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Ministry of Foreign Affairs of the Czech Republic

No. 1/2023 Coll.

ACT

of 1 December 2022

on Restrictive Measures against Certain Serious Conduct applied in International Relations (Sanctions Act)

The Parliament has adopted the following Act of the Czech Republic:

Section 1

Subject matter

Having regard to the interest of the Czech Republic in maintaining and restoring international peace and security, fight against terrorism, respect for international law, protection of human rights and freedoms and promotion of democracy, and the rule of law, this Act establishes

- a) the procedure for submitting proposals for listing of subjects, against which restrictive measures should be applied, on a sanctions list under the relevant provisions of the European Union law¹⁾,

¹ Acts adopted pursuant to Chapter 2 of Title V of the Treaty on European Union and Title IV of Part Five of the Treaty on the Functioning of the European Union, for example, Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as amended, Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as amended, Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP); as amended, Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, as amended, Council Decision (CFSP) 2018/1544 of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons, as amended, Council Regulation (EU) 2018/1542 of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons, as amended, Council Decision (CFSP) 2019/797 of 17 May 2019 concerning restrictive measures against cyber-attacks threatening the Union or its Member States, as amended, Council Regulation (EU) 2019/796 of 17 May 2019 concerning restrictive measures against cyber-attacks threatening the Union or its Member States, as amended, Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, as amended, Council Regulation 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, as amended.

- b) the procedure for adding entries on subjects to the national sanctions list,
- c) the rules governing the adoption of national restrictive measures against certain subjects for conduct designated by the relevant provisions of the European Union law¹⁾.

Section 2

Definition of fundamental concepts

For the purposes of this Act:

- a) a subject means a person or an entity against which restrictive measures may be applied in accordance with the relevant provisions of the European Union law¹⁾,
- b) identification data means
 1. first name, surname, date of birth and citizenship in the case of a natural person,
 2. name and seat in the case of a legal person, or
 3. designation or name in other cases,and, where appropriate, other data necessary to identify the subject unambiguously;
- c) designated conduct means acts, omissions, or, where appropriate, other facts designated by the relevant provisions of the European Union law¹⁾,
- d) a sanctions list of the European Union means a list of subjects against which restrictive measures shall be applied under the relevant provisions of the European Union law¹⁾;
- e) the national sanctions list means a list of subjects against which restrictive measures shall be applied on the basis of this Act,
- f) a restrictive measure means
 1. restrictions, orders or prohibitions under the relevant provisions of the European Union law¹⁾,
 2. restrictions, orders or prohibitions under the law governing the implementation of international sanctions²⁾.

Section 3

Competence of the Ministry of Foreign Affairs

The Ministry of Foreign Affairs (hereinafter referred to as the “Ministry”) shall

- a) collect, verify and evaluate any supporting documentation for listing of subjects on a sanctions list of the European Union or for adding entries on subjects to the national sanctions list,
- b) submit to the Government of the Czech Republic (hereinafter referred to as the “Government”) a proposal for listing of a subject on a sanctions list of the European Union or, where appropriate, for delisting or amendment of the listing, or for adding an entry on a subject to the national sanctions list and for annulment, abrogation or amendment of the entry in the national sanctions list,

²⁾ Act No. 69/2006 Coll., on the implementation of international sanctions, as amended.

- c) submit to the competent authority of the European Union a proposal of the Czech Republic for listing of a subject on a sanctions list of the European Union, delisting or amendment of the listing,
- d) maintain the national sanctions list,
- e) deal with administrative offenses under this Act.

Section 4

Procedure prior to deliberation on the proposal in the Government

(1) If the Ministry obtains information that a subject, that has not yet been listed on or proposed for listing on a sanctions list of the European Union, has committed or is committing designated conduct and where it is in line with the foreign policy or security interest of the Czech Republic, it shall submit to the Government a proposal for listing of the subject on the sanctions list of the European Union.

(2) If the Ministry obtains information justifying delisting or amendment of the listing of a subject on the sanctions list of the European Union, it shall submit to the Government a proposal for delisting or amendment of the listing of the subject on the sanctions list of the European Union.

