

NEW HUMANITY  
www.new-humanity.org  
NGO in General Consultative Status  
with the United Nations ECOSOC  
UNESCO, FAO, UNEP Official Partner

Rome  
Headquarters  
Via Piave 15  
00046 Grottaferrata (Rome) Italy  
Phone +39.06.94315635  
info@new-humanity.org



## **New Humanity International Association**

The [New Humanity International Association](#) is a non-governmental organization (NGO) founded in 1986 and is active in more than 100 countries worldwide. In 1987 New Humanity obtained Special Consultative Status with the United Nations Social and Economic Council (ECOSOC) and has held General Consultative Status since 2005. In 2008 New Humanity was recognized as an NGO partner of UNESCO.

New Humanity aims to contribute to the creation of unity in the human family, fully respecting the individual identities of all its members. For this reason, New Humanity advances the idea of a united world in all spheres of society and at all levels. It promotes the universal spirit of fraternity, as proclaimed by the Universal Declaration of Human Rights (article 1), as a dynamic factor in social cohesion and sustainable peace.

New Humanity is built upon a solid foundation of volunteerism and active youth involvement. As a partner, it promotes and supports numerous cultural initiatives, social, projects and educational projects; carries out economic initiatives on both local and international scales; and acts as a voice to share experiences and best practices.

As such, New Humanity is open to the contributions of all, it collaborates with individuals, institutions, representatives of world religions, and diverse cultures towards the achievement of common goals.

New Humanity's main headquarters is located in Rome, with delegations in New York, Geneva, Paris, Nairobi, Vienna and Brussels.

## **Contribution of New Humanity to the mandate of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights**

Since its very beginning New Humanity very much supports the mandate of the SR on UCM namely by making OS during the sessions of the HRC, by co-signing WS on this regard, by giving inputs to the SR - at the request of her secretariate - for the redaction of her Reports, by preparing with her and her secretariate the visit she made to Syria, by participating formal and informal meetings with her and her secretariate. Furthermore, New Humanity collaborates with other NGO's supporting the mandate of Prof. Alena Douhan namely APGXXIII, the World Evangelical Alliance, Caritas Internationalis and the Ecumenical Council of the Churches.

<b>New York</b>	16 East 126 <sup>th</sup> St.	New York, NY 10035	U.S.A.	Ph. +1.7184404358	<a href="mailto:newyork@new-humanity.org">newyork@new-humanity.org</a>
<b>Geneva</b>	5, ch. du Barbolet	1213 Onex (Genève)	Switzerland	Ph. +41.786653771	<a href="mailto:geneva@new-humanity.org">geneva@new-humanity.org</a>
<b>Nairobi</b>	P.O. Box 25220	00603 Lavington, Nairobi	Kenya	Ph. +254.722677227	<a href="mailto:nairobi@new-humanity.org">nairobi@new-humanity.org</a>
<b>Vienna</b>	Meyringgasse 7	A 1230 Wien	Österreich	Ph. +43.18891701	<a href="mailto:vienna@new-humanity.org">vienna@new-humanity.org</a>
<b>Paris</b>	Parc d'Arny	91680 Bruyères le Chatel	France	Ph. +33.164902055	<a href="mailto:paris@new-humanity.org">paris@new-humanity.org</a>
<b>Brussels</b>	Rue le Tintoret 17	B-1000 Brussels	Belgium	Ph. +32.26606315	<a href="mailto:brussels@new-humanity.org">brussels@new-humanity.org</a>

## QUESTIONNAIRE

1. **What shall be the title of the document in a view of the main idea would be to crystalize the rules of behavior of States, businesses and other actors to minimize the humanitarian and human rights impact of sanctions of the UN Security Council, and to avoid negative humanitarian impact of all forms of unilateral sanctions, of measures aimed to enforce compliance with unilateral sanctions, as well as of over-compliance?**

In our view, there is a notion, principle or approach in International Human Rights law that can be useful in this context, the so-called Human Rights Due Diligence (HRDD) which involves states, international organisations and the private sector. So, the title of the document could be **“Guiding principles for the exercise of human rights due diligence in the context of international sanctions.”**

The notion of “due diligence” appears in the document as a principle of business, but we think that the HRDD can have a broader content, as it is defined in the Glossary: “principle of international law, providing for the obligations of States to take all measures necessary to ensure that their activity as well as activity under their jurisdiction and control does not violate international obligations and fundamental human rights”.

