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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

## Visit to the Bolivarian Republic of Venezuela

### Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan\*, \*\*

#### *Summary*

The Special Rapporteur undertook an official visit to Venezuela from 1 to 12 February 2021 to assess the impact of unilateral sanctions imposed by several states and international organizations on the human rights of Venezuelans. She concludes that sectorial sanctions on the oil, gold and mining industries, the economic blockade, the freezing of Central Bank assets, the targeted sanctions imposed on Venezuelans and third country nationals and companies and the over-compliance by banks and third-country companies have exacerbated the pre-existing economic and social crisis, with a devastating effect on the entire population, especially those living in poverty, women, children, the elderly, people with disabilities or with life-threatening or chronic diseases, and the indigenous population. No strata of society has been untouched. She recommends that these sanctions, which were mostly imposed in the name of human rights, democracy and the rule of law, be lifted as they undermine these very principles, values and norms.

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\* The summary of this report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.

\*\* The present report was submitted after the deadline in order to reflect the most recent developments.

## Annex

### **Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, on her visit to the Bolivarian Republic of Venezuela**

#### **I. Introduction**

1. The United Nations (UN) Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Ms. Alena Douhan, visited the Bolivarian Republic of Venezuela (hereafter referred to as “Venezuela”) from 1 to 12 February 2021 at the invitation of the government. The purpose of the visit was to assess the impact of unilateral sanctions on the enjoyment of human rights by the people of Venezuela. On 12 February she presented her preliminary observations to the government, and through a press conference.<sup>1</sup>

2. The Special Rapporteur sought to meet all possible interlocutors who might provide first-hand information relevant to her assessment. She was honoured to meet the President and Vice President of the Republic, senior members of the Government, the Judiciary and the Legislature, as well as the heads of the various public services. She met representatives of political parties, trade unions, private sector, and the Church. She had consultations with international organizations, national humanitarian and other non-governmental organisations working in health, education, human rights, child protection, women’s rights, elderly, and indigenous populations. She also met medical personnel, teachers, professors, independent researchers, and ordinary people including victims and their families, especially in the health sector; and visited schools, hospitals and primary health centres in Caracas and in Carabobo State.

3. She met with the UN Resident Coordinator, representatives of the UN Country Team, including the Office of the High Commissioner for Human Rights and members of the diplomatic community. She reiterates her gratitude to all these interlocutors who have generously offered their time, information, analysis, experiences and thoughts to help her understand in a short time what has proved to be a complex and alarming situation.

4. The Special Rapporteur commends the hospitality, constructive and cooperative way in which the Government facilitated her visit throughout, which enabled frank and open exchanges. She expresses particular thanks to the Ministry of Foreign Affairs for its efficient engagement with her office, and to the UN Resident Coordinator’s office for its support and advice throughout.

5. During her visit to Venezuela in 2019 the UN High Commissioner for human rights signed an agreement whereby the Government consented to an operational presence of the OHCHR to develop technical cooperation, and to invite 10 Special Procedures mandates in the next two years. The visit of Ms. Douhan is the first within that agreed programme.<sup>2</sup>

6. Conclusions and recommendations of the report are done on the principles of comprehensiveness, collecting materials from all types of interlocutors, verification of facts and data, qualification of facts within the framework of the Universal Declaration of Human Rights, relevant human rights and humanitarian law, fundamental principles of international law, other applicable international treaty and customary legal norms.

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<sup>1</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26747&LangID=E>.

<sup>2</sup> The visit of the Independent Expert on the promotion of a democratic and equitable international order pre-date this agreement (A/HRC/39/47/add.1, 2018.).

## II. The sanctions

7. The United States of America (US) has imposed sanctions against Venezuela since 2005, through targeted sanctions against individuals and entities deemed involved in drug trafficking, and an arms embargo in 2006 for cooperating insufficiently in anti-terrorism efforts.

8. Further targeted sanctions were declared in 2015, first in response to the repression of Venezuelan protests in 2014 and later for alleged human rights abuses and criminal activity. These sanctions – asset freezes and bans on transactions and travel – targeted individuals and entities accused of undermining democracy, committing human rights abuses, restricting freedom of expression or peaceful assembly, and corruption.

9. In 2017, it imposed sanctions against the government and state entities, including state oil company *Petróleos de Venezuela (PDVSA)*, blocking them from transactions and access to U.S. and other financial markets. In 2019, after the US Government recognized Mr. Juan Guaidó as Venezuela's interim president, it imposed further sanctions against PDVSA, the Central Bank and key officials to pressure President Maduro to step down in favour of Mr. Guaidó. The sanctions further precipitated the plunge of Venezuelan oil output - its main source of foreign revenue.

10. The US also imposed secondary sanctions on 2 June 2020 against four Greek tankers and their operating companies for loading Venezuelan oil, blocking them from transactions in U.S. dollars and from calling at U.S. ports<sup>3</sup>. On 24 June 2020, it sanctioned the captains of five Iranian tankers that transported oil products to Venezuela. Venezuelan sectors targeted by U.S. sanctions since 2018 have also included gold and other mining, food, banking and financial services.

11. As of 22 January 2021, the U.S. Treasury Department had imposed sanctions on roughly 166 individuals, and the State Department had revoked the visas of more than 1,000 individuals and their families.<sup>4</sup>

12. The Special Rapporteur takes note that since Joe Biden became U.S. President the Government has been reviewing the humanitarian impact of its sanctions against Venezuela. On 4 February 2021, during her visit to Venezuela, the U.S. Government Accountability Office announced that the State Department had asked humanitarian organizations serving in Venezuela about challenges arising from the sanctions, and that the State and Treasury Departments had “taken steps to mitigate negative consequences”.<sup>5</sup> On 8 March, a senior Government official “expressed scepticism about the wisdom of maintaining these sanctions on Venezuela and said they are being reviewed to ensure that they punish President Maduro’s government (...) and not the Venezuelan people,” but that they would stay in force during the review<sup>6</sup>.

13. The Special Rapporteur sought to meet the U.S. Office of Foreign Assets Control (OFAC) to seek its views, clarify policy, verify information and engage in dialogue but received no response.

14. The European Union (EU) imposed sanctions (“restrictive measures”) against Venezuela in November 2017. These consisted of an arms embargo, a ban on exports of goods that might be used for internal repression, a ban on exports of equipment, technology or software intended primarily for use in telecommunications monitoring or interception, and travel bans and asset freezes against individuals whose actions were deemed by the EU to undermine democracy, the rule of law and the respect for human rights. Their stated objective

<sup>3</sup> <https://www.freightwaves.com/news/us-targets-greek-tankers-carrying-venezuelan-crude>.

<sup>4</sup> “Venezuela: Overview of U.S. Sanctions,” 22 January 2021, p. 1, <https://fas.org/sgp/crs/row/IF10715.pdf>.

<sup>5</sup> <https://www.gao.gov/products/gao-21-239>.

<sup>6</sup> <https://www.voanews.com/US/us-monitoring-iran-sends-fuel-tankers-venezuela-defiance-sanctions>.

is to pressure the Venezuelan government to respect democratic institutions, hold free and fair elections and talks with the opposition, and free political prisoners<sup>7</sup>.

15. On 16 November 2020, the European Commission (EC) issued a guidance note for humanitarian actors to minimize the potential adverse effects of EU sanctions on the delivery of humanitarian aid to Venezuela during the pandemic.

