Evaluation of EU sanctions as part of the EU's actions and policies in the area of human rights

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The Committee on Foreign Affairs adopted the report by Hélène **FLAUTRE** (Greens/EFA, FR) on the evaluation of EU sanctions as part of the EU's actions and policies in the area of human rights, noting the urgent need to evaluate the EU's sanctions policy. In effect, disparities in the legal bases for the implementation of the EU's sanctions policy are undermining the transparency and overall coherence of European sanctions policy and, as a result, the credibility thereof. In fact, the EU's current sanctions policy sometimes results in contradictory measures being taken, or even a policy of "double standards" that seriously damages the image of the EU. Therefore, the disagreements within the EU as regards certain countries (e.g. Cuba) or the reluctance of Member States to antagonise major commercial partners (e.g. Russia) have led the EU to adopt only 'informal sanctions'.

According to MEPs, for sanctions to be effective, their introduction must be seen as legitimate by public opinion at European and international levels and in countries in which changes are expected. In this respect, consultation of the European Parliament in the decision-making process is essential to establish the legitimacy of intended sanctions.

MEPs consider that recourse to sanctions should be envisaged in the case of actions by authorities that seriously undermine security and human rights. Given that any voluntary and irreversible degradation of the environment constitutes a threat to security and a serious violation of human rights, MEPs call on the Council and the Commission to include this type of voluntary damage among the grounds which may lead to the adoption of sanctions.

Towards effective sanctions: according to MEPs, the argument of the 'ineffectiveness' of sanctions cannot be used in favour of lifting them but should be used instead to re-orientate and reassess the sanction itself. In this respect, MEPs establish a framework to make sanctions more effective. To make a sanction more effective, it is important to measure the impact of the sanction on the private and professional activities of the individuals targeted as members of a target regime, on the operation of the regime itself or its ability to bring about a stop to, or to alter, the activities or policies which have led to their adoption. MEPs consider that the effectiveness of a sanction depends on the European Union's capacity to maintain it for the full period. They deplore, in this regard, the use of provisions involving the automatic lifting of sanctions (e.g. 'sunset clauses') without prior evaluation. In all circumstances, MEPs oppose the application of generalised, indiscriminate sanctions to any country, since this approach leads to the total isolation of the population, preferring instead targeted sanctions against the regime, coupled with support for civil society in the country concerned.

Sanctions as part of an overall human rights strategy: according to MEPs, the approach to adopt regarding sanctions should include, in parallel, political dialogue, incentives and conditionality. This could include, as a last resort, the use of coercive measures. Human rights and democracy clauses, the system of generalised preferences and development aid should be used as tools of such a comprehensive and integrated policy approach. Therefore, the human rights clauses must not be implemented in isolation. Furthermore, MEPs urge the Commission and the Member States not to propose free trade agreements and /or association agreements – even containing human rights clauses – to governments of countries where massive human rights violations are being perpetrated. They also call on the Commission to devise a specific strategy on human rights and the situation as regards democracy as part of each country strategy paper.

Coordinated action by the international community: convinced that coordinated action by the international community has a stronger impact than disparate and uneven actions by States or regional entities, MEPs stress the need to cooperate with organisations such as the UN or at least with non-EU sanctioning states. MEPs suggest in particular the creation of a common list of individuals subject to asset freezes, travel bans etc., in order to create the largest possible effect at international level and to maximise the effectiveness of EU sanctions and other sanctions. MEPs stress, in this respect, the urgent need to define a common position regarding Burma/Myanmar.

Better evaluate situations to target sanctions: MEPs underline the need for an in-depth analysis of each specific situation in order to assess the potential impact of different sanctions and to determine which are the most effective. However, such analysis should not be used to delay the adoption of sanctions. That is why they suggest creating a two-step procedure such as that set out in the CFSP which provides scope for an urgent political reaction (through the adoption of a common position) followed by sanctions. Furthermore, MEPs call for the systematic inclusion in the legal instruments of clear and specific benchmarks as conditions for the lifting of the sanctions. The Parliament must also be closely involved in all stages of a sanctions process: the decision-making process, the selection of the sanctions, the definition of benchmarks and the evaluation of their implementation. MEPs believe that the arms embargo imposed on China is an illustration of EU consistency, given that this embargo was originally established following the 1989 Tiananmen massacre and the EU has not received to date any explanations about that massacre.

