanctions as the majority of research in the field does.

implementation at a national level. In addition, there are various sector-specific requirements, such as administration of frozen assets. In other words, to establish an effective sanctions regime need not only mean using tools which affect the target but, in the first place, forcing the senders to meet numerous new legal and administrative demands. The ability of international organizations, which design multilateral sanctions regimes, to influence the behaviour of the member states, in order to increase the sanctions effectiveness at the sender side, has been an understudied issue. Therefore, it is addressed in this article, both theoretically and practically, with a focus on the case of the Czech Republic and its involvement in the sanctions regimes created by the UN and the EU.

Since the Czech Republic is a rather small state, its sanctions activities are strongly influenced by international organizations, namely the above-noted EU and the UN. The text builds on an assumption that *it was primarily the authority of the European Union which induced the recent changes within the Czech sanctions policy and created the conditions for an increased efficiency of the mechanisms for imposing sanctions by the country as a state participating in sanctions regimes (in the role of a sender of sanctions)*. The particular experience of the Czech Republic is analyzed as a “single-case study” and can be, in many aspects, a source of inspiration for the study of other countries. It enables to compare several methods of implementation and practical application and, simultaneously, it is an example of a successful shift from a lengthy and problematic approach toward a relatively flexible, and to the current international trends reflexive, sanctions implementation.

The first part of the article identifies the variables which determine the member states’ compliance with sanctions regimes and the institutions’ potential to influence the states’ behaviour when they implement a regime. The second section specifies the instruments used by the UN. The third part focuses on the current sanctions policy instruments of the EU. The fourth analyses the new shape of the Czech sanctions policy and its components related to the implementation of, especially economic, sanctions. In particular, the paper examines the extent of the recent changes within the Czech sanctions policy and their relationship with the dynamics of the UN and EU sanctions policies, in order to determine to what extent they result from global processes at the UN-level and how far they rather correspond to the initiatives of the EU.

Sanctions regimes from a sender perspective – a theoretical point of view

As noticed, the international community, responding to difficulties with the use of the traditional economic sanctions instruments during the Cold War era, has been since the 1990s attempting to develop new sanctions designs. During the past two decades, the initiatives led to the creation of new sanctions instruments, such as targeted (or smart) sanctions which: constrain the wealthiest social strata and political elites and do not affect the ordinary people in target countries (hence, are more acceptable to the populace); enable the international community to respond better to new types of conflicts (rather internal than international); and reduce administrative burdens of imposing states (connected with a control of the observance of sanctions regimes). The tendency has been broadly reflected in scholarly literature, e.g. in Tostensen and Bull (2002), Wallensteen, Staibano, and Eriksson (2003), and Strandow and Wallensteen (2007).

Together with the change in the nature of restrictive measures, sanctions activity moved from unilateral to multilateral, performed increasingly often within international organizations. It has been also reflected in numerous publications: As far as multilateral sanctions regimes, especially those applied by the UN, are concerned, Cortright and Lopez (2000), Anthony (2002), and Horn (2003) can be mentioned. In addition, several studies deal with the possibilities and limits of the UN sanctions policy in an era of “humanization” of international politics, e.g. Weiss (1999), Addis (2003), or Bessler, Garfield, and Mc Hugh (2004), and in the context of democratization and good governance, e.g. Hart (2000) or Trávníčková, Druláková, and Zemanová (2008). The EU sanctions policy, its legal basis, context, development, problems, and effectiveness are discussed inter alia in de Vries (2002), Kreutz (2005), or Druláková, Trávníčková, and Zemanová (2009).

However, the interplay of the levels at which multilateral sanctions can be imposed and implemented has not been so far consistently examined, although a clear practical linkage exists as the EU, in its sanctions policy, also implements the measures introduced by the UN. A broader reflection of the impact of the new sanctions policies on the policies of the individual sender states, which represent a crucial part of the implementation mechanisms, is also lacking. As far as the Czech Republic is concerned, only few papers are available at the moment, e.g. Tesař et al. (2002) or Trávníčková, Druláková, and Zemanová (2008). They also focus primarily on the international development, but the recent changes within the Czech

national environment, especially the changes of legislation and the adoption of appropriate executive measures, are addressed only briefly.