16. As of January 2021, 36 Venezuelan officials were targeted with EU travel bans and asset freezes, including 11 who were earlier listed on the ground of acting against the democratic functioning of the National Assembly and for removing the parliamentary immunity of several deputies, including National Assembly President Juan Guaidó. Shortly after the Special Rapporteur's visit, the EU imposed sanctions on 19 more Venezuelan officials, bringing the total to 55, on the same grounds as above.<sup>8</sup> The EU sanctions have been renewed annually, the last time on 12 November 2020.

17. Since Brexit, the United Kingdom (UK) has maintained the sanctions regime that has been imposed by the EU. British regulations that came into force on 31 December 2020 authorized sanctions against Venezuela to encourage respect for democratic principles and human rights, and compliance with international human rights law.

18. The UK has been blocking Venezuela's access to almost US\$2 billion in gold deposited in the Bank of England referring to the "uncertainty of the democratic legitimacy" of the Government. On 5 October 2020, a UK Court of Appeal overturned a High Court ruling that had "recognized" Mr. Guaidó's Central Bank board over Mr. Maduro's board. On 9 December 2020, the UK Supreme Court granted Mr. Guaidó's board permission to appeal. At the time of finalising this report the legal battle was continuing over who has the right to administrate that gold with final decision expected within a few months<sup>9</sup>.

19. Canada has sanctioned 113 Venezuelans while removing one person from the list. The sanctions consist of asset freezes and prohibitions on financial dealings, and are authorized either by a 2017 agreement with the US or a law promoting justice for victims of corrupt foreign officials. Persons sanctioned are accused of repression, gross human rights violations, corruption, censorship, extrajudicial killings and other acts.

20. In 2018, Mexico imposed asset freezes and travel bans against Government officials and in 2019 froze the financial assets of companies involved in food trade with Venezuela's government, following investigations that suggested the possibility of corruption and money laundering. Since 2019, Colombia imposed entry bans on around 200 government officials and other individuals involved in business and trade. Curacao prohibited imports of Venezuelan gold and issued travel bans in 2019 indicating that trade in Venezuelan gold was associated with criminal activity. In 2018, Panama imposed sanctions against Mr. Maduro and other Venezuelan officials for their alleged involvement in money laundering, financing terrorism and the proliferation of weapons of mass destruction. It also sanctioned 55 Panamanian officials and 16 entities doing business in Panama that were linked to Mr. Maduro's family.

21. In 2018, Switzerland imposed an arms embargo and banned exports of equipment that could be used in repressive activities and intercepting civilian communications. It also imposed targeted sanctions against individuals and entities, including seven senior government officials, citing its concern about violations of individual freedoms and an election process that lacked legitimacy. The list mostly coincides with that for EU sanctions.

22. In September 2019, 16 of the 19 Rio Treaty (Inter-American Treaty of Reciprocal Assistance) countries approved a resolution authorizing targeted sanctions, including asset freezes, against Government officials allegedly involved in drug trafficking, terrorist activities, organized crime and/or human rights violations. The sanctions were approved on grounds that Venezuela's political and economic crisis was a threat to peace and security

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<sup>7</sup> <https://www.consilium.europa.eu/en/press/press-releases/2020/11/12/council-extends-sanctions-on-venezuela-until-14-november-2021/>.

<sup>8</sup> <https://www.consilium.europa.eu/en/press/press-releases/2021/02/22/venezuela-19-officials-added-to-the-eu-sanctions-list/>.

<sup>9</sup> <https://www.supremecourt.uk/cases/uksc-2020-0195.html>.

throughout Latin America; while Colombia also accused Venezuela of providing safe haven for Colombian rebels.

### **III. Economic and humanitarian situation**

23. Starting in 2000, the Government initiated a broad scope of social projects in the spheres of housing, education, literacy, food, electricity and water supplies, health care, family planning, computer literacy and commune development, many of which were implemented at no or almost no cost to the people. These projects were funded by state revenue, essentially derived from oil exports. At the time, under the impulse of President Hugo Chávez, an estimated 70% of state revenue was invested in these social development projects, in the framework of the “Bolivarian revolution”. Most products, from machinery and spare parts to food and medicine, were imported primarily from the US and Europe. Internal production remained underdeveloped and could not meet the needs of internal consumption. The economy’s gradual decline started in 2014 with the drop in oil prices, the related dwindling state revenue, undermining these massive social programmes. While the poorest strata of society had benefited for a decade from the social investments of the state, most areas of life began to suffer. As a poor villager told the Special Rapporteur, “with Chavez for the first time we felt not abandoned.”

24. The sanctions exacerbated the deepening economic and related social crisis. The Government’s revenue reportedly shrank by 99% with the country left to live on 1% of its pre-sanctions revenue. Remittances from abroad decreased due to the blocking of state assets and the complexity of – and impediments to – bank transfers. Hyperinflation resulted in the total devaluation of the national currency, causing public sector salaries to drop from the equivalent of US\$150–500 in 2015 to US\$1-10 in 2020, while growing impoverishment affected almost all strata of society. In 2018-2019, the Government introduced new economic policies: price controls were lifted and the private sector was allowed to re-enter the economy.

25. The hardening of sanctions from 2017 undermined the positive impact of the multiple reforms and the state’s capacity to maintain infrastructure and continue to implement social programmes. Today, Venezuela faces a lack of necessary machinery, spare parts, electricity, water, fuel, gas, food and medicine. Venezuelan assets frozen in the US, the UK and the EU banks amount to US\$6 billion. The purchase of goods and payments by public companies are blocked. Numerous interlocutors from the private sector, NGOs, universities, public offices and citizens reported the refusal or reluctance of foreign banks to open, keep their bank accounts, or to operate transfers in and out of Venezuela; difficulties with getting visas and buying airfare tickets; the need to act via third-country agents, which increases costs and causes delays; and the need to pay extra insurance costs. To mitigate this economic and financial strangulating and the related growing over-compliance the government adopted in October 2020 the Anti-Blockade Constitutional Law.

### **IV. Effects of sanctions on the people**

26. The Special Rapporteur cautions that some figures in this report indicate trends rather than exact measures, given the difficulty in obtaining and verifying reliable statistics.

27. The sectorial sanctions, secondary sanctions and over-compliance by a multitude of actors further accentuated the pre-existing economic and humanitarian situation by preventing the earning of revenues and the use of resources to develop and maintain infrastructure, and to support the economic reform efforts and social programmes. This has had a devastating effect on the people, especially the most vulnerable – such as women, children, the elderly, people with disabilities or life-threatening or chronic diseases, and indigenous communities.

28. The scarcity of resources and reluctance of foreign partners, banks and delivery companies to deal with Venezuelan partners, mainly because of US sanctions, have resulted in the impossibility to buy the essential technological equipment and supplies for the repair and maintenance of public electricity, gas, water, transport, telephone and communication

systems, as well as schools, hospitals and other public institutions, undermining the enjoyment and exercise of the most fundamental rights to life, food, water, health, housing and education.

29. The Government qualified the impact of these sanctions as crimes against humanity and submitted a referral to the International Criminal Court pursuant to Article 14 of the Rome Statute on 13 February 2020. The case is being investigated by the pre-trial Chamber<sup>10</sup>.

## A. Right to food, impoverishment and nutrition

30. Non-governmental sources<sup>11</sup> estimate that poverty increased dramatically between 2014 and 2020, reaching 94% of the people, of which 67% fell into extreme poverty and 64% into multidimensional poverty. The Government recognizes that poverty increased and strives to minimize its effects through its social programmes.

