**UCM - Study on the notion, characteristics, legal status and targets of unilateral by the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights sanctions**

Mr. Sharof Azizov

Human Rights Officer

Further to the call for submissions by the Special Rapporteur of 24 November 2020, Ireland wishes to make the following observations.

1. As a Member State of the European Union, Ireland participates in, and applies, the Common Foreign and Security Policy (CFSP) provided for in Title V of the Treaty on European Union (TEU), as well as Title IV of Part Five of the Treaty on the Functioning of the European Union.
2. One of the core aims of this Policy, as set out in Article 21(2)(b) of the TEU, is to consolidate and support democracy, the rule of law, human rights and the principles of international law, while it is expressly stated in Article 21(1) of the TEU that the Union’s action on the international scene is to be guided by, inter alia, respect for the principles of the United Nations Charter and international law.
3. EU restrictive measures (sanctions) are one of the Union’s tools to promote its CFSP objectives, including peace, democracy and the respect for the rule of law, human rights and international law. They are part of a comprehensive foreign policy approach involving political dialogue and complementary efforts, and are a key instrument at the Union’s disposal in countering breaches of international law and the proliferation of weapons of mass destruction, staunching the flow of arms into war zones, combatting human rights abuses, and targeting spoilers of peace processes.
4. The principles underpinning the use of EU restrictive measures are set out in the EU Basic Principles on the Use of Restrictive Measures (Sanctions), complemented by the EU Guidelines on Implementation and Evaluation of Restrictive Measures and the EU Best Practises for the effective implementation of restrictive measures (the texts of which are available at <https://www.consilium.europa.eu/en/policies/ sanctions/>.
5. The restrictive measures imposed by the EU may be categorised into three groups as follows. First, in fulfilment of the obligations of the Member States under the UN Charter, the Union implements all sanctions imposed by the UN Security Council. This is the manner, therefore, by which Ireland implements UN sanctions. Secondly, some restrictive measures imposed by the EU reinforce UN sanctions by applying additional measures. Thirdly, where the EU deems it necessary, it may decide to establish sanctions regimes of its own. To distinguish this last category from EU measures imposed in the implementation of UN sanctions, this third category is sometimes referred to as “autonomous” EU measures.
6. The restrictive measures imposed by the EU autonomously comply with international law, including with the obligations stemming from international human rights law, international humanitarian law, and international refugee law. Such measures are applied in the territory of the EU (and by EU persons and entities) and do not have an extra-territorial application. Indeed, the extra-territorial application of sanctions by third states is considered by the EU to be contrary to international law.
7. The majority of the EU sanctions regimes provide a framework for restrictive measures (travel ban and/or asset freeze) against persons or entities involved in “sanctionable” activities as identified in the criteria for adding a person or entity to the relevant list. Sectoral measures, such as import or export restrictions, are less common.
8. The restrictive measures imposed by the EU are not punitive or retaliatory in nature. Rather, they are designed to bring about a change in policy or activity by the target country, entities or individuals. Therefore, measures are always targeted at such policies or activities, the means to conduct them and those responsible for them. Furthermore, restrictive measures imposed by the EU are reversible and proportionate to the objectives they seek to achieve.
9. Where persons and entities are targeted by EU restrictive measures, their fundamental rights are respected, as required by the EU Treaties and the EU Charter of Fundamental Rights, including the due process rights of the listed persons and entities, in accordance with the case law of the Court of Justice of the European Union. The designation of a person or entity is based on clear listing criteria and requires legally robust evidence. An accurate, up-to-date and clear statement of reasons to enable the person concerned to understand the reasons for the listing and to defend his or her rights accompanies them. The Council of the European Union reviews sanctions regimes and listings, on a regular basis either annually or on a six-monthly basis, while listed persons and entities can also submit a request for access to their file and a de-listing request to the EU. Designated persons and entities may also challenge their listing before the European Court of Justice, and frequently do so.
10. EU restrictive measures are not intended to impede the delivery of humanitarian assistance and humanitarian activities. The fact that EU restrictive measures are targeted reduces as much as possible any adverse humanitarian effects or unintended consequences for non-targeted persons, in particular the civilian population, or on neighbouring countries. In addition, as a standard feature, and consistent with the system of exceptions operated under UN sanctions, such measures include a system of exceptions, which include, when appropriate, a number of provisions allowing the supply of certain restricted equipment and activities for the purpose of delivering humanitarian assistance.
11. Ireland is very conscious of the need to communicate with humanitarian actors and economic operators in order to reduce the risk of over-compliance. Ireland is also committed to preserving the humanitarian space, through the development of best practices and the adoption of appropriate mitigating measures. It is important that humanitarian exemptions provided for under sanctions regimes are fully availed of and applied in an appropriate and timely manner. In this regard, the European Commission has published a Guidance Note on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures.
12. On 7 December 2020, the EU adopted the Global Human Rights Sanctions Regime as a new dedicated regime targeting serious human rights violations and abuses (Council Regulation (EU) 2020/1988 and Council Decision (CFSP) 2020/1999). It provides the Union with an additional instrument to be able to stand up for human rights in a more direct way. There are, of course, also numerous examples where the EU has imposed restrictive measures specifically on those who are responsible for human rights violations.