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Filling the protection gap in the face of unilateral sanctions

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Abstract: Today the world is facing intensive expansion of unilateral sanctions both primary and secondary, targeted, sectoral and comprehensive as well as over-compliance with such sanctions. Sanctioning countries develop mechanisms of enforcement with sanctions regimes via imposing secondary sanctions, providing for the possibility of civil and criminal penalties for non-compliance with primary sanctions or circumvention of sanctions regimes. These measures together with maximum pressure statements and threats with secondary sanctions often of extraterritorial character result in growing over-compliance from the side of banks, donors, deliver and transportations companies as well as other private actors. Contemporary international law provides for very limited possibility of responsibility and redress for violation of human rights by unilateral sanctions. The present article provides for the overview of types of unilateral sanctions and addresses the issue of possible mechanisms of responsibility and redress available for states and individuals in the face of unilateral sanctions and over-compliance.

Key words: sanctions, unilateral sanctions, over-compliance, human rights, protection gap, humanitarian impact assessment, access to justice, responsibility and redress.

Біржақты санкцияларды енгізу жағдайында қорғау мүмкіндіктерін қамтамасыз ету мәселелері

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Түйіндеме: Бүгінгі таңда әлем біржақты санкцияларды, олардың ішінде бастапқы да, сондай-ақ қосымша, мақсатты, секторалық және жан-жақты қамтылғандарды қолданудың қарқынды өсуімен, сондай-ақ мұндай

санкциялардың шамадан тыс орындалуымен (овер-комплаенс) бетпе-бет кездесіп отыр. Санкцияларды қолданушы мемлекеттер негізгі санкцияларды сақтамағаны немесе санкциялық режимдерді айналып өткені үшін азаматтық және қылмыстық жауапкершілікке тарту мүмкіндігін қарастыратын қайталама санкцияларды енгізу арқылы санкциялық режимдерді орындауды қамтамасыз ететін механизмдерді әзірлеуде. Бұл шаралар, көбінесе экстерриториялық сипатта болатын максималды қысым талаптары мен қайталама санкциялармен қорқытуды үйлестіре отырып, банктердің, донорлардың, логистикалық компаниялардың және басқа да жеке субъектілердің нөлдік тәуекел және овер-комплаенс саясатын қолдануының артуына әкеледі. Қазіргі халықаралық құқық біржақты санкциялар арқылы адам құқықтарын бұзу үшін жауапкершілікке тарту мен өтеудің өте шектеулі мүмкіндігін қарастырады. Бұл мақала біржақты санкциялардың түрлеріне шолу жасайды және біржақты санкциялар мен овер-комплаенс жағдайында мемлекеттер мен жеке тұлғаларға қолжетімді жауапкершілік пен өтеу тетіктері туралы сұрақты қарастырады.

Негізгі сөздер: санкциялар, біржақты санкциялар, оверкомплаенс, адам құқықтары, қорғаудағы алшақтық, гуманитарлық әсерді бағалау, сот төрелігіне қолжетімділік, жауапкершілік және залалды өтеу.

Проблемы обеспечения возможностей защиты в условиях введения односторонних санкций

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Аннотация: Сегодня мир сталкивается с интенсивным ростом использования односторонних санкций, как первичных, так и вторичных, целевых, секторальных и всеобъемлющих, а также с чрезмерным соблюдением таких санкций (овер-комплаенсом). Государства, применяющие санкции, разрабатывают механизмы обеспечения соблюдения санкционных режимов путем введения вторичных санкций, предусматривающих возможность привлечения к гражданско-правовой и уголовной ответственности за несоблюдение первичных санкций или обход санкционных режимов. Данные меры в сочетании с заявлениями о максимальном давлении и угрозами вторичных санкций, часто экстерриториального характера, приводят к росту применения политики нулевого риска и овер-комплаенса со стороны банков, доноров, логистических компаний, а также других частных субъектов. Современное международное право предусматривает весьма ограниченную

возможность привлечения к ответственности и возмещения ущерба за нарушения прав человека посредством односторонних санкций. В настоящей статье дается обзор видов односторонних санкций и рассматривается вопрос о возможных механизмах ответственности и возмещения ущерба, доступных государствам и отдельным лицам в условиях односторонних санкций и оверкомплаенса.

Ключевые слова: санкции, односторонние санкции, оверкомплаенс, права человека, пробел в защите, оценка гуманитарного воздействия, доступ к правосудию, ответственность и возмещение ущерба.

Introduction

Rapid expansion of various forms of unilateral sanctions takes place in the face of intensive political debate, some attention is paid to their humanitarian impact. More and more reports demonstrate their devastating effect on the rights of specific individuals, groups of people and people of the country under sanctions as a whole, national of the country under sanctions abroad with the most severe effect over the most vulnerable groups: the poorest, elderly, children, youth, people suffering from rare and severe deceases, pregnant women, women and girls in general. The present article provides for the overview of types of unilateral sanctions and addresses the issue of possible mechanisms of responsibility and redress available for states and individuals in the face of unilateral sanctions and over-compliance.

