



# General Assembly

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## Human Rights Council

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

## **Written statement\* submitted by Iranian Thalassemia Society, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2024]

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\* Issued as received, in the language of submission only.



## Sanctions and Violation of the Right to Health

### Preface

Unilateral sanctions have become a common foreign policy tool used by countries and multilateral organizations to influence the behavior of states, organizations and individuals. However, sanctions often have unintended consequences, including overcompliance by third parties that are not directly affected. Over-compliance occurs when actors restrict their business and financial transactions beyond what is required by the sanctions in order to avoid the potential risk of a penalty. This excessive risk aversion can have a negative impact on human rights, humanitarian aid and the global economy. Over-compliance means going beyond the legal requirements to implement sanctions in order to minimize risk.

Over-compliance is often due to legal uncertainty, excessive penalties and a lack of guidance on sanctions regulations. It can be easier for financial institutions and companies to be extremely cautious than to risk being accused of sanctions violations. Sanctions regimes often have complex, frequently changing and unclear rules that leave compliance officers unclear about what activities are permitted. For example, the United States of America's sanctions against Iran have evolved over time, with various executive orders, laws and regulatory guidance interpreting the rules differently.

In particular, companies that have no personal or territorial connection to the sanctions regime may nevertheless decide to restrict or complicate their business activities in certain countries or industries in order to avoid the potential risks associated with circumventing or violating sanctions, such as financial restrictions, or to circumvent the complex due diligence requirements. Another reason is the complexity of sanctions regimes, which can make it more attractive for private actors to resort to over-compliance than to face the high penalties associated with breaching sanctions obligations.

The global community is currently facing an expansion of various forms and types of unilateral sanctions imposed on all manner of state and non-state actors and economic sectors, as well as the threat of secondary sanctions, civil and criminal penalties for violations or circumvention of sanctions regimes, and the resulting increase in the use of zero-risk policies and over-compliance by banks, commodity manufacturers, supply and insurance companies and other actors. One of the most common cases is the over-compliance with sanctions by pharmaceutical companies for thalassemia patients in the Islamic Republic of Iran.

Thalassemia is a serious hereditary disease that affects the production of hemoglobins which regulate the life cycle and function of red blood cells. It affects people from birth and requires special medication to prevent overloading during blood transfusions. The Islamic Republic of Iran has a particularly high number of thalassemia patients. The lack of access to medication has led to many more deaths. Since the re-imposition of sanctions on the Islamic Republic of Iran by the United States of America in 2018, the overstepping of sanctions has escalated, affecting the import of life-saving iron-regulating drugs for Iranian thalassemia patients. This not only violates their right to health, but also leads to increased complications and mortality rates. The supply of such drugs by the Swiss pharmaceutical company Novartis – the leading supplier – and important ingredients for these drugs, which are manufactured by the French company Roquette Frères, has been denied to the Islamic Republic of Iran. Foreign companies – whether manufacturers, shippers, insurers or banks – are reluctant to do business with the Islamic Republic of Iran because they fear aggressive enforcement of the United States of America's sanctions and penalties even if the shipment is approved.

The International Covenant on Civil and Political Rights (ICESCR) does not provide for any territorial or jurisdictional limitation, so States Parties are obliged to protect, respect and fulfill these human rights not only within their territory but also extraterritorially. This means that states cannot allow a company to actively violate Art. 12 ICESCR on their territory and/or in their territory, and that they must take precautions against such situations. Therefore, they are also obliged to make their sanctions laws as clear and transparent as possible so that companies can exercise due diligence and do not have to fear conflicts with sanctions.

In addition, states also have an obligation under customary international law in the form of the principle “sic utere tuo ut alienam non laedas”, which generally describes the obligation of states not to allow their territory to be used in a way that causes unlawful harm to another state. Therefore, the obligations also apply to states that are not party to the ICESCR or another human rights treaty that protects the right to health to the same extent.

Another document that could hold profit-oriented actors accountable for potential human rights violations is a non-binding framework, “The Guiding Principles on Business and Human Rights”, developed by the UN Human Rights Office in 2011. To drive this development forward, an open-ended intergovernmental working group was established by the UN Human Rights Council to work on an international legally binding instrument for transnational corporations and other business enterprises on human rights and published a third revised draft in 2021. This contains a series of rules for both states and companies that want to regulate their approach to human rights. The most important points are: firstly, the duty of states to protect against human rights violations by companies; secondly, the responsibility of companies to respect human rights; and thirdly, access to an effective remedy for victims.

We refer to the Agenda for Sustainable Development, which calls on states not to pursue unilateral economic, financial or trade policies that are not in accordance with international law and the United Nations Charter. We reaffirm that every human being is born with equal rights. Unilateral coercive measures deprive affected populations of the full realization of their human rights, including the right to development.

We recognize the work of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and take note of the Special Rapporteur's reports, country visits and statements.

## **Recommendations**

### **We call on the Human Rights Council to encourage its member states to**

- Review sanctions compliance policies to determine whether the restrictions they impose on the provision of financial services are broader than required by the sanctions, and adjust sanctions compliance to minimise over-compliance
- Monitor the human rights impact of sanctions compliance on an ongoing basis to eliminate, mitigate or prevent adverse impacts; due diligence on the human rights impact of over-compliance with sanctions is both an initial step and an ongoing process
- Ensuring the free movement of goods necessary to meet the basic needs of the population in the target countries. These include medicines, medical equipment, raw materials, transport systems, the delivery of humanitarian aid and the implementation of humanitarian and development projects.

We reaffirm the purposes and principles of the Charter of the United Nations and the duty of states to co-operate in accordance with the Charter and to act in good faith:

- States should not use their complex sanctions laws and fear of fines as a tool, especially when imposing targeted sanctions. Excessive compliance runs the risk that targeted sanctions can too easily go too far.
- And avoid imposing unilateral sanctions that are not in line with human rights and the spirit of the United Nations Charter. We call for solidarity and unity, rather than confrontation and division, to address global challenges and promote and protect human rights for all.