(3) If there is a risk of frustration of the purpose for which a subject is to be listed on the sanctions list of the European Union, the Ministry shall, together with the proposal referred to in paragraph 1, submit to the Government a proposal for adding entry on the subject in the national sanctions list before submitting the proposal for its listing on the sanctions list of the European Union.

(4) If a subject has been proposed by another Member State of the European Union, or by the High Representative of the European Union for Foreign Affairs and Security Policy, for listing on the sanctions list of the European Union, and where it has not been listed on the sanctions list of the European Union on the basis of such a proposal within 1 month since its submission, the Ministry may, in view of the foreign policy or security interest of the Czech Republic, propose to the Government to add entry on the subject to the national sanctions list. The period of time referred to in the first sentence shall not apply if there is a risk of frustration of the purpose for which the subject is to be listed on the sanctions list of the European Union.

(5) If, in view of the foreign policy or security interest of the Czech Republic, it appears meaningful to apply against a subject listed on the sanctions list of the European Union additional restrictive measures that are not applied against this subject under the relevant provisions of the European Union law¹⁾, the Ministry shall submit to the Government a proposal for adding entry on the subject to the national sanctions list. In such a case, the proposed scope of restrictive measures shall contain only restrictive measures that are not applied against that subject under the relevant provisions of the European Union law¹⁾.

(6) The proposal of the Ministry submitted to the Government shall contain identification data of the subject, description of the designated conduct committed by the subject, reference to the provision of the relevant European Union law¹⁾ whose constituent elements have been fulfilled by the conduct of the subject and the proposed scope of restrictive measures. The proposal of the Ministry submitted to the Government pursuant to paragraph 2 shall contain only identification data of the subject and description of the facts justifying delisting or amendment of the listing of the subject on the sanctions list of the European Union and, in the case of a proposal for amendment of the listing, the extent of such amendment.

(7) Prior to submitting the proposal pursuant to paragraphs 1 to 5, the Ministry shall discuss such a proposal with the Ministry of the Interior, the Ministry of Justice, the Ministry of Industry and Trade, the Ministry of Defence, the Financial Analytical Office, the Police of the Czech Republic and the intelligence services of the Czech Republic. The Ministry shall discuss the proposal with other central administrative authorities, the Czech National Bank or the General Directorate of Customs, if the implementation of the proposed restrictive measures concerns their competence. If the Ministry deems it necessary, it shall also discuss the proposal with other executive bodies.

(8) The Ministry shall not submit to the Government a proposal for listing of a subject on the sanctions list of the European Union, its delisting or amendment of the listing, if it only joins on behalf of the Czech Republic, in view of its foreign policy interest, such a proposal submitted by another Member State of the European Union, as a co-sponsor. The Ministry shall discuss joining the proposal of another Member State in advance with the authorities referred to in paragraph 7.

Section 5

Deliberation on the proposal in the Government

(1) The Government shall decide, on the basis of the proposal submitted pursuant to Section 4, whether a subject will be proposed for listing on or delisting from a sanctions list of the European Union, or, whether an amendment of its listing will be proposed or, where appropriate, on adding entry on the subject to the national sanctions list.

(2) In the case of a decision to propose a subject for listing on the sanctions list of the European Union, the Government shall at the same time decide to add entry on the subject to the national sanctions list, unless the subject is listed on the sanctions list of the European Union within 1 month of the submission of the proposal for its listing.

(3) The decision on adding entry on a subject in the national sanctions list shall always contain the scope of restrictive measures against that subject.

(4) When examining the proposal, the Government shall take into account possible impact of the decision on the foreign policy or security interest of the Czech Republic, the fulfilment of obligations arising from the membership of the Czech Republic in the European Union, economic security and, where appropriate, other matters relevant in light of the protection of the security of the Czech Republic or internal or public order.

Proceedings after deliberation on the proposal in the Government

Section 6

The Ministry shall submit a proposal for listing, delisting or amendment of the listing of a subject the sanctions list of the European Union without undue delay after the adoption of the Government resolution pursuant to Section 5.