Alongside the expansion of the use of unilateral sanctions, the scope of academic works of the problem is also expanding. At the same time the mainstream of academic studies focuses on political or general legal issues unilateral primary [1; 2] or secondary sanctions [3]. Humanitarian impact is traditionally assessed either as concerns specific human rights [4], human rights in specific countries [5], on specific groups of population [6] or impact a particular type of sanctions [7].That is why in the face of enormous humanitarian impact of unilateral sanctions on human rights of various groups of people, assessment of the possible mechanisms of responsibility and redress for human rights violations are timely and actual.

Apparently there is no clear or uniform definition of sanctions in international law. Terminology used is also very inconsistent. States and regional organizations identify their unilateral activity as “sanctions”, “restrictive measures” [8] and “unilateral measures not in accordance with international law” [9, para. 1; 10, para. 2]. The UN organs refer to economic sanctions and their humanitarian impact assessment [11; 12].

Numerous resolutions of the UN Human Rights Council (from 15/24 of 6.10.2010, paras. 1–3 [13]; to 45/5 of 6.10.2020, preamble [14] and 49/6 of 31.03.2022, preamble, paras. 1–3 [15]) and the General Assembly (from 69/180 of 18.12.2014, paras. 5–6 [16] to 75/181 of 16.12.2020, paras. 1–6 [17]) refer to the illegality of unilateral coercive measures. As a result states prefer to present their

unilateral activity as not constituting unilateral coercive measures, and to use therefore other terms, in particular, sanctions.

Current practice of unilateral sanctions demonstrates their variety: political, sectoral, diplomatic, cultural, economic, trade, financial, cyber, targeted and many others. Compliance companies classify sanctions as unilateral, multilateral and global. Reference is also made to international sanctions, sectoral sanctions, targeted sanctions, counter- sanctions, direct or indirect sanctions, primary or secondary sanctions, and intended or unintended sanctions [18].

Trade embargoes aim to prohibit nationals/ residents of the sanctioning country, or any company willing to do business in a sanctioning country or has partners in the sanctioning county trade with the country under sanctions, their nationals or companies.

Financial sanctions may include decisions to designate the Central bank of the country under sanctions, public or private banks to prevent any transfer of money to / from the country under sanctions. The freezing of State and private banks' assets abroad is used to put pressure on States too, thereby preventing them from guaranteeing their citizens' basic needs. For example, the Bank of England refused to unfreeze any of the $1 billion in gold that it held for the Central Bank of Venezuela [18, para. 29].

Political influence in international institutions has started to be used as a part of sanctions tools. In April 2020, the USA opposed the efforts of Iran and Venezuela to obtain loans from the International Monetary Fund (IMF) in its fight against COVID-19. A similar situation has reportedly arisen in respect of requests by Cuba, the Sudan and Zimbabwe for emergency loans from the World Bank [18, para. 30].

Trade sanctions often take the form of so-called sectoral sanctions, which apply non- selectively to individuals and organizations acting in a particular sphere of the economy without any identifiable reason or violation from their side that differs significantly from those that have prompted traditional targeted sanctions [18, para. 33].

A special form of sectoral sanctions can be seen in the closing of airspace for flights of air companies registered in targeted States – such as Qatar (2017–2020), Venezuela, Belarus and Russia – and prohibiting the targeted State's air companies to enter the airspace of the sanctioning country, thereby affecting the designated State's travel industry. A similar situation exists as concerns trade with Cuba, Iran, Syria and Venezuela [18, para. 32].

Economic sanctions also include measures of a targeted character, affecting designated individuals or companies. For example, the European Union's financial sanctions include several thousand individuals and companies [19], and far more are listed by the United States [20].

A number of unilateral measures are taken in or relevant to cyber area in response to the "malicious cyber activity" or via operations in and access to software on online platforms, databases and online conferences, access to the Internet,

information, public announcement of designated individuals as criminals etc. [21] (cyber and cyber-related sanctions)

Current moment is also characterized with expansion of so called "secondary sanctions" as a means to enforce unilateral sanctions against States or key economic sectors, or to target foreign companies, organizations or individuals. Secondary sanctions are also applied including extraterritorially to entities or individuals for their presumed cooperation or association with sanctioned parties or for helping them to circumvent sanctions. Foreign companies subject to secondary sanctions can be blocked from doing business in the sanctioning State, be banned from using its financial markets or be prohibited from transactions involving its currency; while foreign individuals can be refused entry to the sanctioning country and have any assets there frozen [22]. Penalties can reach the level of billions of UDS, criminal penalties reach up to 20 years of imprisonment [23].

Issue of accountability and redress for violations of international law and human rights by unilateral sanctions and over-compliance has been repeatedly raised in resolutions on the mandate of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights (A/HRC/49/6 of 31.03.2022, para. 24 [15]).At the same time, no clear algorithm for responsibility and redress currently exists.

The majority of unilateral sanctions today both primary and secondary, targeted or sectoral are not in conformity with international law.