31. Venezuela produces only 25% of the food it consumes, importing the rest. The drop of oil revenues, exacerbated by the sanctions, provoked a food and nutrition crisis. Between 2015 and 2019, food availability reportedly decreased by 73% as food imports fell. The Food and Agriculture Organization recorded a 213.8% increase in undernourishment or chronic hunger. The National Survey on Living Conditions (ENCOVI) - an independent national academic investigation network - observed that between 2014 and 2020 the lack of food and the related deterioration in the quantity and quality of the population's diet have had devastating nutritional effects for the most vulnerable groups - the poorest, and among them the children and the elderly. Average salaries are reportedly only able to cover around 2% of the food basket.<sup>12</sup> Food supply has been reportedly compromised by the fall in imports, the operational collapse of state-owned companies, the lack of supply of intermediate inputs for the agro-food sector, the shortage of gasoline for the production and distribution of final products to markets, and the precarious purchasing power of workers<sup>13</sup>.

32. With more than 2.5 million people severely food insecure, coping mechanisms have included for the most affected a decrease of the number of meals per day (1 or 2 instead of 3); reduced quality of food; de-capitalisation/selling of household assets to eat; and reduced health, clothing and education expenses -- with related increase in family crises, tensions, violence and separations; child labour; involvement in the grey economy; criminal activity; forced labour; domestic violence; prostitution; and migration.

33. The Special Rapporteur commends the efforts of NGOs and research and academic institutions which have been able to establish the nutritional state of children in the country<sup>14</sup>. It was estimated in 2020 that at least 50% of children under five years of age were at risk of acute malnutrition, with children under 24 months old being the most affected age group with 36% experiencing acute malnutrition<sup>15</sup>.

<sup>10</sup> <https://www.icc-cpi.int/venezuela>.

<sup>11</sup> <https://insoencovi.ucab.edu.ve/indicador-pobreza/>; <https://elecciones7oenbilbao.wordpress.com/2021/01/04/una-venezuela-diferenteperspectivas-2021-; -diciembre-2020/> <http://redagroalimentaria.org/archivos/contenidos/novedades/2003.%20RAAPrensa.%20Resumen%20Seg%2002%202020.%2003.pdf>; <https://www.el-carabobeno.com/fedeagro-a-maduro-venezuela-solo-produce-el-25-de-los-alimentos-y-el-resto-se-importa>; <http://redagroalimentaria.website/Informe%20Trimestral%201.pdf>; and reports by the Consejo Nacional del Comercio y los Servicios.

<sup>12</sup> <https://devtechsys.com/insights/2020/12/07/note-on-the-malnutrition-report-in-venezuela-by-susana-raffalli-the-hidden-face-of-the-venezuelan-crisis-in-times-of-pandemic-additional-comments-on-the-particular-effects-on-venezuelan-children/>.

<sup>13</sup> <https://devtechsys.com/insights/2020/12/07/note-on-the-malnutrition-report-in-venezuela-by-sUSna-raffalli-the-hidden-face-of-the-venezuelan-crisis-in-times-of-pandemic-additional-comments-on-the-particular-effects-on-venezuelan-children/>.

<sup>14</sup> <https://www.analesdenutricion.org.ve/ediciones/2018/2/art-4/>.

<sup>15</sup> Caritas Venezuela's Sentinel Monitoring of Acute Malnutrition and Family Food Security, and the Alert, Monitoring and Attention System in Nutrition and Health (SAMAN).

34. The Government reported that 88% of households received supplementary food provided through “CLAP boxes” in December 2020. The CLAP<sup>16</sup> is a programme established by the Government in 2017 in response to sanctions and the related food scarcity. CLAP boxes contain basic food staples such as corn flour, rice, butter, cooking oil, milk powder, sugar, canned fish, vegetables and fruits (usually locally produced), and pork or chicken meat (depending on availability) to provide complementary proteins, fats and carbohydrates.

35. In its January 2020 food security assessment, the World Food Programme (WFP) estimated that 7.9% of the population was severely food insecure and another 24.4% was moderately food insecure. A study conducted in 2019 found that 77% of older people did not have access to sufficient food or proteins, and that many of the worst affected depended totally on the food boxes to survive.<sup>17</sup>

36. Official statistics indicate that CLAP boxes were distributed in 2020 to 7.5 million families<sup>18</sup> although their contents were reduced because of the increase of the prices of cooking oil and butter. Another government response to the economic/food crisis has been the distribution through the system of Carnet de la patria (Motherland card) of a monthly stipend to an estimated 19 million beneficiaries (9 million households).

## B. Right to health: a disastrous situation

37. The free and universal health care system established by the “Bolivarian Revolution”, severely undermined by the oil crisis, has deteriorated further since 2017 amid the economic and financial sanctions – even if, thanks to its infrastructure and human resilience, it has continued to retain a capacity that can be mobilized and supported to implement immediate remedial actions.<sup>19</sup> Concerns include a dire insufficiency of basic medicines and vaccines; the growth of their price; electricity shortages to supply equipment; water shortages and related hygiene and sanitation problems; deteriorating infrastructure and equipment because of lack of maintenance; absence of spare parts to repair them; unavailability of new equipment due to the lack of resources or refusal by suppliers to sell or deliver; lack of protective equipment against infectious diseases; loss of critical staff because of low salaries; degraded working conditions for remaining personnel; and the termination of construction of hospitals and primary health care centers. The Venezuelan Medical Federation has cited a decline in the number of registered doctors from 66,138 in 2014 to 35,939 at the end of 2019.<sup>20</sup> Hospitals report that down to 20% of the equipment in hospitals are able to function, which sometimes prevents them from doing even standard blood tests.

38. Venezuela is almost entirely dependent upon foreign medicine and medical supplies<sup>21</sup>. Sanctions have blocked purchases of items such as human albumin, immunoglobulin and other blood products, affecting, to take one example, 5,859 people suffering from haemophilia and Guillain-Barré syndrome – and even antibiotics.<sup>22</sup>

39. The Pharmaceutical Federation of Venezuela reported shortages of 85% of medicine. This has led to the deaths of many people with either preventable or treatable diseases, not to

<sup>16</sup> Spanish acronym for Local committees for supply and production.

<sup>17</sup> <https://reliefweb.int/sites/reliefweb.int/files/resources/Rapid%20needs%20assessment%20older%20people%20in%20Venezuela.pdf>.

<sup>18</sup> Venezuela en cifras, Alimentación, Total combos CLAP distribuidos, page 181.

<sup>19</sup> [https://www3.paho.org/hq/index.php?option=com\\_docman&view=download&category\\_slug=162-en9841&alias=45491-ce162-inf-22-e-paho-tc-respond-491&Itemid=270&lang=eng](https://www3.paho.org/hq/index.php?option=com_docman&view=download&category_slug=162-en9841&alias=45491-ce162-inf-22-e-paho-tc-respond-491&Itemid=270&lang=eng).

<sup>20</sup> <https://elpitazo.net/reportajes/hospitales-sin-insumos-tambien-se-quedan-sin-medicos/>.

<sup>21</sup> L. Oliveros. “Impacto de las sanciones financieras y petroleras en la economía venezolana”. WOLA, Washington, 2020, p. 31.

<sup>22</sup> <https://www.thenewhumanitarian.org/news-feature/2018/10/25/worse-war-zone-inside-venezuela-s-healthcare-crisis>; and: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)00277-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)00277-4/fulltext).

mention chronic health conditions, and has placed some 300,000 at risk of death because they have been unable to obtain their medicines and treatments for more than a year.<sup>23</sup>

40. Other deleterious effects include the growing issue of teenage pregnancy, which is rising to a crisis level with girls of 12-13 years getting pregnant amid a lack of access to information about, and use of, contraception; and an increase of HIV/AIDS because of unprotected relations.

