**

*Organization for Defending Victims of Violence*

**ODVV reply to the call for Input on Guiding Principles on Sanctions, Compliance (Over-Compliance) and Human Rights issued by the mandate of the Special Rapporteur on unilateral coercive measures**

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?

Sanctions Compliance and Human Rights: Protect, Respect and Remedy

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

We are of the idea that the Guiding Principles need to be non-binding at this stage, however, at subsequent stages they can be incorporated in international conventions, treaties or agreements; used in court interpretations and judicial decisions, establishing general practice and *opinio juris* to make the principles legally binding.

1. 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?

Terms such as: targeted sanctions, asset freezes, extraterritorial sanctions, trade sanctions, embargoes and reprisals can also be added to the list.

1. 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?
2. What format of discussion of the draft and commentary is preferable: diplomatic conference/ academic conference/ consultations and banks and businesses any other option?

All options would be good enough as far as the opportunity of remote participation is foreseen for all stakeholders.

1. 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?

Multiple factors interfere with the effective and timely delivery of humanitarian assistance, including the restrictions imposed on financial transactions or the de-risking policies of international trade and shipping companies which lead to their over-compliance with sanctions and hinder the delivery of goods and services.

As long as the banking sanctions and restrictions on financial transactions are on place, humanitarian exemption will be non-existent on the ground.

To ensure the delivery of humanitarian aid, all the multiple hindrances should be addressed.

1. 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?

Focal points play a crucial role in implementing sanctions in conformity with human rights law, thus it is highly recommended to address their importance and function.

1. 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?

The case-law of the European Court of Human Rights is recommended to be taken into account.

1. To what extend 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?

The Guiding Principle should effectively address the issues of accountability, remedies, responsibility, and redress to ensure international human rights standards and due process for the victims of sanctions are met, or at least provide victims with sufficient sources of information on how to access justice for their loss.

Impact Assessment is required to clarify the extent and nature of the harm caused by UCMs and to identify the affected individuals and entities. We believe that both quantitative and qualitative studies are needed aiming at examining economic, social, and humanitarian impacts on affected populations. The studies should consider all human rights and factors such as loss of life, health, income, access to essential services, food security, healthcare, education and all aspects of the right to development and attainment of all sustainable development goals.

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

Anti-over compliance business conduct (RAoBC) must ensure that businesses abide by International human rights and humanitarian law without imposing excessive restrictions on legitimate trade or financial exchanges leading to unnecessary violations of Human rights law.

The principle for Anti over-compliance business conduct can include, but be not limited to the following:

**Enhancing sanction awareness**: Banks and businesses need to comprehensively study sanction requirements, review and amend their sanction policies, to ensure that limitations introduced by them, does not exceed the ones determined by the sanctions, leading to unnecessary human rights violations.

**Impact assessment** of human rights consequences of compliance policies is required, to determine the harmful human right impacts of over-compliance and design compensation mechanisms or seriously review the business policies.

International entities need to **continuously monitor** the human rights and humanitarian impacts of their compliance with sanctions and mitigate any adverse impacts on those rights.

Banks and businesses need to ensure the **free flow of essential items** and humanitarian goods to sanctioned countries so that the over-compliance policies will neither create an existential threat to the population of the target countries nor interfere with their enjoyment of their basic needs in any way.

In line with international commitments, **States** are responsible for monitoring the functioning of the banks and businesses operating in their territory, to ensure that their compliance or over-compliance policies will not lead to infringement of humanitarian law in other countries.

States need to monitor that the functioning of the businesses and banks working on their territory will comply with the UN Guiding Principles of Business and Human Rights and not with the unilateral and illegal policies of the economic powers.