In particular, implementation of unilateral sanctions in the course of counter-measures does not fit criteria of the Draft Articles on Responsibility of States for Internationally Wrongful Acts [24] (DARS): to be taken by the directly injured state in response to the previous violation of international law by the perpetrator, or by non-directly injured states if "the obligation breached is owed to the international community as a whole", that is (art. 48(1b) a "serious breach by a State of an obligation arising under a peremptory norm of general international law" if it "involves a gross or systematic failure by the responsible State to fulfil the obligation" (art. 40) [25, p. 126–127], that includes acts of aggression, genocide, apartheid, impediment of the right to self-determination, slavery, slave trade, genocide, racial discrimination, apartheid, prohibition of torture, serious violations of international humanitarian law of "systematic, gross or egregious nature" [24, p. 111–113, 127; 26, p. 102], with the purpose to cease the internationally wrongful act and to guarantee its non-repetition (Art. 48(2)). Countermeasures shall generally be limited to the "non-performance for the time being of international obligations of the State taking the measures towards the responsible State" (DARS, art. 49), proportionate with the injury suffered (DARS, art. 51), taken with due account for the requirements of humanity and the rules of good faith [27, para. 6] and cannot affect "obligations for the protection of fundamental human rights; obligations of a humanitarian character prohibiting reprisals; other obligations under peremptory norms of general international law" (DARS, art. 51(b)).

Unilateral measures taken violate the above criteria. Announcement by the US of the state of national emergency as a ground for introduction of unilateral sanctions against Sudan, Cuba, Syria, Venezuela, North Korea, Iran, Nicaragua [28, para. 1701] does not correspond criteria of article 4 of the ICCPR [29; 30]. Qualification of states as states-sponsors of international terrorism for the same purpose (US qualification of Syria in 1979; Iran – in 1984, North Korea – in 2017, Cuba – in 2021 [31]; European Parliament qualification of Russia – in 2022 [32]) contradicts principles of sovereign equality of states and undermines the authority of the UN Security Council as the only organ entitled to qualify situation as a breach of peace, threat to peace or an act of aggression under art. 39 of the UN Charter.

Freezing assets of Central banks as well as ither property used by states for the official public purposes (Iran, Venezuela, Syria, Russia, Afghanistan) violate customary norms on judicial immunities of states and their propertyunder art. 21 of the Convention on Jurisdictional Immunities of States and Their Property [33].

Preventing diplomatic and consular mission of states under sanctions to open and keep bank accounts, to transfer money even for functioning of the mission and payment of salaries; from insuring property of the mission and arranging for the health insurance of the diplomatic personnel, (Iran, Syria, Venezuela, Russia), limitations of the freedom of movement in the receiving state (Iran, Syria) is in breach of art. 26 (freedom of movement and travel in its territory) and art. 25 (obligation to accord full facilities for the performance of the functions of the mission) of the Vienna convention on diplomatic relations of 1961 [34].

Extraterritorial application of unilateral sanctions as well as threats addressing the third states, their nationals and companies contradicts basic principles of international law, including principles of sovereign equality of states, principle of non-intervention into the domestic affairs of states, peaceful settlement of international disputes [35].

Many other international legal norms are also affected by the use of unilateral sanctions, including bilateral obligations in the sphere of investment protection, trade or taxation agreements, transport agreements, multilateral obligations in the sphere of the freedom of correspondence (Qatar, Russia, Belarus [36; 37; 38]), WTO agreements [39; 40; 41, p. 560, 588–590], environmental obligations [42], freedom of civil aviation (Qatar, Iran, Venezuela, Russia, Belarus) etc.

Using international adjudication is the only fully available mechanism to move focus from political to legal sphere and to provide for the possibility of some protection that has been done by Qatar [43] and Iran [45; 46; 47; 48] in the International Court of Justice, Venezuela in International criminal court [49]. Besides that states can use mechanisms of countermeasures as legal means of responsibilityto the extend provided for by the law of international responsibility. In practice of states such countermeasures have started to be introduced under the name of counter-sanctions [18, para. 55].

Another part refers to the mechanisms aimed to protect human rights of specific individuals affected by the impact of unilateral sanctions or over-compliance with

such sanctions.Due to individual designation unilateral sanctions often qualify and present individuals as criminals, violating therefore standards of due process and presumption of innocence and preventing their access to justice [49, paras. 85–93]. Unilateral sanctions are used in such cases due to the absence of criminal jurisdiction and a very low burden of proof in sanctions' cases [21, paras. 56–59].

Another tendency refers to the use of criminal proceedings as a means of implementation of primary sanctions regimes, that is traditional for the US practice [50; 51] and is proposed by the European commission to be implemented to the EU practice [52; 53]. As the legality of application of extraterritorial criminal jurisdiction in such cases is very doubtful, legality of verdicts in such cases is also doubtful. Therefore, people need an external mechanism for protection of their rights.

Article 275 of the Treaty on the Functioning of the European Union provides for the possibility of appealing the imposition of sanctions to the Court of Justice of the European Union [54], but the Court usually focuses on assessing the provision of minimum procedural guarantees and avoids the issue of property rights as subject to restriction under certain conditions as well as the presumption of innocence and reputational risks.