41. The sanctions have resulted in the blocking of transactions aimed at purchasing medicine abroad. This prevented the purchase of blood reagents in 2020 for 2,586,106 patients and 123,000 others in need of blood transfusions, according to the Ombudsman's Office. The blocking of immunoglobulin deprived over 200 children suffering from Kawasaki syndrome. The obstruction to the purchase through PAHO<sup>24</sup> of vaccines for meningitis, rotavirus, malaria, measles, yellow fever and influenza deprived 2,600,000 children of these vaccines. Moreover, the blocking of purchases of antibiotics, anaesthetics and anti-tuberculosis treatment prevented 180,000 surgery operations.

42. Surveys by state and civil society actors in the past 5 years show increased levels of maternal and infant mortality; the resumption or spread of preventable diseases, such as measles and diphtheria; growing numbers of infectious diseases such as malaria and tuberculosis; and high levels of food insecurity and child malnutrition.

43. ENCOVI cited a 31% increase in general mortality between 2017 and 2018. Based on that survey, two economists have estimated that the impact of the sanctions had inflicted "very serious harm to human life and health, including an estimated more than 40,000 deaths from 2017 to 2018; and that these sanctions would fit the definition of collective punishment of the civilian population".<sup>25</sup> Although this figure is an estimate, it points to a very distressing picture

44. The Special Rapporteur takes note of a slight improvement in the neonatal and maternal mortality situations after humanitarian cooperation from UNICEF, PAHO, and church and other humanitarian organizations was activated in 2019.

45. To take a concrete example, the freeze and diversion of assets of CITGO (PDVSA's subsidiary in the US) has prevented children from receiving liver, kidney and bone marrow transplants in foreign hospitals under a program financed by the state. Over 500 children had such transplants in Italy and Argentina over the past 12 years until the programme was abruptly stopped because of sanctions in 2017. Payments could no longer be made as assets were frozen and access to the international banking system blocked. As of June 2021, 53 children were awaiting the resumption of the programme to receive the transplants, which could not be done in Venezuela. 14 children including 3 aged 1–3 years old have already died.

46. The Special Rapporteur visited the Quimbiotec plant, which produced nearly 600,000 doses of blood-derived products in 2011. Production dropped to around 300,000 doses in 2015, and to 1,610 in 2020 until it came to a complete halt as the sanctions prevented it from buying components and reagents for the medicine it used to produce and spare parts from abroad. It struggles now to maintain its equipment and keep its most critical personnel until it can resume operation.

47. On 15 June 2020, a Quimbiotec supplier of equipment and maintenance informed its director that due to the sanctions imposed by the US they cannot provide any product and/or service the Venezuelan State anylonger, but expressed its interest in being able to serve Quimbiotec as the client, in the case of any change in relation to these sanctions.

<sup>23</sup> <http://www.accionsolidaria.info/website/wp-content/uploads/2018/02/Informe-salud-CIDH-Audiencias-Febrero-2018.pdf>; and its summary at : <https://accionsolidaria.info/informe-sobre-graves-masivas-y-sistematicas-violaciones-del-derecho-a-la-salud-en-venezuela-como-resultado-de-una-emergencia-humanitaria-compleja/>.

<sup>24</sup> Pan-American Health Organisation, regional mechanism of the World Health Organisation in Latin America.

<sup>25</sup> <https://cepr.net/images/stories/reports/venezuela-sanctions-2019-04.pdf>.



48. The Children’s Heart Hospital, the most modern hospital, once handled 90% of children’s heart operations, used to carry out up to 5 heart surgeries a day in 2015, did fewer than 120 surgeries in 2020 due to shortages of funding, equipment, spare parts, medicine and qualified staff. The hospital has been unable to repair haemodynamic equipment that supports vascular intervention procedures because the sanctions prevented it from making payments.

49. The J.M. de Los Rios Paediatric Hospital in Caracas has been the main hospital for children from outside the capital. Several of its 34 specialities are reportedly now closed. The hospital lacks basic medicine, medical equipment and instruments; it can no longer feed its patients; and patients in oncology and haematology services cannot receive complete treatment, forcing families to seek, if they can afford it, supplemental treatment elsewhere. Here again, the poorest are the most affected. Since the 2017 sanctions, it has suspended organ transplants and 137 children are currently waiting for kidney transplants.

50. The Special Rapporteur met with child patients suffering from chronic nephrology and haematology pathologies, and parents of children who died from these pathologies in the hospital because treatment could not be provided. They referred to water and electricity shortages; a lack of essential medicines; insufficient equipment, such as dialysis machines (5 still operational out of 20); technical equipment falling apart for lack of spare parts; reduction of intensive care units because of a lack of respirators; lack of magnetic resonance imaging (MRI); the spread of opportunistic diseases; malaria, dengue, lupus and gastrointestinal diseases because of unsanitary water and hygiene conditions; and a lack of food.

51. In December 2020 UNAIDS estimated that 110,000 Venezuelans were living with HIV/AIDS, less than half of whom were receiving antiretroviral treatment, and an estimated 38% were not aware of their status. Access to HIV testing and treatment has been an ongoing challenge. Because of the lack of pre-natal testing and control, many pregnant woman are giving birth to HIV positive children.<sup>26</sup>

52. Prior to 2016, the state was supplying annually, free of charge, through the Strategic Drug Fund of the PAHO an estimated US\$12 million of antiretroviral drugs, other drugs and reagents for HIV diagnosis, control and monitoring tests and treatment to cover, the needs of HIV/AIDS patients in the country. In 2016, it stopped these purchases due to rising costs, and although NGOs began to take over this role partially, severe shortages developed. As a result, 80,000 out of an estimated 120,000 HIV/AIDS patients had to suspend their treatment for lack of drugs.

53. While a reported 2,300 people with HIV/AIDS died in 2015, the mortality rate more than doubled by 2018.<sup>27</sup> It declined substantially in 2019 after humanitarian aid started to be delivered by PAHO, UNICEF, OCHA and UNAIDS through the network of 68 Venezuelan NGOs that cover most of the country.

54. Maintaining the sanctions in the context of the pandemic has further impoverished the most vulnerable strata of society, with 43% of households reporting the impossibility of working or a loss of their resources. Not only were sanctions not eased despite urgings from the UN Secretary General, the High Commissioner and the Special Rapporteurs, but additional sanctions were imposed in 2020. Preliminary findings on their impact on the population in the course of the pandemic are contained in the Special Rapporteur’s report to the UN General Assembly in 2020.<sup>28</sup>

55. On 17 June 2021, the U.S. Government issued a General License that authorized transactions and activities involving the Government and a number of Venezuelan banks so long as they are “related to the prevention, diagnosis, or treatment of COVID-19”. The Special Rapporteur calls on the US Government, banks and companies worldwide to effectively implement these humanitarian exemptions.

56. The Special Rapporteur regrets that an agreement between the Government and the UNDP to unfreeze Venezuela Central Bank assets in the Bank of England for the UNDP to purchase medicine, protective kits, disinfectants and vaccines has not been endorsed by the

<sup>26</sup> Confidential submission, February 2021.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

political opposition, thus blocking the transaction. On 10 June 2021 the Government deplored that the US caused the Swiss bank UBS to block part of a payment to the COVAX system for COVID-19<sup>29</sup> vaccines. While she welcomes the announced waiver on the possibility to unfreeze Central Bank assets frozen in the US to pay for COVAX vaccines<sup>30</sup>, she is concerned that they may not proceed. By the end of June 2021 Venezuela was only able to use anti-Covid vaccines from China and Russia.