The relationship between and importance of various levels (global, regional, etc.) can be perceived an integral part of a wider framework of research on international political, security, as well as economic order and governance. Most current academic debates in this field suggest that, in security terms (where the issue of international sanctions belongs), it is doubtful whether any global order or global governance exists, or if it is at least in the making. On the contrary, the most visible and successful security solutions appear to originate on a sub-systemic, mostly on the regional level. Hence, in the security field, the power of regionalization seems to be stronger than the power of globalization or internationalization (Rolenc 2010).

There are various explanations for this situation. The most general is a normative-institutional one which suggests that, at the global level, cultural, religious, as well as civilizational heterogeneity endures, leading to the absence of consensus on basic values and norms, as well as the absence of institutional structures strong enough to withstand global security challenges (Keohane 2002; Kirchner and Sperling 2007, 13). Simultaneously, institutions on various levels of governance possess different tools to put through their aims which, consequently, lead to the varying degrees of effectiveness of their activities. Other possible explanations are offered by a sociologic-institutionalist perspective. Within the UN, only a small group of states is involved in decision-making when sanctions are imposed. In regional bodies, such as the EU, the participation in sanctions-related policy-making is usually broader what can bring more opportunities for “social learning” (see below; also Zemanová 2007; 2008).

The adoption of international sanctions is a substantial, and definitely not a common, decision of the representatives of a state power (on a national level or in an international institution). The application of a sanctions regime, on the other hand, influences the daily lives of not only state authorities, but also of companies, enterprises, and individuals. In the case of targeted financial sanctions, each bank or other financial institution in the country has to respect the sanctions lists, freeze assets, and must not provide certain services to listed entities. International sanctions place both restrictions on the sanctioned persons and a duty to respect the restrictions for other subjects.

For example, the adoption of international sanctions by the UN Security Council creates an obligation for each member state to respect the measures (cf. the UN Charter, Article 25). But without further implementation, it is not directly binding for any national subjects. The duties proceeding from the sanctions regime must be enacted in law. Otherwise, they would not be enforceable and the success of the sanctions would depend on a pure will of banks and other entrepreneurs to observe them. States which often adopt sanctions and for which the participation in international sanctions regimes is important create national legislations concerning restrictive measures (or supranational legislation if member states of the EU are considered).

Regarding the general development of sanctions, in circa the past twenty years, the most visible trend is the shift from comprehensive to targeted sanctions. It is evident that the change has occurred together with a significant specification and delimitation of the legal framework for sanctions. The legal regulation of international sanctions has become increasingly extensive and detailed. Together with journalists, scholars pay a close attention to the new US sanctions legislation, as well as to the new rulings of the EU. In fact, no special research has been yet carried to cover the problematique – to characterize the quantitative and the qualitative development of sanctions legislation and the reasons for such a development.

We believe that the changes in national sanctions legislations (as we will later focus on the Czech case) can be explained by several reasons: by the internationalization, by the regionalization, and/or by the immanent reaction of legislators to sanctions policies (e.g. the more active the policy is, the more detailed the legislation must be; or the more sanctions are targeted, the more detailed the legislation must be; or, perhaps, the more a state wants the sanctions policy to be really effective, the more detailed the legislation must be). In this paper, we do not analyze the circumstances of the growing mass of sanctions legislation all around the world. We acknowledge the fact that the precise legal regulation is a necessary condition for an effective application of sanctions.