2. **What shall be the status of the Guiding Principles?**

As their name indicates, they are not binding, given their *soft law* nature, but they can guide the action of States, the Security Council, and other international organisations. They can be particularly useful for Sanctions Committees and Group of Experts to guide their action in a harmonised manner, regarding humanitarian exemptions. The “due diligence” approach is applied by some Sanctions Committees, i.e. “to avoid the risk of exacerbating conflict through providing direct or indirect support for armed groups”<sup>1</sup>. This is a legitimate aim, but the same caution should be applied to avoid the harmful humanitarian consequences and the phenomenon of “over-compliance”.

3. **In a view of the vague, complicated and confusing terminology of sanctions/ unilateral coercive measures, is the glossary provided in the draft comprehensive and clear enough? What other notions and definitions may be added and which from those already included in the document could/should be amended?**

Regarding “sanctions of Security Council” we prefer the use of “measures adopted under article 41 of the Charter”.

In our view, a proper distinction could be made between “measures” regulated under international law (legal) and those that are not in conformity with international law (illegal). This aspect is not clear in the definitions of “unilateral coercive measures” and “unilateral sanctions”; should be clearly distinguished among retorsions, countermeasures, or illegal sanctions.

It is important to note that according to the “Draft articles on Responsibility of States for Internationally Wrongful Acts” the International Law Commission (ILC) established the conditions under which a State may be entitled to respond to a breach of an international obligation by taking countermeasures designed to ensure the fulfilment of the obligations of

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<sup>1</sup> See “Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo”.

the responsible State. In Part Three of the Draft Articles are identified the State or States which may react to an internationally wrongful act and specifies the modalities by which this may be done, including, in certain circumstances, by the taking of countermeasures as necessary to ensure cessation of the wrongful act and reparation for its consequences. As the ILA said in its commentary, “countermeasures are liable to abuse, and this potential is exacerbated by the factual inequalities between States”. The ILA tried to fix “conditions and limitations, that countermeasures are kept within generally acceptable bounds”.

Specifically, the ILA stated some conditions and limitations: *First*, it concerns only non-forcible countermeasures (art. 50, para. 1 (a)). *Secondly*, countermeasures are limited by the requirement that they be directed at the responsible State and not at third parties (art. 49, paras. 1 and 2). *Thirdly*, since countermeasures are intended as instrumental—in other words, since they are taken with a view to procuring cessation of and reparation for the internationally wrongful act and not by way of punishment—they are temporary in character and must be as far as possible reversible in their effects in terms of future legal relations between the two States (arts. 49, paras. 2 and 3, and 53). *Fourthly*, countermeasures must be proportionate (art. 51). *Fifthly*, they must not involve any departure from certain basic obligations (art. 50 para. 1), in particular those under peremptory norms of general international law. Article 50 (1) expressly includes (b) obligations for the protection of fundamental human rights; (c) obligations of a humanitarian character prohibiting reprisals.

In our view, as the SR has shown in its reports and according to the experience of humanitarian organisations working on the ground, the international practice has overstepped these limits and it is necessary, in our view, to regulate its adoption. While it is very difficult at this stage to reach a consensus on the adoption of a binding instrument, we believe that the proposal to adopt principles is very timely.

#### **4. The draft Guiding Principles seek to crystalize general, foundational and operational principles of behavior of states, international organizations, businesses and other actors in the face of the expanding use of sanctions, unilateral coercive measures, development of sanctions-enforcement strategies and over-compliance. What other principles should be added to the draft to ensure solidarity and human rights-based approach?**

New Humanity share the view that “States bear primary responsibility for the promotion and protection of human rights within their national territories as well as territories under their jurisdictions and control. They are also under obligation to make sure that their domestic and foreign policy, national legislations as well as activities of other stakeholders acting in their territory or otherwise under their jurisdiction or control do not affect human rights also extraterritorially” (Guiding Principles, para. 5).