Another problem appears because of the impact on human rights of zero-risk policy of banks and other private companies. In such cases an actor of human rights violations is not easily identifiable as states and businesses seek to shift responsibility to each other, despite the overwhelming negative humanitarian impact including to people suffering from severe deceases [55]. Businesses referred to their attempt to comply with unilateral sanctions imposed by all actors due to the fear of negative consequences [56; 57; 58], states rejected their responsibility and referred to the freedom of private companies to decide on their trade partners [59; 60].

In such situation possibility of protection of violated rights is very limited although UN Guiding Principles on Business and Human Rights provide for the obligation of both states and businesses to observe human rights. In particular, private companies are obliged to take measures to prevent any violation of human rights at least those set forth in the ICCPR and ICESCR (paras. 11 – 13oftheGuidingPrinciples) [61]. States are obliged to take all necessary measures to ensure that activity of private businesses under their jurisdiction and control is exercised in full conformity with human rights standards (paras. 3–6) – so called due diligence obligation. Same approach is taken by the Committee on economic, social and cultural rights in its General comment No 24 (paras. 12, 14, 18, 26) [62].

Despite some attention started to be paid to the negative humanitarian impact of unilateral sanctions and over-compliance, political statements and legal works are referring to unintended consequences of the latter [63; 64; 65; 66; 67]. It is believed here that the use of the term "unintentional" is misleading and even dangerous as it might create a feeling of legality of all applied measures. As the unilateral sanctions are taken without or beyond authorization of the UN Security Council and the majority of them does not correspond the criteria of retortions and countermeasures, sanctioning states are responsible for relevant violations of international law and for

any negative consequences regardless of the intention of the sanctioning state. I would refer here to the position of the International Law commission, which expressly stated that states as subjects of international law cannot act unconsciously, and therefore criteria of intention or guilty shall not be applied.

Moreover, principle of due diligence long ago qualified as a customary norm of international law, provides for the obligation of states to make sure that their activity or activity under their jurisdiction and control does not violate rights of other states as well as human rights. It follows thus that any State bears responsibility to promote and protect human rights both within its jurisdiction or beyond its borders both for their activity as well as for the activity of any businesses complying or over-complying with state induced sanctions.

Unfortunately sanctioning states so far interpret the due diligence rule as not including the obligation of states to make sure that businesses are able to deliver humanitarian goods to the markets of sanctioned states in the face of sanctions, and believe that it is a private business decisions which shall not be influenced by states [60].

The use of mechanisms of the UN treaty bodies for protection of human rights affected by unilateral sanctions is very limited, taking into account that any submission to the UN treaty bodies request to exhaust domestic remedies in the perpetrating countries (art. 2 Optional protocol to the ICCPR [68]; art. 3(1) of the Optional protocol to the ICESCR [69]) that is nearly impossible in the face of multilayer sanctions regime and complexity to attribute negative consequences to only one of sanctioning states, especially if human rights are affected by activity of private businesses within their zero-risk policies; as well as high costs of appeal for the foreign country courts, impossibility to transfer money to cover court and legal fees due to unilateral sanctions. To a very limited extend states may exercise mechanisms of diplomatic protection to protect human rights of its nationals in the face of unilateral sanctions and over-compliance as it provides for exceptions from the obligation to exhaust domestic remedies (art. 14, 15 [70])

Before any issue of the responsibility and redress is raised, collection and assessment of verified evidences shall take place. Political perception of the discussion of the issue of unilateral sanctions resulted in the establishment of the mandate of the UN Special rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights to collect facts, prepare thematic reports and doing country visits [71], but existence of only one expert of the Human rights council.

Humanitarian problems arising from sanctions became evident with the comprehensive economic sanctions mandated by the UN Security Council in the 1990s. It was in this context that the UN Inter-Agency Standing Committee (IASC) and the Office for the Coordination of Humanitarian Affairs (OCHA) produced a handbook in 2004 for assessing the humanitarian impact of sanctions [72, p. 12–14]. The Committee on ESCR referred to the prior importance of the monitoring of the humanitarian impact even of the UN SC sanctions to minimize any possible

humanitarian impact (General comment No 8, paras. 13, 16 [73]). The same approach is taken in the recent resolutions of the UN SC 2615(2021), 2664(2022).

Unfortunately, no humanitarian impact assessment mechanisms in the face of unilateral sanctions and over-compliance is currently used either by sanctioning states or by companies. I support thus a position of the OHCHR on the importance of the importance of clear and uniform indicators as a means for human rights implementation [74, p. 34] and insist on the need to develop a uniform and universal methodology and indicators for assessing the human rights impact of unilateral sanctions and over-compliance policy of private actors to be used by all UN organs, UN country teams, mechanisms of the SDGs achievement control, states, Non-governmental organizations.

Conclusions

World community is currently facing expansion of various forms and types of unilateral sanctions applied to all sorts of governmental and non-governmental actors, sectors of economy, as well as in the face of uncertainty and overlaps of sanctions regimes, threats with secondary sanctions, civil and criminal penalties for circumvention of sanctions regimes, growing level of zero-risk policies and over-compliance by banks, producers of goods, transportation and delivery companies as well as other types of private actors.