Section 7

(1) If a subject is not listed on the sanctions list of the European Union within 1 month of the submission of the proposal pursuant to Section 6, and if the Government decides so pursuant to Section 5(2), the Ministry shall add entry on it to the national sanctions list; the Ministry shall not add entry on a subject to the national sanctions list if, having regard to the state of

consideration of the proposal by the European Union's authorities, it is likely that the proposal will be adopted within a short period of time, or if, after the adoption of the Government resolution pursuant to Section 5, facts arise or become known concerning the fulfilment of obligations arising from the membership of the Czech Republic in the European Union, for which the entry on the subject to the national sanctions list would not be possible.

(2) If the Government so provides by its resolution on the basis of the proposal pursuant to Section 4(3), the Ministry shall add entry on a subject to the national sanctions list before a proposal for its listing on the sanctions list of the European Union is submitted. In such a case, the Ministry shall submit the proposal without undue delay after the subject has been added to the national sanctions list. The Ministry shall also add entry on a subject to the national sanctions list if the Government so provides by its resolution on the basis of the proposal pursuant to Section 4(4) or (5).

(3) The entry in the national sanctions list shall be abrogated by the Ministry with the effect from the date of

- a) listing of a subject on the sanctions list of the European Union; where the entry contains a restrictive measure that is not applied to the subject as a result of its listing on the sanctions list of the European Union, the Ministry shall adjust the entry to contain only that restrictive measure, or
- b) death of a subject that is a natural person, or the declaration of its death by a court or dissolution of a subject if it has ceased to exist without a legal successor.

(4) The effects of the entry shall be deemed to also apply to a legal successor of a subject on the national sanctions list, unless the Government decides otherwise. The Ministry shall add entry on the legal successor under the first sentence to the national sanctions list without undue delay after becoming aware of the dissolution of the original subject.

(5) Except for the reason referred to in paragraph 3, the Ministry shall submit to the Government a proposal for

- a) annulment of the entry in the national sanctions list or part thereof where it finds that it has been carried out contrary to law;
- b) abrogation of the entry in the national sanctions list where it finds that there has been such a change in circumstances for which the conduct is no longer designated by the relevant provisions of the European Union law¹⁾, or, where appropriate, for which the application of restrictive measures is no longer reasonable, or
- c) adjustment of the scope of restrictive measures or any other amendment to the entry where it finds that there has been such a change in circumstances that justifies a change in the application of restrictive measures.

(6) Prior to submitting the proposal to the Government pursuant to paragraph 5, the Ministry shall discuss it with the authorities pursuant to Section 4(7).

(7) The Government shall decide on the proposal referred to in paragraph 5 within 30 days of the date of its submission.

(8) The Government decision pursuant to paragraph 5 shall be implemented by the Ministry without undue delay.

Section 8

(1) The entry on a subject in the national sanctions list referred to in Section 7 shall include:

- a) identification data of the subject,
- b) description of the conduct designated by the relevant provisions of the European Union law¹⁾ committed by the subject,
- c) a reference to the provision of the relevant European Union law¹⁾ whose constituent elements have been fulfilled by the conduct referred to in point (b),
- d) restrictive measures to be applied against the subject as a result of its adding to the national sanctions list; and
- e) date of publication of the entry.

(2) Where the entry is amended or abrogated, the amended or abrogated data shall be retained in the national sanctions list together with the current data, in a form showing that the data has been amended or abrogated and when such an amendment or abrogation took place. The data shall remain in the national sanctions list for a period of 10 years from the date of its amendment or abrogation. In the case of the adoption of a Government resolution on annulment of the entry, the data shall be deleted from the national sanctions list and the entry shall be regarded as if it had never been added.

(3) Restrictive measures shall apply against a subject from the moment of its adding to the national sanctions list at the earliest and as long as the entry is in force.

Section 9

Objection

(1) A subject may raise a justified objection in writing to its adding to the national sanctions list, in which it may request

- a) annulment of the entry or part thereof if it considers that it was carried out contrary to law,
- b) abrogation of the entry if it considers that there has been such a change in circumstances that justifies the cessation of the application of the restrictive measures, or
- c) amendment of the entry if it considers that there has been such a change in circumstances that justifies a change in the application of the restrictive measures.

(2) The objection shall be submitted to the Ministry. The Ministry shall forward the objection with its opinion to the Government within 30 days of the date of its submission. Section 7(6) to (8) shall apply *mutatis mutandis*.