In paragraph 6 we suggest adding an express reference to Article 1 of the Universal Declaration of Human Rights which contains the principles of freedom and equality in dignity and rights of all members of the human family and the duty of solidarity among them.

We also suggest including the **principle of solidarity** in the list of principles, as it has been defined in article 1 of the Revised draft declaration on the right to international solidarity: “International solidarity is an expression of unity by which peoples and individuals enjoy the benefits of a peaceful, just and equitable international order, secure their human rights and ensure sustainable development”. In our view, international solidarity should be mentioned after the **principle of humanity**, as it was considered in the Universal Declaration of Human Rights. Article 9 (1) (f) of the Draft Declaration refers to avoid the deployment of unilateral coercive measures that are inappropriately or too broadly targeted, or which contribute to the exacerbation of human rights violations in affected States.

It would be appropriate to add a clause underlining that the implementation of the Guiding Principles do not remove the responsibility of States or of the persons or groups of persons against whom legal unilateral measures are adopted, as they are strictly humanitarian in nature.

**5. What format of discussion of the draft and commentary is preferable: diplomatic conference/ academic conference/ consultations and banks and businesses any other option?**

The process of intergovernmental consultations and negotiations towards the adoption of a Global Compact for Safe, Orderly and Regular Migration and the Global Compact for Refugees can be considered a successful precedent.

We are aware that sanctions are a very sensitive issue, but in some ways groups of people affected by sanctions are equally vulnerable as migrants and refugees. Sanctions directly affects the enjoyment of human rights of large parts of the population, and must be considered a “community interest” of the international community.

**6. Whether the provisions on delivery of humanitarian assistance and protection of humanitarian actors seeking to deliver humanitarian assistance in accordance with resolutions of the UN Security Council as well as those working in the face of unilateral sanctions are sufficient? If not, what measures shall be added?**

We consider that the reference to “humanitarian organisations having observer status at the UN General Assembly and providing humanitarian assistance or their implementing partners” can be very restrictive, as there can be other humanitarian organisations (included faith-based organisations) which have not observer status. Maybe some form of register of humanitarian organizations could be established, with appropriate monitoring, to allow other humanitarian organisations to benefit from the exemptions.

**7. Shall the status and role of focal points be addressed in the draft? What can be added to the draft in order to make a proposal on focal points be practical and enforceable as much as possible?**

Yes, but we do not have any proposals on this. This point is related to our previous comment. It is important to us that information is obtained as closely and truthfully as possible to the people concerned and to avoid the manipulation of information.

**8. What regional context may be important with regards to the draft? What examples of regional institutions practice, regional case-law are advisable for analysis and, probably, inclusion into the commentary?**

At European level, the EU law can be considered. The EU Global Human Rights Sanctions Regime is set out in two legal acts:

- [Council Decision \(CFSP\) 2020/1999 concerning restrictive measures against serious human rights violations and abuses](#)
- [Council Regulation \(EU\) No 1998/2020 concerning restrictive measures against serious human rights violations and abuses](#)

**9. To what extent shall the Guiding Principles address the issue of accountability, remedies, responsibility and redress? What methodology for identifying and assessing damage may be used in order to provide remediation in cases of sanctions-related impact?**

We find it very difficult to establish the right to reparation since we are not dealing with individual human rights violations, but with situations involving massive and systematic violations of human rights, in case.

The emphasis should be on prevention of such violations, rather than on reparation. It is highly unlikely that those indirectly affected by sanctions will be able to turn to national courts for redress.

Maybe the establishment of a United Nations Voluntary Fund for Victims of Sanctions could be explored.

**10. Responsible anti-over-compliance business conduct (RAoBC) shall become one of the business policy objectives. What benchmarks for RAoBC may be introduced?**

We don't have comments.