



Sanctions and Human rights – UN

UN Guidance Note on Overcompliance with Unilateral Sanctions and its Harmful Effects on Human Rights



The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, recommends to banks and other financial institutions and service providers to avoid over-compliance with sanctions when it impacts human rights. She recommends them to align their compliance with human rights policy.

She underscore the illegality under international law of imposing secondary sanctions or threatening with secondary sanctions, civil and/or criminal penalties for non-compliance with their sanctions regimes, which are often extraterritorial.

As governments increasingly use unilateral sanctions to pursue foreign policy objectives, it has become common for banks and other financial service providers to over-comply with them to reduce legal, regulatory or business risks associated with inadvertent violations. Yet over-compliance with such sanctions has harmful effects on the entire range of human rights.

Over-compliance is a form of excessive avoidance of risk. It may involve blocking all financial transactions with a sanctioned country, entity or individual even when some transactions are authorized by humanitarian exemptions or fall outside of the sanctions' scope. It may also take the form of deterring authorized transactions by requiring cumbersome, onerous documentation or certification, charging higher rates or additional fees, or imposing discouraging long delays.

Over-compliance also occurs when banks decide to freeze assets that are not targeted by sanctions, or deny individuals the possibility to open or maintain bank accounts or to engage in transactions simply because they are nationals of a sanctioned country, even when the individuals are refugees from that country.

Documented cases show that over-compliance with sanctions prevents, delays or makes more costly the purchase and shipment to sanctioned countries of goods, including humanitarian goods and services such as essential food, medicine, medical equipment and spare parts for such equipment, even when the need is urgent and if of life-saving nature

The report states that banks may not have the internal resources or expertise necessary to evaluate the human rights impact of their sanctions compliance policies and practices, particularly as the impact may occur abroad and in multiple locations at once. In such cases, it is desirable to rely on outside expertise for this information, and banks are urged to engage with existing sources of expertise or experience such as United Nations in the field as well as non-governmental actors that monitor humanitarian and human rights situations around the world.

Reference: Guidance Note on Overcompliance with Unilateral Sanctions and its Harmful Effects on Human Rights. Special Rapporteur on unilateral coercive measures.

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