Generally, there are three possible ways to design the legal framework for a sanctions regime (as seen from the point of view of a sending state):

- National legislative mechanism: States known for their active (and independent) sanctions policy, mainly the USA, dispose of established proceedings to create a legal framework for a sanctions

regime (in the USA, it is represented by the acts of the Congress and the executive orders of the President). The application and the enforcement of sanctions legislation is ensured by a specialized body (in the USA, the Office of the Foreign Assets Control of the Department of the Treasury).

- Supranational legislative mechanism: E.g. the European Union (the legal basis of the EU sanctions policy will be discussed below).
- Legislative vacuum: Most states do not perform their own, autonomous sanctions policies. Regarding the sanctions adopted by the UN Security Council, they usually do not create special national legislation for the implementation of the measures.

The UN Economic Sanctions Policy

Enforcement measures approved by the UN Security Council are characteristic of their wide scope. In principle, they should be implemented by all the UN member states. At the same time, they include a broad range of tools reaching from international military action to comprehensive economic sanctions, as well as more specific measures, such as arms embargoes, travel bans, financial sanctions, and diplomatic restrictions. However, the permanent members of the SC dispose of a veto power when imposing sanctions; approval or possible disapproval reflects inter alia the actual political situation and the distribution of power in international relations. Therefore, during the Cold War, the real use of enforcement measures was limited to a few cases (the Korean question, Portuguese colonialism, South African, and Rhodesian issues) and, even nowadays, has been connected with many difficulties. Economic sanctions represent no exception in this regard. As Askari et al. (2003, 44) point out, there were only four economic sanctions episodes in the first 45 years of the existence of the UN and 13 in the 1990s.

Apart from legally binding decisions, sanctions can be also recommended by the UN Security Council. In such cases, it is not necessary that the member states followed the recommendations. They are rather mandated to do so as the possibility to impeach the legitimacy of sanctions is limited and broader international support safeguarded.

Each decision on sanctions is of an individual nature; the SC designs sanctions mechanisms with respect to the specific circumstances of a particular situation. As for the implementation of sanctions measures included in the SC's resolutions, the signatories to the UN Charter, in

Article 25, are committed to accept them and put them into effect. According to Article 48, Section 2, they should do so both within the framework of their own international activities, as well as through international organizations in which they participate.

States, as well as other subjects to international relations, do not have to limit their sanctions initiatives to the maintenance or the restoration of international peace and security. It is also possible that they use sanctions as a response to other types of severe breaches of international legal norms (recently e.g. of those protecting human rights). The options of the UN are, on the contrary, limited in this regard. It does not mean that the UN should only serve as a forum for conflict resolution. Together with its family of agencies, it fulfils many other important tasks: the development of friendly relations between countries; the achievement of international cooperation in solving international problems of economic, social, cultural, or humanitarian character; or the support for the respect for human rights (cf. the UN Charter, Chapter 1, Article 1, Sections 2 and 3). For their completion, however, the use of positive action is presupposed. The UN Security Council can deal with the infringements of these principles, in connection with armed conflicts, by the imposition of sanctions. However, if governments or non-governmental bodies which do not respect the norms are not involved in the conflict, the use of sanctions shall be considered only if the situation can be described as a threat to international peace. On the other hand, the SC has recently started to use sanctions in cases which do not directly have a conflicting nature but threaten international security, focusing primarily on international terrorism (Syria, Lebanon in 2005) and the proliferation of nuclear weapons (North Korea, Iran in 2006).