### C. Migration, despair and human resources drain

57. Emigration accelerated with the tightening of sanctions. At the end of 2015, UNHCR estimated that 695,000 Venezuelans had left the country. In accordance with data provided by the Government and the immigration authorities of the host countries and NGOs, migration figures varied from 1.2 to 5.6 million by May 2021.

58. Most public services have lost 30%-50 % of their personnel, including their most qualified ones (doctors, nurses, engineers, teachers, professors, judges, police officers, etc.), resulting in internal disorganisation, increased workloads for remaining staff, reduced services and a decline in their quality. Public hospitals report shortages of 50% to up to 70% of qualified personnel.

59. Heads of state companies in charge of the production and supply of water, electricity, gas and telecommunications reported that they had lost an estimated 30% of their employees.

60. The judiciary, which employed some 22,390 staff, had 467 vacancies in 2017 and 8,138 in 2020, hampering the right to justice. “The judiciary staff that we have trained for many years, the best ones have left, the others are busy with survival needs; which has a negative impact on their performance. In that sense, sanctions have impacted the administration of justice.”<sup>31</sup>

61. The telecommunications sector, which used to be a leader in the region six years ago, reported that 50% of the best experts and 70% of engineers and technicians have left to find work in other countries.

62. The Ministry of Interior reported that out of a police force of 130,000 trained in the police academy, 94,000 officers were remaining, whereas the country would need 200,000 policemen to fulfil the different police missions.

### D. Delivery of essential public services

Senior ministers managing state companies in charge of the main public services explained how past economic policies have led to the country’s almost complete dependence on imports to sustain its economy and essential public services: health, education, electricity generation, water distribution, agricultural processing, transportation, telecommunications and production of pharmaceuticals have been undermined by the impossibility to buy new equipment, spare parts to repair used or obsolescent equipment, and components for their maintenance.

63. An estimated 90% of households are reportedly connected to the national water distribution system, but outages are frequent due to cuts in electricity that supplies water pumps. The Special Rapporteur met people in and outside Caracas who confirmed that water was delivered regularly once or twice a week in collective tanks, distributed to households at certain hours, and had to be boiled to be consumed.

64. The Minister in charge of water explained that only 50% of the system’s distribution units were running because of the impossibility to buy spare parts and to do maintenance,

<sup>29</sup> <https://www.reuters.com/world/americas/venezuela-says-payments-covax-vaccine-system-have-been-blocked-2021-06-10/>; and <https://peoplesdispatch.org/2021/06/14/global-outcry-after-venezuela-financially-blocked-from-covax-initiative/>.

<sup>30</sup> <https://www.argusmedia.com/en/news/2226060-us-waives-covidrelated-venezuela-transactions>.

<sup>31</sup> Special Rapporteur meeting with the President of the Supreme Court, 4 February 2021.

and water had to be distributed in rotation to ensure delivery to all. He reported that 52% of the water distribution system uses U.S. technology and 29% German and Swiss equipment. The sanctions have made it impossible to invite relevant experts to perform maintenance, and have forced to reduce by 30% the chemical agents used to treat and purify the water to make it potable. The remaining Chinese company (Sino-hydro Corp.) is departing because payments could not be made due to blocked transactions. The Minister confirmed the brain drain of experts, including experienced engineers and technicians. The resulting water shortages and unsanitary water have adverse consequences on the rights to life, to health and to hygiene.

65. Venezuela can only produce 40% of the electricity it needs, and electric lines work at less than 20% of their capacity. Out of 195 electricity production units, 31 have stopped functioning. The electric system also faced four cyber-attacks in 2019 which provoked blackouts. The Minister in charge said that in the southwest region, 75-80% of electricity could not be produced because thermo-power machines were damaged and needed to be repaired.

66. Diesel is essential to the energy grid, its agriculture production, transportation of food, electricity generation, water pump operation, and for public transport, transit and ambulances. A shortage in diesel - described as imminent at the time of the visit - would precipitate a catastrophic situation for the people, aggravating the food production, storage, transportation and supply. In 2020 the US eliminated an exemption to sanctions that allowed Venezuela to exchange crude oil against diesel, directly threatening critical power generation, public transport and food supply.<sup>32</sup>

67. The country currently needs a minimum of 110,000 barrels of gasoline per day to meet the demand. Production in January 2021 was approximately 31,000 barrels per day. According to the Ministry, only one production unit out of five was operating in May, partly due to the lack of spare parts and chemicals needed to refine it.

68. The shortage of gasoline, with the resulting rise in transportation prices, impedes access to hospitals, schools and other public services, exacerbates the challenges in delivering and distributing food and medical supplies – especially in remote areas of the country, affecting, *inter alia*, the indigenous population – and results in delays in public services including criminal and civil justice, thus violating the rights to freedom of movement, food, health, education and access to justice.

69. The Special Rapporteur is concerned that the indigenous population is among those most affected by the insufficient gasoline. She was informed about the Government's decision in late 2020 to suspend civil aviation flights to several indigenous communities living in remote parts of the country, purportedly to maintain strategic reserves at local airports for ensuring air-bridges in response to emergencies. This has deprived these communities of much needed supplies a period of acute food and health crisis.<sup>33</sup>

70. The Special Rapporteur has raised concern with the US government about its listing of non-US companies, vessels and individuals involved in delivering gasoline to Venezuela, including captains of Iranian vessels who have been designated as being involved in terrorist activity without evidence and due process, and with rewards publicly announced via the Rewards for Justice Program. No response has been received to her communications sent in September 2020<sup>34</sup> and April 2021<sup>35</sup>.

71. Similarly, sea transportation has reportedly dropped by 72% because shipping companies trading with the country have been sanctioned, and Venezuelan vessels cannot get the needed spare parts to be maintained and operated. The domestic train system was developed by the US, China, France and Spain. The subway trains were manufactured in France and Spain but only 28 of the 48 trains currently operate.

<sup>32</sup> <https://www.reuters.com/article/venezuela-diesel-agriculture-idUSL1N2ML22P>.

<sup>33</sup> Confidential communication to the Special Rapporteur.

<sup>34</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25541>.

<sup>35</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26324>.

## **E. Rights to education, to information, to property, to access to justice and to reputation**

72. School and university education have faced a serious decrease in governmental support since 2016, including the termination or reduction of the supply of uniforms, shoes, backpacks and office supplies, a reduction of the number of daily meals at school (from 2 to 1), and of the quantity and food diversity when it is not their total suppression. Since the outbreak of the pandemic, the effort to develop online teaching at all levels has been hampered by factors including the costs to access existing platforms; technical difficulties; lack of Internet coverage in parts of the country; insufficient equipment (antennas, modems); power shortages; and a lack of printers and paper to print documents at home. University researchers estimate that 30% of students cannot overcome these obstacles in private schools and universities, a figure that rises to 80% for public ones.

73. A consequence of the sanctions has been the suspension of the inspiring Government's Canaima programme to produce and distribute free of charge compact portable computers and tablets to the estimated 14 million pupils and students of the country. The programme started in 2015 and in the following years 6.5 million of portable computers were assembled and distributed throughout the country. Each computer contained the curriculum of the relevant year of study at different levels, and was connected to the central library for digitalized books, and to the Internet. Since 2020 the program has only been able to assemble new portable computers from broken ones as access to spare parts has stopped.

