

Check against delivery



Statement by Ms. Alena Douhan

**SPECIAL RAPPORTEUR ON THE NEGATIVE IMPACT OF
UNILATERAL COERCIVE MEASURES ON THE ENJOYMENT OF
HUMAN RIGHTS**

**Side Event on the occasion
of the 20th session of the General Conference
of the United Nations Industrial Development Organization**

**UNILATERAL COERCIVE MEASURES AND THEIR NEGATIVE IMPACT
ON SOCIO-ECONOMIC DEVELOPMENT OF STATES**

27 November 2023

Vienna



**UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES**

SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

Honourable Chair, Excellencies, Ladies and Gentlemen,

It is a privilege for me to participate today in the side event on the occasion of the 20th session of the General conference of the United Nations Industrial Development Organization focusing on the impact of unilateral coercive measures on socio-economic development of states. I would like to thank Permanent Missions of the Republic of Belarus, People's Republic of China, Republic of Cuba, Islamic Republic of Iran, Republic of Nicaragua, Russian Federation, Syrian Arab Republic and Bolivarian Republic of Venezuela for conveying this meeting to be able to discuss the most important aspects of the use, enforcement and impact of unilateral sanctions as well as the existing visibility challenges.

Excellencies, distinguished delegates,

The agenda of sanctions remains in the focus of media and social networks attention presenting it as something good or at least justifiable, referring to the “high goals” and “pursuit of common goods” as a ground for their implementation; adhering to legitimacy of unilateral sanctions as the means of foreign policy without any assessment of their legality under international law; expanding co-operation of sanctioning state in enforcing compliance with unilateral sanctions via secondary sanctions, criminal penalties, civil fines, extradition, full or partial denial of immunities for diplomatic premises, agents, special envoys, assets of Central banks and other state entities; referring to the need to launch “maximum pressure campaigns” or to resist co-operation between countries under sanctions; insisting on the efficacy and sufficiency of humanitarian exemptions and absence or unintentional character of humanitarian impact of unilateral sanctions and over-compliance.

Reality however, is different. The overwhelming majority of unilateral sanctions applied today do not fit criteria of retortions or countermeasures, that is confirmed even in the decisions of courts of the sanctioning states and organizations. US courts as well as the European Court of justice in particular, directly rule that states or the European Union are not obliged even to try to observe criteria of countermeasures when deciding on unilateral sanctions, due to the broad discretion of the executive organs in the US or the EU to exercise their foreign policy. These measures and decisions therefore blatantly violate a huge scope of international obligations of sanctioning states from the treaties of amity, the law of international responsibility, diplomatic, sea, air and trade agreements up to the fundamental principles of international law, especially affecting the

principle of sovereign equality of states, principle of non-intervention into domestic affairs of states, principle of cooperation, principle of promotion and protection of human rights.

It is not my purpose here to talk about the violation of international law in every area in details, but I would like to remind that any national or regional regulations are just facts from the point of international law and are not able to change its rules. Article 27 of the Vienna convention on the law of treaties 1969 explicitly prohibit parties to “*invoke the provisions of its internal law as justification for its failure to perform a treaty*”. Conclusions of the International law commission on identification and legal consequences of peremptory norms of general international law 2022 proclaim any act (treaty, custom, unilateral act etc.) being contrary to the peremptory norms including the principle of sovereign equality of states as null and void. Therefore, no reference to the exercise of the foreign policy can justify violation of international obligations including those in the sphere of promotion and protection and human rights.

Excellencies, distinguished delegates,

It is undeniable today that unilateral coercive measures, means of their enforcement combined with over-compliance have an overwhelming effect on all human rights of people in the targeted countries, including the right to development, especially affecting the most vulnerable groups. Since March 2020 I have presented a number of reports both to the Human Rights Council and the UN General Assembly both thematic and those after the country visits, providing detailed analytical analysis supported with multiple and verified facts and figures about humanitarian impact of UCMs, including on the right to life. The last report presented to the Human Rights Council in September 2023 was directly focusing on the impact on the right to health. It reflected the impediments caused by UCMs and over-compliance to the delivery of medicine and medical goods, food and electricity, training of health professionals and software, necessary to maintain healthcare systems in the countries, which used to provide high quality medical services to their people before UCMs have been imposed. It also cited growing mortality and suffering rates for various categories of people.