A broad room for discussion about possible steps to increase the effectiveness of sanctions approved by the UN was offered by the governments of Switzerland, Germany, and Sweden which organized a series of conferences focused on law-enforcement tools. The conferences were held in March 1998 and March 1999 in Interlaken, in June 1999 in Geneva, in November 1999 in Bonn, and in December 2000 in Berlin, and the "Stockholm process" began in November 2001. The so-called Interlaken process focused on financial sanctions; the Bonn-Berlin meetings focused on arms embargoes, travel restrictions, and flight bans; the Stockholm

conference raised the problematique of targeting economic embargoes, not covered by the process before.²

In 2000, the UN Security Council set up an informal working group on general sanctions issues. The group finished its work, in 2006, with an extensive report. It defined what the SC should take into account when designing targeted sanctions (feasibility, possible wider implications, combination of targeted sanctions, probability that the target country will be able to avoid the sanctions measures) and recommended to establish clear criteria for the removal of sanctions. The group also deemed appropriate to create a credible mechanism which would monitor the enforcement of sanctions. Such “sanctions committees” are, compared to the working group, formal institutions, entrusted with the administration of sanctions regimes (cf. Anthony, 2002).

Sanctions in the EU Policy

Concerning economic sanctions applied currently by the EU, most attention has been paid to tougher standards stipulated by the norms of the so-called hard law, especially to directives and regulations, or, in particular aspects, to decisions implementing the founding treaties or regulations.³ If sanctions take the form of regulations, they directly impose certain obligations on the member states, are fully binding, and do not require (or even allow) transformation by the national legal systems. The Council regulations imposing sanctions and the Commission regulations implementing them, being part of the Community law, are directly applicable in the member states and, at the same time, they take precedence over the law of the member states, which is inconsistent. Moreover, the Commission is responsible for a scrutiny of the correct implementation of regulations in the member states.

If sanctions take the form of directives, they prescribe results the member states should achieve within a given time frame. However, they do not provide any obligatory means to reach the results. Hence, the directives

² For reflections of these practical recommendations in sanctions policies in the EU documents, see Figure 2 in the Appendix.

³ Beside the tougher models, the EU institutions apply also softer models, outlined e.g. in the form of opinions or recommendations (cf. the open method of coordination). The fact that the softer models are based on the standards of the so-called soft law or on other types of instruments does not imply that they are not legally binding or that they do not cause internal changes.

usually leave to the member states some flexibility in implementation. Nevertheless, in some cases (e.g. technical or environmental standards), the space for manoeuvring within the given range is very limited and, instead of the harmonization of law, which should be the main task of directives, they lead almost to its unification.

The tougher EU models of governance need to be implemented in the national environments. In this respect, the EU compels the states to adjust their policies, institutional frameworks, and national legislations to its norms through direct or indirect adaptive pressures. The indirect pressure results from: the transfer of national competences to the Community institutions; the legally binding form of decisions; the engagements of the states subject to the decisions; or from the fact that other states have also adapted. The direct pressure is represented by: the use of incentives and the control or the enforcement mechanisms (periodic reviews by the Commission, actions for infringement before the European Court of Justice, etc.). Compared to the national legislations, the EU legislation bears several advantages: It minimizes the risk of different interpretations among the member states and impedes distortions of competition in a market without internal borders (de Vries and Hazelzet 2005, 96).

Sanctions measures, in principle, fall within the sphere of the EU Common Foreign and Security Policy. Therefore, the primary tools for imposing sanctions at the EU-level lie in the common positions taken by the EU Council according to the Article 15 of the Treaty of Amsterdam (TA). Although such tools are not legislative acts with clearly defined legal implications, the provisions of the Article oblige the member states to bring their national policies in line with the common positions. With regard to economic sanctions, the model is further strengthened by "first pillar" instruments. According to the current rules under primary legislation wording, common positions cannot be directly applied within the area of the single internal market. The implementation of such cases requires legislative action, as stipulated by the Article 301 of the Treaty Establishing the European Economic Community, enabling thus exceptions to the rules of its functioning.

The proposals imposing sanctions regimes are generally based on the member states' or the Commission's positions and are approved unanimously. However, such a vote entails certain difficulties which result from the member states' disagreements. Hence, the TA introduced the "constructive abstention" mechanism to allow the approval of a position

also in a situation when some countries, with more than one third of the total number of votes in the Council, abstain. The countries which did not support the majority position are not obliged to follow it. According to the TA, in such cases, they should, however, not proceed to acts contradicting the adopted position.