Contemporary sanctions' regimes have also been characterized by complexity, comprehensiveness, extraterritoriality of legislation; over-compliance from the side of banks, states, trade partners and donors; complicated and unclear character of getting humanitarian exemptions of delivering humanitarian aid; absence of any comprehensive mechanism of the protection of human rights as well as accountability and redress for those whose rights have been violated by unilateral sanctions.

Current mechanisms of responsibility and redress for violation of human rights and over-compliance are under-developed and very limited. States may engage in lengthy, expensive and complicated arbitration and judicial processes, use mechanisms of diplomatic protection, use counter-measures instruments in accordance with restrictions of the law of international responsibility.

Possibility of individuals to protect their rights violated by unilateral sanctions and over-compliance are much more limited due to the limited access to justice, unavailability of access to the UN treaty bodies and absence of monitoring and assessment methodology of the control of unilateral impact of unilateral sanctions. It is believed here therefore that the development of such uniform and universal methodology shall be the first step to assess negative humanitarian impact of unilateral sanctions and over-compliance, to be exercised and used by various institutions including the UN country teams, SDGs achievement mechanisms, Universal Periodic reviews, reporting within the UN treaty bodies and the UN Human Rights Council.

References

1. Mirzadeh F., Flowe B., Ordway J. A., Fisher-Owens D., Hoghooghi B., Bechky P.S., Gold R., McClurg J. A., Turner Roberts M. Economic sanctions / F. Mirzadeh, B. Flowe, J. A. Ordway, D. Fisher-Owens, B. Hoghooghi, P.S. Bechky, R. Gold, J. A. McClurg, M. Turner Roberts // International Enforcement Law Reporter. – 2019. – Vol. 35(3). – P. 106–109.

2. Rathbone M., Jeydel P., Lentz A. Sanctions, sanctions everywhere: Forging path through complex transnational sanctions laws / M. Rathbone, P. Jeydel, A. Lentz // Georgetown Journal of International Law. – 2013. – Vol. 44(3). – P. 1055–1126.

3. Zagaris B. Economic Sanctions / B. Zagaris // International Enforcement Law Reporter. – Vol. 36(9). – P. 347–348.

4. Garfield R. The Public Health Impact of Sanctions: Contrasting Responses of Iraq and Cuba / R. Garfield // Middle East Report. –2000. – № 215. – P. 16–19.

5. Kokabisagh F. Assessment of the Effects of Economic Sanctions on Iranians' Right to Health by Using Human Rights Impact Assessment Tool: A Systematic Review / F. Kokabisagh // International Journal of Health Policy and Management. – 2018. –Vol. 7(5). – P. 374–393.

6. Pelter Z., Teixeira C., Moret E. Sanctions and their impact on Children. Discussion paper / Z. Pelter, C. Teixeira, E. Moret. – UNICEF, 2022. – 38 p. [Electronic resource] – Available at: https://www.unicef.org/globalinsight/media/2531/file/%20UNICEF-Global-Insight-Sanctions-and-Children-2022.pdf (Accessed: 06.03.2023).

7. Research Handbook on Unilateral or extraterritorial sanctions / ed. By CH. Beaucillon. – UK : Elgar Publishing, 2021 – part. VI. – P. 336–457.

8. Council of the European Union, "Guidelines on the implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", 4 May 2018, doc No. 5664/18. [Electronic resource] – Available at: https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf (Accessed: 06.03.2023).

9. Human rights and unilateral coercive measures : resolution adopted by the General Assembly on 17 December 2015, A/RES/70/151. [Electronic resource] – Available at: https://digitallibrary.un.org/record/822632/files/A_RES_70_151-EN.pdf?ln=ru (Accessed: 06.03.2023).

10. Human rights and unilateral coercive measures : resolution adopted by the General Assembly on 20 January 2017, A/RES/71/193. [Electronic resource] – Available at: https://digitallibrary.un.org/record/857550/files/A_RES_71_193-EN.pdf?ln=ru (Accessed: 06.03.2023).

11. Unilateral economic measures as a means of political and economic coercion against developing countries : resolution adopted by the General Assembly on 4 February 1998, A/RES/52/181. [Electronic resource] – Available at: https://digitallibrary.un.org/record/251268/files/A_RES_52_181-EN.pdf (Accessed: 06.03.2023).

12. The adverse consequences of economic sanctions: review of further developments in fields with which the subcommission has been or may be concerned.

[Electronic resource] – Available at: www.globalpolicy.org/global-taxes/42501-the-adverse-consequences-of-economic-sanctions.html (Accessed: 06.03.2023).

13. Human rights and unilateral coercive measures : resolution adopted by the Human Rights Council on 6 October 2010, A/HRC/RES/15/24. [Electronic resource] – Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/167/12/PDF/G1016712.pdf?OpenElement (Accessed: 06.03.2023).

14. Human rights and unilateral coercive measures : resolution adopted by the Human Rights Council on 6 October 2020, A/HRC/RES/45/5. [Electronic resource] – Available at: https://undocs.org/en/A/HRC/RES/45/5 (Accessed: 06.03.2023).