(3) A further objection may be submitted by a subject only when stating reasons that have not yet been applied in the previous objections and that may justify a different outcome of the Government's decision on the objection.

Section 10

Confidentiality

Persons who, in connection with the proceedings or co-operation granted under this Act, have become aware of facts which, in the interest of the protection of the security of the Czech Republic or internal or public order or in the legitimate interest of other persons and other States, require that they remain confidential, shall be obliged to maintain confidentiality. The

duty of confidentiality shall not cease upon termination of service, employment or other relationship in which it arose.

Judicial review

Section 11

(1) Article 45(4) of the Code of Administrative Justice shall not apply in proceedings in respect of a legal action in cases under this Act. The deliberations on classified information that were the basis for the submission of a proposal for a Government decision under this Act shall be attended only by persons to whom the information is already known, the presiding judge shall exclude the other persons for the relevant part of the proceedings.

(2) The legal action referred to in paragraph 1 shall not be granted suspensory effect.

Section 12

(1) Taking of evidence in proceedings in respect of a legal action in cases under this Act shall be carried out in such a way as to respect the duty of confidentiality of classified information. Evidence on these circumstances may be taken by way of examination only if the person who has the duty of confidentiality has been released from that duty by a competent authority. Confidentiality cannot be waived if there could be a threat or serious disruption to the activities of the intelligence services, the Financial Analytical Office or the Police of the Czech Republic. This provision shall apply mutatis mutandis in cases where evidence is taken by other means than by examination.

(2) The authority that has provided the information and the authority of the origin of the information shall identify the circumstances referred to in paragraph 1 which they claim cannot be released from confidentiality. The parts of the file to which those circumstances relate shall be separated. The separated parts of the file cannot be accessed by the subject, its representative and persons involved in the proceedings.

Section 13

Implementation of restrictive measures

The law governing the implementation of international sanctions shall be followed²⁾ in the implementation of restrictive measures imposed according to the national sanctions list.

Section 14

Co-operation

(1) Public authorities shall provide the Ministry with the necessary co-operation in the exercise of its competence under this Act at its request and within the time limit set by the Ministry. The time limit shall not be less than 3 working days, unless the co-operation needs to be provided without delay.

(2) Everyone is obliged to provide the Ministry with the co-operation at its request made within the exercise of its competence under Section 3(a) and within the time limit set by the Ministry, to the extent necessary to fulfil the purpose of this Act. The time limit shall not be less than 5 working days. The person providing co-operation is entitled to reimbursement of expenses incurred effectively. The claim must be asserted within 1 month of the provision of the co-operation, otherwise the claim expires.

(3) When providing co-operation under this Act, providing information is not a breach of the duty of confidentiality for

- a) the law enforcement authority, unless the provision of the information covered by the confidentiality would jeopardise or frustrate the course of the proceedings;
- b) the intelligence services of the Czech Republic, unless the provision of the information covered by the confidentiality would jeopardise important interest pursued by the relevant intelligence service,
- c) the Financial Analytical Office,
- d) the tax administrator in accordance with the Tax Code,
- e) the Customs Administration of the Czech Republic,
- f) the Czech National Bank.

Section 15

Administrative offenses

(1) A natural person commits an administrative offence by violating the duty of confidentiality under Section 10.

(2) It is an administrative offence not to provide the Ministry, in breach of Section 14(2), at its request made within the exercise of its competence under Section 3(a), with the co-operation to the extent necessary to fulfil the purpose of this Act.

(3) A fine of up to CZK 200 000 may be imposed for an administrative offence under the paragraph 1 or 2.

(4) Administrative offences under this Act shall be dealt with by the Ministry.

Section 16

Common provisions

(1) The Ministry shall maintain the national sanctions list and publish it on its website.

(2) The information processed or related to the activities of state authorities under this Act shall not be provided except for the information stated in the national sanctions list.

(3) The Ministry shall keep the supporting documentation for the submission of a proposal for a Government decision under this Act for a period of 10 years from the abrogation or annulment of the entry to which the Government decision relates.

(4) The correction of obvious inaccuracies in the entry shall be carried out by the Ministry without undue delay, including ex officio.

Section 17

Entry into force

This Act shall enter into force on the day following that of its publication.