Effectiveness of targeted action: in order to judge the effectiveness of measures taken, the EU needs certain tools. However, MEPs recognise that sanctions of general economic scope, such as those that have been applied in the past to Iraq, have had adverse, counter-productive effects on the population. They therefore welcome the fact that this approach has been abandoned in favour of more targeted, 'smart' sanctions, geared to achieving the maximum impact on those whose behaviour it wants to influence. Overall, MEPs consider that economic sanctions used in isolation from other policy instruments are extremely unlikely to force a targeted regime to make major policy changes. Sanctions should target, first and foremost, leaders of targeted regimes and perpetrators of human rights violations. MEPs therefore support the use of targeted financial sanctions against key leaders of targeted regimes and their immediate family members. MEPs also call for a limited application of the 'extraordinary exemptions' to the freezing of assets, except for 'humanitarian exemptions' to enable the public to access basic medical care. They also call for measures to prevent leaders of targeted regimes from accessing financial services within the EU's jurisdiction. In this context, MEPs call for enhanced cooperation with the SWIFT management and shareholders in Europe, so as to achieve improved results in the freezing of blacklisted accounts and the elimination of money transfers from/to such accounts. At the same time, MEPs call for coordinated cooperation between Member States and the Commission regarding the implementation of EU arms embargoes which are applied by each Member State . This includes making the current Code of Conduct on arms exports legally binding. MEPs include among effective targeted action, restrictions on admission (travel bans, visa bans) for blacklisted persons or non-state entities, preventing them from attending EU official meetings and also from travelling to the EU for private reasons. However, they regret the fact that certain Member States have not complied with certain EU visa bans.

Targeted sanctions in the fight against terrorism: MEPs support the existing procedure for blacklisting and delisting, including the system of anti-terrorist lists at European level. They regret, however, that none of the judicial bodies is in position to assess the appropriateness of blacklisting, given that the evidence leading to blacklisting is based primarily on information held by the secret services. According to MEPs, fundamental discretion should not be transformed into impunity and it is therefore important that Member States guarantee effective parliamentary control over the work of the secret services. In particular, the European Parliament must be associated with the work done by the Conference of Oversight Committees of the Intelligence Bodies of the Member States.

A varied sanctions policy: while in favour of sanctions, MEPs consider that a strategy of openness and a policy of sanctions are not mutually exclusive. It is therefore also necessary to envisage positive measures

alongside sanctions. In this respect, MEPs note the cycle of sanctions imposed on Uzbekistan from November 2007 to April 2008: while continuing for one year the sanctions imposed for failure to satisfy initial criteria pertaining to investigations into the Andijan massacre, the Council decided to suspend the implementation of the visa ban, leaving the Uzbek regime six months in which to fulfil a set of human rights criteria, and with the looming threat of the automatic re-establishment of the visa ban. This approach produced some positive developments, even though the overall situation is Uzbekistan remains somewhat precarious. In any circumstances, MEPs urge that sanctions be systematically accompanied by enhanced positive measures to support civil society and human rights defenders and call for the thematic programmes and instruments (EIDHR, non-state actors, investing in people) to contribute fully to achieving this objective.

Recommendations in relation to the EU institutions and Member States: MEPs call on the Commission and the Council to undertake a comprehensive and in-depth evaluation of the EU's sanctions policy and to ensure that development assistance strategies under the Development Cooperation Instrument and the European Development Fund are consistent with existing sanction regimes. Overall, MEPs ask that the conditions for general EU budget support be explicitly linked to human rights and call for enhanced cooperation between the competent authorities of the Member States and the Commission in order to ensure more coherent and effective implementation of restrictive measures. Lastly, to give greater legitimacy to the sanctions, the Parliament must be involved at all stages of the procedure for the implementation and supervision of sanctions.