15. The negative impact of unilateral coercive measures on the enjoyment of human rights : resolution adopted by the Human Rights Council, 31 March 2022, A/HRC/RES/49/6. [Electronic resource] – Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/307/98/PDF/G2230798.pdf?OpenElement (Accessed: 06.03.2023).

16. Human rights and unilateral coercive measures : resolution adopted by General Assembly on 18 December 2014, A/RES/69/180. [Electronic resource] – Available at: https://www.ohchr.org/Documents/Issues/UCM/Res/A-RES-69-180.pdf (Accessed: 06.03.2023).

17. Human rights and unilateral coercive measures : resolution adopted by General Assembly on 15 December 2020, A/RES/75/181. [Electronic resource] – Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/372/60/PDF/N2037260.pdf?OpenElement (Accessed: 06.03.2023).

18. Unilateral coercive measures: notion, types and qualification : report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, 8 July 2021, A/HRC/48/59. [Electronic resource] – Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/175/86/PDF/G2117586.pdf?OpenElement (Accessed: 06.03.2023).

19. European Union Consolidated Financial Sanctions List. [Electronic resource] – Available at: https://webgate.ec.europa.eu/europeaid/fsd/fsf/public/files/pdfFullSanctionsList/content?token=dG9rZW4tMjAxNw (Accessed: 06.03.2023).

20. Office of Foreign Assets Control - Specially Designated Nationals and Blocked Persons List. [Electronic resource] – Available at: www.treasury.gov/ofac/downloads/sdnlist.pdf (Accessed: 06.03.2023).

21. Unilateral sanctions in the cyberworld: tendencies and challenges : report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, 17 August 2022, A/77/296. [Electronic resource] – Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/464/10/PDF/N2246410.pdf?OpenElement (Accessed: 06.03.2023).

22. Secondary sanctions, civil and criminal penalties for circumvention of sanctions regimes and overcompliance with sanctions : report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena F. Douhan, 15 July 2022, A/HRC/51/33. [Electronic resource] – Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/408/16/PDF/G2240816.pdf?OpenElement (Accessed: 06.03.2023).

23. Appendix A to part 501 of the Economic Sanctions Enforcement Guidelines. [Electronic resource] – Available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=082b813329e2def1ecd3cadfeb66acc4&mc=true&node=ap31.3.501_1901.a&rgn=div9%20;%20https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber.pdf (Accessed: 06.03.2023).

24. Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries // United Nations, 2001, ILCYB, Vol. II, Part Two. [Electronic resource] – Available at: https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf (Accessed: 06.03.2023).

25. Simma B. Does the UN Charter Provide an Adequate Legal Basis for Individual or Collective Responses to Violations of Obligations ErgaOmnes? / B. Simma // The Future of International Law Enforcement: New Scenarios – New Law?, J. Delbruck (ed.). Berlin : Dunker and Humblot, 1993. – P. 126–127.

26. East Timor (Portugal v. Australia) : judgment of 30 June 1995 // International Court of Justice. [Electronic resource] – Available at: https://www.icj-cij.org/public/files/case-related/84/084-19950630-JUD-01-00-EN.pdf (Accessed: 06.03.2023).

27. Naulilaa Portuguese Colonies Case : arbitral award of 1928 // UNRIAA. [Electronic resource] – Available at: https://legal.un.org/riaa/cases/vol_II/1011-1033.pdf (Accessed: 06.03.2023).

28. 50 USC Ch. 35: International Emergency Economic Powers. From Title 50 – War And National Defense. [Electronic resource] – Available at : https://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter35&edition=prelim (Accessed: 06.03.2023).

29. International Covenant on Civil and Political Rights : adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 23 March 1976 // United Nations. [Electronic resource] – Available at: https://www.ohchr.org/sites/default/files/ccpr.pdf (Accessed: 06.03.2023).

30. Permanent state of emergency cannot be used as a justification or ground for unilateral sanctions. [Electronic resource] – Available at: https://www.ohchr.org/en/press-releases/2021/03/permanent-state-emergency-cannot-be-used-justification-or-ground-unilateral (Accessed: 06.03.2023).

31. States sponsors of Terrorism // An official website of the United States Government. [Electronic resource] – Available at: https://www.state.gov/state-sponsors-of-terrorism/ (Accessed: 06.03.2023).

32. Motion For A Resolution on recognising the Russian Federation as a state sponsor of terrorism // European Parliament. [Electronic resource] – Available at: https://www.europarl.europa.eu/doceo/document/B-9-2022-0487_EN.html (Accessed: 06.03.2023).

33. United Nations Convention on Jurisdictional Immunities of States and Their Property : adopted by the General Assembly of the United Nations on 2 December 2004, A/59/49. [Electronic resource] – Available at: https://legal.un.org/ilc/texts/instruments/english/conventions/4_1_2004.pdf (Accessed: 06.03.2023).

34. Vienna Convention on Diplomatic Relations : done at Vienna on 18 April 1961, entered into force on 24 April 1964 // United Nations. [Electronic resource] – Available at: https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf (Accessed: 06.03.2023).

35. Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations : adopted at the 1883rd plenary meeting, 24 October 1970 // United Nations. [Electronic resource] – Available at: https://digitallibrary.un.org/record/202170/files/A_RES_2625%28XXV%29-EN.pdf?ln=ru (Accessed: 06.03.2023).

36. Mandates of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and the Independent Expert on human rights and international solidarity, AL OTH 24/2022, 2 August 2022. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27433 (Accessed: 06.03.2023).

37. Mandates of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and the Independent Expert on human rights and international solidarity, 2 August 2022, AL SWE 3/2022. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27441 (Accessed: 06.03.2023).

38. Mandates of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and the Independent Expert on human rights and international solidarity, 2 August 2022, AL DNK 1/2022. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27440 (Accessed: 06.03.2023).

39. Art. XXI of the General Agreement on Tariffs and Trade (GATT 1947) // World Trade Organization. [Electronic resource] – Available at:

https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXI (Accessed: 06.03.2023).

40. Malkawi B H. Collective sanctions through the lenses of international economics law: the case of the League of Arab States trade boycott of Israel. [Electronic resource] – Available at: https://webcache.googleusercontent.com/search?q=cache:cu9D2kXfbDMJ:https://www.ohchr.org/Documents/Issues/UCM/ReportHRC48/Academia/submission- (Accessed: 06.03.2023).

41. Hahn M. J. Vital Interests and the Law of GATT: An Analysis of GATT's Security Exception / M. J. Hahn // Michigan Journal of International Law. – 1991. – Vol. 12(3). – P. 558–620. [Electronic resource] – Available at: https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1653&context=mjil (Accessed: 06.03.2023).

42. US sanctions violate Iranian people's rights to clean environment, health and life: UN experts // OHCHR, 2022. [Electronic resource] – Available at: https://www.ohchr.org/en/press-releases/2022/12/us-sanctions-violate-iranian-peoples-rights-clean-environment-health-and (Accessed: 06.03.2023).

43. Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates) : judgment of 4 February 2021 // International Court of Justice. [Electronic resource] – Available at: https://www.icj-cij.org/case/172 (Accessed: 06.03.2023).

44. Appeal Relating To The Jurisdiction Of The Icao Council Under Article 84 Of The Convention On International Civil Aviation (Bahrain, Egypt, Saudi Arabia And United Arab Emirates V. Qatar) : judgment of 14 July 2020 // International Court of Justice. [Electronic resource] – Available at: https://www.icj-cij.org/files/case- related/173/173-20200714-JUD-01-00-EN.pdf (Accessed: 06.03.2023).

45. Certain Iranian Assets (Islamic Republic of Iran v. United States of America) : application of 14 June 2016 // International Court of Justice. [Electronic resource] – Available at: https://www.icj-cij.org/public/files/case-related/164/164-20160614-APP-01-00-EN.pdf (Accessed: 06.03.2023).

46. Certain Iranian Assets (Islamic Republic of Iran v. United States of America): preliminary objections of 13 February 2019 // International Court of Justice. [Electronic resource] – Available at: https://www.icj-cij.org/public/files/case-related/164/164-20190213-JUD-01-00-EN.pdf (Accessed: 06.03.2023).

47. Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America) : application of 16 August 2018. [Electronic resource] – Available at: https://www.icj-cij.org/public/files/case-related/175/175-20180716-APP-01-00-EN.pdf (Accessed: 06.03.2023).

48. Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America) : preliminary objections of 3 February 2021. [Electronic resource] – Available at: https://www.icj-

cij.org/public/files/case-related/175/175-20210203-JUD-01-00-EN.pdf (Accessed: 06.03.2023).

49. Referral of Venezuela of 12 February 2020. [Electronic resource] – Available at: https://www.icc-cpi.int/sites/default/files/itemsDocuments/200212-venezuela-referral.pdf (Accessed: 06.03.2023).

50. Five Russian Nationals and Two Oil Traders Charged in Global Sanctions Evasion and Money Laundering Scheme. [Electronic resource] – Available at: https://www.justice.gov/usao-edny/pr/five-russian-nationals-and-two-oil-traders-charged-global-sanctions-evasion-and-money (Accessed: 06.03.2023).

51. Associate of Sanctioned Oligarch Indicted for Sanctions Evasion and Money Laundering. [Electronic resource] – Available at: https://www.justice.gov/opa/pr/associate-sanctioned-oligarch-indicted-sanctions-evasion-and-money-laundering (Accessed: 06.03.2023).

52. Council Decision on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union Brussels, 30 June 2022. [Electronic resource] – Available at: https://data.consilium.europa.eu/doc/document/ST-10287-2022-REV-1/en/pdf (Accessed: 06.03.2023).

53. Ukraine: Commission proposes to criminalise the violation of EU sanctions // European Commission, 2022. [Electronic resource] – Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7371 (Accessed: 06.03.2023).

54. Treaty on the Functioning of the European Union // Official Journal of the European Union, 2012/C 326/01, pp. 47–390. [Electronic resource] – Available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:326:FULL:EN:PDF (Accessed: 06.03.2023).