74. Due to the impediments in buying necessary equipment and spare parts, as well as the scarcity of financial resources, the Government has been unable to launch its own new satellite or to conclude an agreement to rent one, resulting in shrinking Internet coverage (10% of the territory in comparison to 50-90% in 2015). Private actors now provide some Internet coverage, resulting in higher costs for Internet access.

75. Although academics, scholars and researchers may still publish their work in international scientific and academic reviews, their ability to travel abroad to attend international conferences has been hampered because of flight, visa and money transfer restrictions due to sanctions, thus limiting possibilities for academic research. The combination of these factors, aggravated by the sanctions, has further compromised the right to education.

76. The blocking of property, assets and bank accounts of citizens by foreign and correspondent banks, quite often because of over-compliance, has resulted in multiple violations of the right to property, including for third-country nationals, in particular through the termination of contracts with third-country companies.

77. The Special Rapporteur also underlines that targeted and secondary sanctions violate the rights to fair trial, to procedural guarantees, to freedom of movement, to property rights and to reputation. Sanctions against representatives of opposition groups for participation in elections violate their right to hold and express opinions, and to participate in public affairs. While the Treaty on the Functioning of the EU (TFEU) (art. 275) offers listed persons the possibility to access the European Court of Justice (ECJ), there are no procedural guarantees before sanctions decisions are taken. The Special Rapporteur notes that no access to justice is guaranteed as concerns U.S. sanctions.

78. Several interlocutors consistently informed the Special Rapporteur about the chronic lack of official public statistics in vital areas, which has prevented analysis of situations such as health and nutrition, making it difficult to identify needs, their emergency and to design appropriate responses. She notes however, that detailed official information exists, some of which has been shared with her by the Government, and that such information should be publicly released.

79. The Special Rapporteur is disturbed by reports that some medical professionals were reportedly dismissed or otherwise sanctioned for participating in public protests about deteriorating conditions of work and of care in the health system, or had been threatened by

superiors or even arbitrarily detained<sup>36</sup>. In one instance, the Minister of Health was dismissed in May 2017 after she publicly released health statistics that showed worsening trends<sup>37</sup>.

## F. International cooperation, aid and humanitarian assistance

80. The Special Rapporteur welcomes reports of the Government's greater engagement with the organizations and agencies of the UN System, other international agencies and NGOs in providing humanitarian aid, and facilitating the rehabilitation of water systems and the critical supply – by UNICEF for instance - of vaccines, medicines, tests, reagents, school supplies and food, thus helping around 4 million people. She continues to deplore, however, the refusal of the British government to allow the government to access its own state assets frozen in the Bank of England for buying medicine, vaccines, protective kits and medical equipment via third institutions. She hopes that in line with its human rights commitments the UK will release what is Venezuelan state property.

81. In recent months several measures were announced by the Venezuelan Government that were perceived as an effort to strengthen its control of NGOs, both domestic and foreign. On 27 October 2020, it issued a resolution requiring foreign NGOs to register their activities. On 20 November 2020, the Superintendent of Banking Institutions announced that all business and financial operations carried out by non-profit organizations in the country should be monitored. On 30 March 2021, the Ministry of Interior, Justice and Peace published an Administrative Ruling requiring all NGOs and non-profit organizations, including those which were already legally registered, to re-register into a Unified Registry within the National Office against Organized Crime and Terrorism Financing, under the Organic Law Against Crime and Terrorism.

82. The Special Rapporteur understands that the Government's concern vis-à-vis some domestic and foreign NGOs may arise from the suspicion that in the name of human rights and humanitarian labels some of them may conduct activities contributing to destabilize the situation in the country and feeding anti-Government campaigns. She recalls, however, that the work of *bona fide* NGOs remain essential in alleviating the impact of unilateral sanctions on Venezuela, particularly as they affect the most vulnerable groups in the population. She shares the approach of NGOs that are working to protect the independence, impartiality and integrity of their activities; and their concerns that the legal framework being put in place should facilitate their work and not be used to silence well-founded criticism and criminalize their legitimate activities, in accordance with international human rights law. She transmits the invitation of the Attorney General to these organisations to engage in an open dialogue with his office to iron out together differences and embark on constructive cooperation in the respect of their independence.

## V. Assessment of the legal basis for imposition of sanctions

83. The Special Rapporteur considers that the state of national emergency announced by the U.S. Government on 8 March 2015 as the ground for introducing sanctions against Venezuela, and repeatedly extended until now, contravenes the requirements of article 4 of the International Covenant on Civil and Political Rights (ICCPR). It does not correspond to the criteria of the existence of a threat to the life of the nation, the limitation of measures to the exigencies of the situation, their limited duration, the absence of discrimination, the prohibition to derogate from the right to life and the prohibition of punishment of activity that does not constitute a criminal offence. This concern was raised in a communication of several UN human rights experts of 29 January 2021<sup>38</sup>. To date no response has been received to this communication.

84. The Special Rapporteur underlines that the sanctions against the oil, gold, mining and other critical economic and life-support sectors, the state-owned airline and the TV industry

<sup>36</sup> A/HRC/41/18, paragraph 36.

<sup>37</sup> <https://www.bbc.com/news/world-latin-america-39896048>.

<sup>38</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25879>.

constitute a violation of international law. They do not fit the criteria applied to countermeasures to exclude their wrongfulness in accordance with the law of international responsibility. The announced purpose of the “maximum pressure” campaign of the U.S. administration aimed at changing the Government of Venezuela, violates the principle of sovereign equality of states and constitutes an undue intervention in the domestic affairs of Venezuela that also affects its regional relations.<sup>39 40</sup>

85. According to article 52 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts (DARS) and article 54 of the Draft Articles on the Responsibility of International Organization, countermeasures “must be commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question” with due account for the observance of humanitarian law and fundamental human rights.<sup>41</sup>

86. Referring to customary norms on the immunity of state property, she reminds that assets of the Central Bank and property used for public functions belong to the state of Venezuela rather than to its Government or any individual. Therefore, freezing assets of the Central Bank of Venezuela on the ground of non-recognition of its Government as well as the adoption of relevant sanctions violates the sovereign rights of the country and impedes its effective government to exercise its duty to guarantee the needs of the population.

87. The Special Rapporteur underlines that the listing of state officials *ex officio* (including the Attorney General of Venezuela, who is entitled to represent the state in the course of international adjudication) contradicts the prohibition on punishment for activity which does not constitute a criminal offence; prevents the officials from the possibility to represent the interests of Venezuela in international courts and other international and national institutions, including to bring civil suits as regards state property; and undermines the principle of sovereign equality of states. She also notes that repeated refusals of banks in the US, the UK and Portugal to release Venezuelan assets even for buying medicine, vaccines and protective kits, under the control of UN organizations, violate the above principle, impede the ability of Venezuela to respond to the COVID-19 emergency and result in the violation of a number of fundamental human rights, including the right to life and to health.

88. The Special Rapporteur is concerned that targeted sanctions in their existing form violate at the very least obligations under universal and regional human rights norms including freedom of movement, right to property, right to privacy, family life, reputation, labour and economic rights, presumption of innocence, right to fair trial, and access to justice). Many of these norms are of a peremptory character (procedural guarantees, presumption of innocence, right not to be punished for activity which did not constitute a crime at the moment of its committing) , with a view that the grounds for the introduction of these sanctions do not constitute, for the most part, international crimes or comply with the grounds for universal criminal jurisdiction, while admitting the fact of the submission to the International Criminal Court by a group of states of a referral against Venezuela on 27 September 2018. The Special Rapporteur emphasizes that violating rights associated with procedural guarantees is qualified even in time of war as a serious breach of international humanitarian law.<sup>42</sup>

89. Mindful of the possibility to initiate criminal cases on the basis of universal jurisdiction when international crimes are committed, the Special Rapporteur recalls that the list of international crimes is limited to aggression, war crimes, genocide and crimes against humanity. No state is entitled to start a criminal case without sufficient jurisdictional ties. Starting a criminal case against the President of Venezuela as well as 14 current and former state officials with reference to corruption and narco-terrorism has no grounds in international law as they cannot be qualified as international crimes. Similarly, they cannot be used as a ground for introduction of unilateral sanctions, especially in view of the immunities enjoyed

<sup>39</sup> <https://ve.usembassy.gov/the-united-states-imposes-maximum-pressure-on-former-maduro-regime/>.