In the past decade, the most dynamic of the EU sanctions policy has been the area of economic and financial sanctions. Most of them have the form of targeted sanctions. The targeting usually goes to governments of third countries, or non-state entities, and individuals (e.g. terrorist groups and terrorists).⁴ This trend in sanctioning is reflected in the Treaty of Lisbon (TL) which institutes external measures against natural or legal persons, or groups, or non-state entities (Article 188 TL), together with the introduction of judicial review, by the European Court of Justice, of the decisions subjecting an individual or an entity to restrictive measures (Declaration 25, TL) (Druláková et al. 2010).

The targeting of economic sanctions is reflected, among other, in assembling lists of organized groups and individuals against whom the measures are directed; the EU's website can be consulted for the updated list.⁵ The list is created on the basis of the common positions, the Council regulations, or the implementing regulations of the Commission. The major role in the practical implementation of economic restrictive measures in the EU plays the banking sector. Several banks (e.g. the London Bank and Citibank) generate updated lists of terrorists and terrorist groups with which it is forbidden to trade. The prohibition is binding for both the public and the private sector and its infringement is punished with high financial penalties.

Also the EU moves toward an increased effectiveness of sanctions. For example, in its current sanctions policy, it has relatively successfully responded to the problems which tie the UN Security Council when imposing multilateral sanctions. The SC lacks a single language standard for sanctions and, very often, problems arise with the reading of the

⁴ Where sanctions target persons, groups, and entities which are not directly linked to the regime of a third country, Articles 60, 301, and 308 of the Treaty Establishing the European Community have been relied upon. In such cases, adoption of a regulation by the Council requires unanimity and prior consultation with the European Parliament.

⁵ Cf. the *Consolidated list of persons, groups and entities subject to EU financial sanctions*, at http://eeas.europa.eu/cfsp/sanctions/consol-list_en.htm.

resolutions imposing sanctions. The EU has developed a standard language for the measures to avoid such problems. The provisions are part of the *Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy*, approved in 2005 by the EU Council.⁶ Apart from the Guidelines, also other key documents have recently shaped the EU sanctions policy toward an increased effectiveness: the 2004 Basic Principles, and the 2006/2008 Best Practices. We have conducted an assessment of their contribution to the increased effectiveness in the form of tables (Table 1 and Table 2 in the Appendix), comparing recommendations, both theoretical and practical, both on creation/adoption and implementation of sanctions, and their reflection in the respective EU documents.

The Czech Sanctions Policy between Internationalization and Regionalization

The current shape of the Czech sanctions act was influenced by two processes: internationalization and regionalization – “Europeanization” in the Czech context (Druláková, Trávníčková, and Zemanová 2008). Internationalization affected the general shift from unilateral sanctions implemented by individual states, prevailing in the Cold war era, to the multilateral ones. Such sanctions are usually connected with an international organization; the UN played the most important role in this sense. During the past two decades, the number and the scope of sanctions adopted by the UN Security Council has grown significantly, especially in comparison with the sanctions adopted from the 1950s to the 80s. By means of cooperation with the UN member states, academic community, and non-state actors, the SC strives for a higher effectiveness of sanctions.

Unlike during the Cold War, several international fora are available for a European state: the universal one with the UN as an umbrella and two regional ones represented by the EU and the OSCE. The Czech Republic, as a developed, democratic Central-European country, shares the values of the European and trans-Atlantic community of states and is highly interested in the maintenance of international peace and security. As a small country with an open economy, it must consider the necessity of good political and economic relations with its important partners, as well as look for possibilities of enlarging its trade areas. Moreover, it is

⁶ The Guidelines contain the main principles of the EU sanctions policy, common definitions, and sample texts which can be used as models of legal instruments for implementing the measures.

interested in strong and powerful international organizations with the EU and the UN on the top. These interests are complementary and contradictory at the same time.