55. Iran: Over-compliance with unilateral sanctions affects thalassemia patients say UN experts // OHCHR, 2023. [Electronic resource] – Available at: https://www.ohchr.org/en/press-releases/2023/02/iran-over-compliance-unilateral-sanctions-affects-thalassemia-patients-say (Accessed: 06.03.2023).

56. Mandates of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent Expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 14 October 2021, AL OTH 230/2021. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26702 (Accessed: 06.03.2023).

57. Mandates of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right to development; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Independent Expert on human rights and international solidarity, 11 October 2022, AL OTH 95/2022. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27592 (Accessed: 06.03.2023).

58. Novo Banco, response to AL OTH 207/2021 of 16 August 2021. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=36504. (Accessed: 06.03.2023).

59. Government offices of Sweden, response to communication of 14 December 2021, Al SWE 3/2021. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=36689. (Accessed: 06.03.2023).

60. Ref.: AL SWE Response from the Government of Sweden of 9 December 2022, 4/2022. [Electronic resource] – Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=37281 (Accessed: 06.03.2023).

61. Guiding principles on Business and Human rights. Implementing the United Nations “Protect, Respect and Remedy” Framework // United Nations. [Electronic resource] – Available at: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf (Accessed: 06.03.2023).

62. General comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities // UN Committee on Economic, Social and Cultural Rights (CESCR), 10 August 2017, E/C.12/GC/24. [Electronic resource] – Available at: https://www.refworld.org/docid/5beaecba4.html (Accessed: 06.03.2023).

63. Majidpour M. The Unintended consequences of US-led sanctions on Iranian Industries / M. Majidpour // Iranian Studies. 2013. – Vol. 46. – No. 1. – P. 1–15

64. Meissner K. L., Mello P. A. The unintended consequences of UN sanctions: A qualitative comparative analysis / K. L. Meissner, P. A. Mello // Contemporary Security Policy. – 2022. – Vol. 43(2). – P. 243–273.

65. Concerned by Unintended Negative Impact of Sanctions, Speakers in Security Council Urge Action to Better Protect Civilians, Ensure Humanitarian Needs Are Met, SC/14788, 7 February 2022 // OHCHR , 2023. [Electronic resource] – Available at: https://press.un.org/en/2022/sc14788.doc.htm (Accessed: 06.03.2023).

66. Schaar J. The Burden of the Unintended. - The Humanitarian Consequences of Sanctions and the Role of the Red Cross Red Crescent // Swedish Red Cross, 2021. – 24 p. [Electronic resource] – Available at:

https://www.rodakorset.se/contentassets/48202eb40a354fe58a2ea572a35dc5ba/the-burden-of-the-unintended---the-humanitarian-consequences-of-sanctions-and-the-role-of-the-red-cross.pdf (Accessed: 06.03.2023).

67. Aita S. The Unintended Consequences of U.S. and European Unilateral Measures on Syria's Economy and Its Small and Medium Enterprises / S. Aita. – Atlanta: The Carter Center, 2020. – 75 p.

68. Optional Protocol to the International Covenant on Civil and Political Rights : adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 23 March 1976. [Electronic resource] – Available at: https://www.ohchr.org/sites/default/files/ccpr-one.pdf (Accessed: 06.03.2023).

69. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights : adopted by the General Assembly on 10 December 2008. [Electronic resource] – Available at: https://www.ohchr.org/sites/default/files/OProtocol_en.pdf (Accessed: 06.03.2023).

70. Draft articles on Diplomatic protection : adopted by the International Law Commission, at its fifty-eighth session, in 2006. – [Electronic resource] – Available at: https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_8_2006.pdf (Accessed: 06.03.2023).

71. Special Rapporteur on unilateral coercive measures. [Electronic resource] – Available at: https://www.ohchr.org/en/special-procedures/sr-unilateral-coercive-measures (Accessed: 06.03.2023).

72. Handbook for Assessing the Humanitarian Implications of Sanctions // IASC and OCHA, 2004. [Electronic resource] – Available at: https://interagencystandingcommittee.org/system/files/2020-11/IASC%20Sanctions%20Assessment%20Handbook%20for%20Assessing%20the%20Humanitarian%20Implications%20of%20Sanctions_0.pdf (Accessed: 06.03.2023).

73. General comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights // UN Committee on Economic, Social and Cultural Rights, 12 December 1997, E/C.12/1997/8. [Electronic resource] – Available at: https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW%2BKyH%2BnXprasyMzd2e8mx4dz1iVJqvjHc1%2BzmXKRH0cvdLvVFBgwsUeW1yEXPGFv4bWXEvmkxYR3kYXw8NhrtI3V6A8d2fARP7HulsucQkbc (Accessed: 06.03.2023).

74. Human Rights Indicators: A Guide to Measurement and Implementation // OHCHR, 2012. [Electronic resource] – Available at: https://www.ohchr.org/sites/default/files/Documents/Publications/Human_rights_indicators_en.pdf (Accessed: 06.03.2023).