<sup>40</sup> <https://www.reuters.com/article/instant-article/idUKKCN1RA09Z>.

<sup>41</sup> ILC Articles on Responsibility of International organizations with commentaries, 2011 // *Yearbook of the International Law Commission*, vol. II, Part Two P. 94-95; ILC Articles on State Responsibility with commentaries, p. 135.

<sup>42</sup> Fourth Geneva Convention, art. 147; Additional Protocol I, art. 85(4e).

by high state officials under customary international law. The absence of grounds/evidence for the charges above are confirmed by the promised reward for any information leading to arrest or conviction of the individuals from the list.<sup>43</sup>

90. The Special Rapporteur also expresses concern about the request for extradition of Venezuelan Ambassador Alex Saab, designated by the US in 2019, arrested during the re-fueling of his plane in Cape Verde and detained since, despite the flagrant violation of diplomatic immunities and without any clear charges, and ignoring the repeated requests for his release from the side of international organizations and institutions.<sup>44</sup>

91. Mindful that the TFEU authorizes the ECJ to review the legality of decisions involving restrictive measures<sup>45</sup> and that the court has made more than 360 judgements in such cases,<sup>46</sup> the Special Rapporteur still notes that this approach guarantees only limited access to justice, and that none is provided by the U.S. legislation.

92. Several cases brought by Venezuelan officials to the ECJ for annulment of their designation as well as the case of annulment of the relevant Council regulation have all been declined. Although the ECJ in its decision on 22 June 2021 set aside the decision of the General Court, the Special Rapporteur is concerned that qualification of the Government as a legal person within the meaning of the fourth paragraph of Article 263 TFEU may result in violation of the principle of sovereign equality of states.<sup>47</sup>

93. The Special Rapporteur recalls the existence of a general consent on the illegality of application of extraterritorial sanctions. It has been generally agreed that any measures can only be taken by States with sufficient jurisdictional ties. Applying extraterritorial jurisdiction to nationals and companies of third states for cooperation with public authorities, nationals and companies in Venezuela, and alleged threats to such third-state parties (reportedly made by U.S. officials and senators) is not justified under international law and results in the growing over-compliance with sanctions. The Special Rapporteur notes with concern the reported threats to private business and third-country donors, partners and humanitarian organizations, which have led the Government of Venezuela to introduce confidentiality clauses in the Anti-Blockade Constitutional Law to protect the identities of corresponding partners.

## VI. Conclusions

94. The Special Rapporteur notes with concern that sectorial sanctions on the oil, gold and mining industries, the economic blockade of Venezuela, the freezing of Central Bank assets, targeted sanctions imposed on Venezuela and third country nationals and companies as well as growing over-compliance from the side of banks and third-country companies have exacerbated the pre-existing economic and humanitarian situation. They have prevented the earning of revenues and use of resources to maintain and develop infrastructure and for social support programs, which has a devastating effect on the entire population of Venezuela, especially – but not only – those living in extreme poverty, women, children, medical workers, people with disabilities or life-threatening or chronic diseases, and the indigenous population.

95. She underlines that existing humanitarian exemptions are ineffective and insufficient, subject to lengthy and costly procedures, and do not cover the delivery of spare parts, equipment and machinery indispensable for maintenance and restoration of the economy and vital public services.

<sup>43</sup> <https://www.justice.gov/opa/pr/nicol-s-maduro-moros-and-14-current-and-former-venezuelan-officials-charged-narco-terrorism>.

<sup>44</sup> Communication by a group of Special Procedures.

<sup>45</sup> Treaty on the Functioning of the European Union, OJ C 326, October 26, 2012, p. 47–390.

<sup>46</sup> See <https://www.europeansanctions.com/> Contribution to the UCM-Study on the notion, characteristics, legal status and targets of unilateral sanctions of Denmark of 16.03.2021.

<sup>47</sup> <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-06/cp210112en.pdf>.

96. She is concerned that extraterritorial secondary sanctions and reported threats of sanctions result, by virtue of fear, in over-compliance with existing sanctions regimes, preventing the Government of Venezuela, its public sector and private companies from purchasing machinery, spare parts, medicine, food, agricultural supplies and other essential goods even within the licenses issued by the U.S. Government; and also result in a growing number of bank transfer refusals, the extension of bank transfer periods (from 2 to 45 days), higher costs for delivery, insurance and bank transfer, as well as reported price rises for all (especially imported) goods.

97. She notes with concern that the absence of resources and reluctance of foreign partners, banks and delivery companies to deal with Venezuelan partners out of fear of being sanctioned themselves results in the impossibility to buy necessary vital medical and technological equipment, reagents and spare parts for the repair and maintenance of electricity, gas, water, medical facilities, public transport, telephone and communication systems for schools, hospitals, houses and other public institutions, thus undermining the very base of social life and enjoyment of many human rights, including the rights to food, health, education, access to information, right to a decent life, and economic and labor rights.

98. Despite the periodic review and increase of wages in Venezuela, the average public-sector salary is estimated at US\$2-10 per month, covering less than 2% of the basic food basket and making people increasingly dependent on social support by the Government in the form of CLAP (food) and regular money transfers via “Carnet de la Patria”, multiple subsidies for public servants, as well as foreign humanitarian aid – or pushing them to leaving the country.

99. This has increased the level of migration, affecting primarily – but not only - high-level public sector specialists including doctors, nurses, teachers, university professors, engineers, police officers, judges, technicians and many others. It has also fostered the growing involvement of people in the grey economy and undermined for all an adequate standard of living by violating their economic rights including the rights to work, decent labour, social security including social insurance, and retirement benefits. The number of vacancies among personnel necessary to guarantee the normal functioning of public services has reached 1/3 to 1/2. Massive migration in the absence of affordable transportation endangers the lives of migrants and imposed heavy burdens on recipient countries. Access to food, medicine and medical help for Venezuelan migrants, the unavailability of IDs for children born abroad, the separation of families and the absence of due care for children left with grandparents in Venezuela have been reported, among other problems.

100. The lack of doctors and nurses and of sufficient medicines, medical equipment, spare parts, relevant software updates, vaccines, tests, reagents and contraceptives initially covered by the Government has resulted in the violation of the right to health with rising rates of maternal, neo-natal and infant mortality, mortality from severe diseases (cancer, HIV, haemophilia, Guillain-Barré syndrome, heart problems and many others), deteriorating living conditions for people with special needs and chronic disease, and the unprecedented rise of adolescent pregnancies. The unavailability of resources, including the frozen assets, for buying vaccines and supporting family planning programs has resulted in outbreaks of preventable and treatable diseases such as malaria, measles and yellow fever as well as opportunistic infections.