On the one hand, a secure and stable international environment with a low intensity of threats such as international terrorism, organized crime, or migration pressures connected with interstate conflicts, which can be achieved, among other, through an effective use of international sanctions regimes, contributes to progress in international trade and growth of external economic relations of individual states. If the effectiveness of sanctions increases, it can support the growth of prestige and influence of the UN and, simultaneously, the rise of the soft power of the EU. On the other hand, despite the changing nature of the international sanctions regimes, possible danger of a negative impact on the foreign trade of the Czech Republic persists. This is demonstrated by tensions between the Czech Ministry of Foreign Affairs, emphasizing the security and political aspects of international sanctions, and the Ministry of Finance, considering rather economic and administrative ones, when they implement the relevant resolutions of the UN SC and the regulations of the EU Council.

In February 2006, the Parliament of the Czech Republic approved a new sanctions act (Act No. 69/2006 Coll., on the Implementation of International Sanctions). Thanks to the new act, the Czech foreign policy obtained a useful and effective domestic instrument. It enables to apply restrictive measures in order to support the efforts to ensure peace and security, and stability in the current world. The act was adopted as a reaction to an insufficient existing regulation. The first Czech (general) sanctions act entered into force in 2000 (Act No. 98/2000 Coll., on the Implementation of International Sanctions for the Maintenance of International Peace and Security). Before then, the situation was not sustainable: The Czech Republic had obligations based on international decisions, especially sanctions adopted by the UN Security Council, but it had no legal instruments to impose the corresponding obligations on national subjects.

The difficulties caused by the legal vacuum came also into light with regard to the EU. Since 1996, the restrictive measures adopted by the EU had been also implemented by non-member states (states in the European Economic Area and associated states), including the Czech Republic. The Czech Republic implemented particularly the arms embargoes. However, e.g.

contrary to Poland, Slovenia, Bulgaria, Romania, or the Baltic countries, it did not join the measures (the freezing of financial assets) against the Federative Republic of Yugoslavia and Serbia.

The described gap in legal regulation was partially overcome by the 2000 act. It was adopted in the time of intensive preparation of the Czech Republic for the accession to the EU. However, it was based on the old-fashioned conception of sanctions “targeted” at states and state representatives. Furthermore, it was not applicable to the EU legal acts with direct effect and did not define substantial procedures regarding the review of particular sanctions measures or the competence of appropriate bodies (Parlament České republiky, Poslanecká sněmovna 2005). That is why, after several years, it had to be substituted.

The insufficiency of the general sanctions act (2000) was overcome by special regulations, e.g. by the Act No. 4/2005 Coll., on Some Measures Relating to the Iraqi Republic, which was difficult to use in practice. Moreover, by the moment of adoption of the act, the corresponding regulation of the EC Council was already in force. To sum up, in 2005, the Czech Republic had a general sanctions act but it was not suitable for the application of measures contained in the EC regulations. This represented a risk of criticism and contempt by the EU institutions. In fact, the sanctions act was not enforced.

The above-mentioned problems were tackled in 2006 by the new sanctions act. Especially the relation to the EU sanctions was solved.⁷ In Section 2, international sanctions are defined as a command, a prohibition, or a restriction designed to keep or restore international peace and security, to protect fundamental human rights and to fight terrorism, based on:

- a) The UN Security Council resolutions, adopted in accordance with the Article 41 of the UN Charter;
- b) The common positions, common actions, and other measures of the EU;
- c) The directly applicable laws of the EC, which implement a common position or a common action.⁸

⁷ Concurrently, a new law changing other acts was adopted (Act No. 70/2006 Coll.). It amended financial acts (on banks, on capital market entrepreneurship, on system of payment, or on the Securities Commission) and also updated administrative and criminal laws (e.g. introduced a new offence – breakage of international sanctions).

⁸ It represents an important shift in comparison with the previous sanctions act (2000) which ignored the EU regulations as a source of sanctions measures.