I also addressed specific issues of the access to the right to health, right to food, right to life, labor and economic rights in multiple communications sent to sanctioning states, international organizations, banks and businesses, sharing verifiable data on specific cases and concerns on development of national

sanctions legislations with high potential to violate human rights, as well as inefficacy and inadequacy of humanitarian exemptions even in the case of emergency.

All facts, arguments and other data are there and is publicly available at the web page of the mandate. Therefore, any references to the absence of data on the negative humanitarian impact, validity of humanitarian exemptions or unintentional character of damage, are not acceptable any longer and constitute the highest level of hypocrisy. In reality the majority of my appeals to the sanctioning states or over-complying businesses are ignored, what cannot be accepted from the side of those who pretend to take unilateral steps under the slogan of promotion and protection of human rights.

Excellencies, distinguished delegates,

The focus of the Side event today is not on the impact of UCMs on human rights only but rather on the socio-economic development of states, which under international law bear the primary responsibility to promote and protect human rights under their jurisdiction and control.

At the same time quite often states under sanctions are deprived of many of the available mechanisms due to the loss of resources, impossibility to trade, procure necessary goods and raw materials as well as other elements of macro-economic character. I would cite here the direct impact of UCMs and over-compliance to the Sustainable development goals, which I observed during 3,5 years of my work as the Special rapporteur.

My country visits, thematic work as well as information received from various sources on daily basis clearly indiate the detrimental impact of unilateral sanctions and over-compliance with them to the achievement of all and every single SDG, affecting therefore the right to development of the people in targeted countries as a whole regardless the types of unilateral sanctions imposed.

Even SDGs 2 and 3 (Zero hunger and Good health and well being) are severely affected despite the introduction of humanitarian carve-outs in different forms in sanctions regulations. Food sustainability is severely affected not only by challenges to get a license buying food, but much more by the impossibility to transfr money to pay for this food, to ensure the cargo and to deliver. Additional problems refer to the challenges to buy seeds, fertilizers, livestock vaccines,

agricultural machinery and spare parts, diesel, unavailability of electricity, water for irrigation, equipment to proceed and store food.

Similar situation is observed in the sphere of the access to healthcare facilities, medicine, vaccines, availability of medical equipment, software, rescue equipment, disease control and prevention, training of medical professionals. These elements endanger not only the achievement of SDG3 but minimise all possible positive efforts of the negotiated Convention to strengthen pandemic prevention, preparedness and response.

Apparently, effect of unilateral sanctions and over-compliance over other SDGs is even higher *inter alia* due to the official policy of sanctioning states that any humanitarian exemptions and licenses shall be interpreted in the narrowest possible way and do not include any development projects. The latter are understood as seeking to construct, develop or even maintain energy, electricity, water supply, transportation and education systems, industrial and environmental protection, emergency response mechanisms. It directly affects the achievement of SDGs 4, 6, 7, 9, 11–15 and prevents countries under sanctions to become sustainable in all spheres.

Expanding unilateral sanctions combined with growing over-compliance in the face of all the more severing penalties for non-compliance with or circumvention of sanctions regimes affects people of countries under sanctions non-selectively resulting in their discrimination on the ground of nationality, place of residence or birth (SDG 10) with the most detrimental effect over the most vulnerable groups, like children, youth, persons with disabilities, women, migrants (SDGs 3, 5, 8).

People affected face serious challenges even to access justice to protect their rights, to apply for accountability and redress due to the political nature of many of sanctions' regulations, violation of their rights indirectly – by over-compliance rather than by sanctions via the direct designation only, unaffordability of legal assistance, special – higher responsibility of legal professions for the possible circumvention of sanctions regimes, endangering this the achievement of SDG 16 – peace, justice and strong institutions.