101. The Special Rapporteur is concerned that the lack of gasoline, with the resulting rise in transportation prices, violates the freedom of movement, impedes access to hospitals, schools and other public services, exacerbates the challenges in delivering and distributing food and medical supplies – especially in remote areas, affecting, *inter alia*, the indigenous population – and results in delays in public services including criminal and civil justice. The reported lack of diesel fuel, mostly used for agricultural, industrial and transportation purposes, affects the production and storage of food and worsens the food insecurity of the people.

102. She notes with concern that due to the unavailability of new machinery, spare parts and competent staff, people have reduced access to electricity, impeding, *inter alia*, the functioning of water pumps, resulting in the violation of the right to water, including drinking water and water for sanitation, increasing risks of diseases.



103. Symbolic salaries, the absence or insufficiency of school supplies, school uniforms and food at school - which used to be provided by the Government – compounded by transportation problems, electricity shortages and reduced Internet and mobile phone coverage, endanger the exercise of the right to education. These, as well as the reported impossibility to use online resources with Venezuelan IP addresses, affect access to information and the freedom of expression. The reported reluctance of foreign partners to cooperate with Venezuelan institutions, including universities, sport societies and NGOs, as well as impediments to money transfers, difficulties in getting visas, and refusals to open and the closing of bank accounts of Venezuelan citizens or Venezuela-based public and private companies because of the fear of secondary sanctions, affect the right to education, academic freedoms and cultural rights, and impede the delivery of humanitarian aid.

104. The Special Rapporteur is also concerned that shortages of gas, forcing people to cook with wood fires, can violate the right to a favourable environment. She deplores that due to the necessity to guarantee human needs essential for survival, the Government has reportedly suspended all programs aimed at achieving the Sustainable Development Goals, including agricultural and health projects, environmental protection, the enhancement of literacy and computer literacy, reconstruction and others.

105. The Special Rapporteur underlines that the blocking of Venezuelan property, assets and bank accounts of Venezuelans by foreign and correspondent banks, quite often because of over-compliance and zero-risk policies out of fear of being sanctioned violate the right to property. The application of unilateral sanctions has far reaching consequences beyond Venezuela itself: it affects the rights of many third-country nationals, and precipitates the termination of contracts with third-country companies, affecting the economic and property rights of their owners and employees. The absence of contributions from Venezuela, which used to donate to regional assistance projects (e.g. ALBA) is negatively affecting the right to humanitarian aid of their beneficiaries beyond Venezuela's borders.

106. The Special Rapporteur underlines that targeted and secondary sanctions violate the rights to a fair trial, to procedural guarantees, freedom of movement, property rights and the right to reputation. Sanctions against representatives of opposition groups for participation in elections violate their rights to hold and express opinions, and to participate in public affairs.

107. The Special Rapporteur concludes that sanctions imposed against Venezuela, its citizens and companies affect people in Venezuela and beyond its territory in both the public and private sectors; third-country nationals and employees of third-country companies affected by secondary sanctions or the fear of them; donors and international humanitarian NGOs; and beneficiaries of assistance from international organizations traditionally financed by Venezuela; while low-income people, women, children and people with special needs or chronic or severe diseases are affected most with regard to the whole scope of their economic, social, civil and cultural rights, undermining their right to development. Some political rights, e.g. the right to participate freely in political life, as regards moderate opposition leaders who have been designated for taking part in parliamentary elections, have also been affected.

108. The Special Rapporteur welcomes and encourages the Venezuelan Government's greater engagement with UNDP, UNICEF, UNAIDS, PAHO, WFP and other international agencies and churches, private sector and humanitarian NGOs in alleviating the suffering of the population through providing humanitarian aid. She is, however, concerned about reports of mismanagement in the distribution of aid, surveillance and prosecution of national NGO personnel doing humanitarian work, and the absence of clear legal framework ensuring the protection and accountability of the work of international NGOs.

## VII. Recommendations

109. The Special Rapporteur reminds all parties of their obligation under the UN Charter to observe relevant principles and norms of international law. She urges them to settle any disputes via the competent judicial and other international institutions in accordance with international law.

110. She stresses that humanitarian concerns should always prevail over political ones and that unilateral measures may only be taken with due account of the rule of law, human rights, humanitarian and refugee laws. They must comply with states' international legal obligations and may only be applied in the course of internationally lawful countermeasures. She reminds that preliminary and continuous assessments of the humanitarian impact should be done in the course of any unilateral measure as no good intention justifies the violation of fundamental human rights as "collateral damage".

111. The Special Rapporteur underlines the inadmissibility of applying sanctions extraterritorially and urges the U.S. Government to end the national emergency regarding Venezuela, revise and lift sectorial sanctions against Venezuela's public and private sector, review and lift secondary sanctions against third-state parties, and refrain from imposing sanctions on diesel supplies that may precipitates an even deeper crisis

112. The Special Rapporteur urges all interlocutors (states, international organizations, banks, private companies and civil society) to avoid coercion, threats, zero-risk policies or any other act which may result in over-compliance, and to interpret limitations in the narrowest possible way before the lifting of unilateral sanctions, with due account of the Guidance issued in the Special Rapporteur December 2020 report.

113. She calls on all relevant States to review and lift targeted sanctions in accordance with principles of international law and the rule of law to guarantee the possibility of state officials, such as the Attorney General, to represent the state on the basis of the principle of sovereign equality of states, and to guarantee the rights of targeted individuals to the presumption of innocence, procedural guarantees, access to justice and other fundamental rights.

114. She reminds that in the realm of the rule of law targeted sanctions cannot be used as a substitute for criminal charges, with a lower burden of proof. She also reminds states that any civilian or criminal charges can only be brought bona fide when sufficient evidence and jurisdiction exists.

115. She urges the Governments of US, UK, Portugal and banks to unfreeze assets of the Venezuela Central Bank to purchase humanitarian goods and restore public services through mutually agreed mechanisms monitored by UNDP and other UN agencies.

116. She calls on all interlocutors to hold a broad view on essential goods – which shall be understood as including medicine, vaccines, food, medical and other equipment, spare parts for medical equipment, water supplies, electricity, transportation, industrial equipment and fuel – are the only way to guarantee humanitarian needs and fundamental human rights of the people of Venezuela.

117. She calls on the Government and the OHCHR to implement fully the cooperation agreement signed between them, to strengthen the OHCHR's presence on the ground to monitor *inter alia* the impact of unilateral sanctions on the entire scope of rights, and to organize visits of the 9 other Special Procedures mandates to the country, starting with those focusing on the rights to food, to health and to development.

118. She calls on the Government, UNDP, UN agencies and OHCHR in Venezuela to negotiate an agreement to guarantee the transparent, fair and non-discriminatory distribution of essential goods and humanitarian aid under the control of international institutions.

119. She calls on the Government, with the UNRC and OHCHR, to complete the drafting of clear and non-discriminatory legislation facilitating humanitarian work by international and national NGOs and to guarantee the security and integrity of their personnel and activities. She underlines the need of these organisations to respect their obligation to abide by the professional standards of humanitarian activity.

120. She calls on all organizations and agencies from the UN system and other international and non-governmental institutions to take due account of the impact of unilateral sanctions on all categories of human rights when assessing the situation in Venezuela and elsewhere within the scope of their relevant mandates.

121. She calls on the OHCHR, in cooperation with OCHA and relevant humanitarian actors, to establish a system of humanitarian monitoring and assessment of the impact of

unilateral sanctions as regards mortality rates, nutrition and malnutrition, school enrollment, vaccination, spread of diseases, employment, social guarantees, and access to medicine, etc.

122. She urges the Government to investigate allegations that indigenous communities in the country have been deprived of food and medical assistance in the context of the pandemic, and that the agreement between PAHO be fully implemented without discrimination.

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