The SC resolutions and the EC common positions (subparagraphs a) and b) of Section 2) are not directly applicable under the Czech law, that is why the appropriate obligations of natural, as well as legal persons have to be promulgated in the form of a Government regulation (Section 4, paragraph 1). The Ministry of Finance, particularly the Financial Analytical Unit, is the body entitled to authorize exceptions from the sanctions regime (Section 9), dispose of frozen assets (Section 11) and administer them (Section 13), and supervise observation of the restrictions (Section 15).⁹

With regard to financial sanctions targeted on persons suspected of terrorism financing, the procedural provisions represent a substantial progress in the Czech sanctions regulation. The sanctions act in force institutes the application of administrative procedure and the possibility to open administrative proceedings, including legal remedies. The act follows the trends obvious on the European, as well as the international level – decisions concerning the implementation of sanctions have to be transparent and the person affected by them must have the right to ask for a review.

In June 2008, the sanctions act was completed with the Government Regulation No. 210/2008 Coll., Regarding the Implementation of Special Measures in the Fight against Terrorism.¹⁰ The regulation is foreseen by the sanctions act and reacts on a specific legal situation in the implementation of the EU sanctions. There are two essential models of designing sanctions binding in the EU: First, a common position and a directly applicable regulation can contain sanctions against non-member states, persons, and entities based outside the Union. Second, in the case of restrictions against European citizens and subjects (e.g. the ETA and its members), the directly applicable instruments cannot be used. The list of such persons is published in the form of a common position. Each member state has to implement the common position in its national legislation by its own legislative procedures (i.e. the Government regulation in the Czech Republic).

⁹ When implementing arms embargoes and travel restrictions, the Ministry of Industry and Trade and the Ministry of Foreign Affairs play important role. The application of sanctions focused on education (e.g. the prohibition to provide education in the field of nuclear energy or military equipment) is supervised by the Ministry of Education.

¹⁰ In 2009, amended by the Regulation No. 88/2009 Coll.

Conclusion

In the period after the Cold War, sanctions measures underwent numerous changes aimed at enhancing their effectiveness, mitigating the repercussions for others rather than target entities (particularly the negative consequences for civilian population, as well as for the states implementing sanctions), simplifying the implementation, cutting costs, etc. The direction of the changes in the 1990s was shown primarily by the UN but also other organizations sending sanctions, including the EU, reflected upon them. After the turn of the millennium, the European Union became a model for imposing and implementing sanctions because it disposes of efficient mechanisms for enforcement and control of respecting the due process rules, also in the case of targeted sanctions. The member states applying restrictive measures have to gradually adjust.

The Czech sanctions policy or the implementation of the multilateral sanctions measures imposed by international organizations in the Czech Republic, in the past two decades, following the new international trends, had to get through a relatively complicated process. The Czech sanctions policy approximated the requirements of international practice only in 2006, thanks to the membership in the European Union which provides the legal dimension of sanctions implementation, as well as owing to the progressive character of the new sanctions act No. 68/2006 Coll., on the Implementation of International Sanctions. The adoption of the Act and of the Government Regulation No. 210/2008 Coll., Regarding the Implementation of Special Measures in the Fight against Terrorism, are undoubtedly manifestations of a *Europeanization* of the Czech sanctions policy. We believe that the Act deepened its European dimension (and not only for economic sanctions). In the case of the Regulation, the development of the EU's sanctions policy brought a completely new topic into the Czech legal order. The assumption formulated in the introduction, thus, appears to be supported by the EU's case – the action by the European Union is pivotal for the recent changes in sanctions policy in the Czech environment.

The described legislative shifts have an implicit character as they do not result from direct decision-making contained in the secondary EU legislation. To the extent, we can speak of accommodation in relation to the sanctions Act and of transformation when considering the Government Regulation, as well as the issue of the anti-terrorism sanctions against the EU subjects. In addition to the requirements resulting from the EU membership, the new form of the Czech sanctions policy reflects wider

international trends, particularly the shift from general to targeted (or smart) sanctions.