Economic, financial and sectoral sanctions, sanctions against main companies and additional over-compliance isolate countries under sanctions and their residents from proper international cooperation and trade intercourse that contributes to the growing poverty rates, unaffordability of social support programs, affects descent work and economic growth (SDGs 1, 8, 12, 17).

Excellencies, distinguished delegates,

As the Special Rapporteur I strongly believe that if we look for the solutions to enable the countries around the world to ensure socio-economic development and to achieve SDGs, the abovementioned challenges should be taken into serious consideration.

1) To my hugest regret, despite all efforts, the level of awareness about the scope of unilateral sanctions and their humanitarian impact is still low today. My mandate is the only one in the UN system, which is directly involved in the process of information collection, legal expertise and humanitarian impact assessment in the face of unilateral sanctions and over-compliance. And it is definitely not enough. I welcome therefore efforts of all actors to raise awareness, to do legal assessment from the point of international law, to collect and reveal information, facts, figures and statistics.

2) I call all actors to stop using rhetoric of sanctions as the mechanism used “for all the good” against “everything what is bad”, but rather to observe their international obligations, to adhere to the principles and norms of international law, to build their relations on the principles of sovereign equality of states, cooperation and solidarity, to exercise due diligence to make sure that their activity as well as activity of private actors under their jurisdiction and control does not violate international law and does not affect human rights.

3) States and international organizations are to ensure that their activity including taken as a part of their foreign policy fully conforms fundamental principles of international law, including principles of sovereign equality of states, principle of non-intervention into the domestic affairs of states, principle of peaceful settlement of international disputes, *pacta sunt servanda* among other, Charter of the United Nations and other international obligations.

4) Any measures taken without authorization of the UN Security Council or those which cannot be qualified as retortions (unfriendly measures, which do not violate international obligations of the applying state) or countermeasures taken in full conformity with the law of international responsibility shall be lifted.

5) Before unilateral coercive measures are lifted, sanctioning states and regional organizations are to ensure that humanitarian exemption of their regulations, are clear, explicit and transparent, do not require costly, lengthy and multiple licensing process. Goods, spare parts, software and services necessary for survival of population (food, medicine, medical equipment) as well as functioning of the critical infrastructure including water, electricity, gas, fuel,

transportation, health and food sustainability shall never be affected by unilateral measures. Any measures affecting critical infrastructure shall be immediately lifted.

6) States and international organizations are to ensure that their activity (acts and/or inaction) as well as activity of any non-state actor including banks and businesses under their jurisdiction and/or control do not violate human rights including prohibition of discrimination and the right to development, including extraterritorially. For this purpose we do not even need to develop any new legal norms. Apparently I am talking about long existing principles of precaution, humanity and due diligence towards the observance of international obligations. Aiming to demonstrate how these norms are to be applied in the world of UCMs, ***I currently work on the development of Guiding principles on sanctions, over-compliance and human rights.***

7) Sanctioning states and regional organizations are to ensure that humanitarian deliveries and humanitarian agents are not targeted for doing their humanitarian job to ensure the needs of people in the countries targeted by unilateral coercive measures.

8) The Human Rights Council should take additional measures to monitor and report on the wide-ranging negative impact of unilateral coercive measures, UCMs enforcement and over-compliance on the full enjoyment of human rights including the right to development, and the achievement of the Sustainable Development Goals. ***As a possible and feasible means I have started to develop Sanctions monitoring platform and I need the assistance of all states and other stakeholders to be for their assistance to make this new, complicated and rather ambitious project possible.***

9) UN organs, organizations, institutions and agencies shall assess the impact of unilateral coercive measures and over-compliance as an additional element while monitoring the achievement of the Sustainable Development Goals;

10) All relevant UN organs, organizations, institutions and agencies, including the UN Specialized agencies and the country teams shall assess the impact of unilateral coercive measures and over-compliance on the enjoyment of human rights within the scope of their mandates;

I thank you for your attention.