As to the development in other countries in the region that share a common experience with the Czech Republic, this single-case study did not address the potential differences which can be expected especially due to the specifics of domestic influences in individual countries. This is a challenge for following research because a comparative study would undoubtedly enhance the level of knowledge in the area of sanctions mechanisms application.

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Appendix

Table 1: Reflections of theoretical recommendations to sanctions policy in the EU documents

Sanctions creation / adoption (Hufbauer et al. 2007; Cortright and Lopez 2000)	Reflection in the EU documents (Basic Principles 2004; Guidelines 2005; Best Practices 2008)	Sanctions implementation (Cortright and Lopez 2000)	Reflection in the EU documents (Basic Principles 2004; Guidelines 2005; Best Practices 2008)
Inverse proportionality sanctions – goals	NO, in fact (aims are overreaching, e.g. restore international peace, etc.)	Flexible application of sanctions	YES (Basic Principles: Art. 8)
Good relations sender – target	NOT solved, actually	Targeted pressures	YES (Basic Principles: Art. 6)
Democratic regimes more likely to comply	NOT solved, actually	Conduct of humanitarian assessment reports and third party assessment studies	NOT solved, actually
Proportionality costs for the target – effectiveness	Generally, YES (Guidelines: Art. 9 in fine mentions the ‘proportionality of measures’), NOT for particular	Streamlining of humanitarian exemption applications	YES (Guidelines: Art. 24, Basic Principles: Art. 6, Best Practices Art. 54-61)

	sanctions regimes		
No direct relation effectiveness – number of sending countries	NO, in fact (Basic Principles: Art. 4)		
Appropriateness of sanctions	NOT solved, actually		
More precise technical terms and definitions	YES (Guidelines: section III)		
Identification of the specific policy changes for sanctions to be lifted	Only on a general level (general statement), not for particular sanction regimes (Guidelines: Art. 4)		

Source: Druláková, Rolenc, Trávníčková, and Zemanová 2010, 114

Table 2: Reflections of practical recommendations in the EU documents

Sanctions creation (Interlaeken, Bonn-Berlin, Stockholm, Watson)	Reflection in the EU documents (Basic Principles 2004; Guidelines 2005; Best Practices 2008)	Sanctions implementation (Interlaeken, Bonn-Berlin, Stockholm)	Reflection in the EU documents (Basic Principles 2004; Guidelines 2005; Best Practices 2008)
Common language (definitions of key terms)	YES (Guidelines: Section III)	Appropriate legal framework (model law)	YES (especially in Guidelines)
Standardized design of sanction resolutions	YES (Guidelines: Section III)	Administering agency (agencies)	YES (Council, RELEX/Sanctions)
Consideration of exemptions and exceptions	YES (Guidelines: Art. 24, 25, Best Practices: Art. 54-61)	Development and dissemination of information	YES (Guidelines: Art. 26, Part IV, Best Practices: Part E)

Financial sanctions targeting also elites and their supporters	YES (Guidelines: Art. 14)	Enforcement efforts	More or less, YES (Basic Principles: Art. 5)
Listing and procedures of de-listing	YES (Listing: Guidelines: Art. 17, De-listing: Council 0826/1/07 REV 1, Best Practices: Art. 17)	Compliance initiatives	YES (Guidelines: Art. 4)
		Best practices comparison	NO
		Better communication and coordination between actors involved in sanction policy	YES (Guidelines: Art. 26, Best Practices: Art. 62-77, Art. 35)
		More effective monitoring of sanctions implementation	Generally, YES (Basic Principles: Art. 9, Guidelines: Part IV, Best Practices: Art. 66)

Source: Druláková, Rolenc, Trávníčková, and Zemanová 2010, 115

