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

2008/2031(INI) - 04/09/2008 - Text adopted by Parliament, single reading

The European Parliament adopted by 546 votes to 36, with 40 abstentions, a resolution on the evaluation of EU sanctions as part of the EU's actions and policies in the area of human rights.

The own initiative report had been tabled for consideration in plenary by Hélène **FLAUTRE** (Greens /EFA, FR) on behalf of the Committee on Foreign Affairs.

The resolution deplores the fact that, to date, no evaluation or impact assessment has been carried out in respect of the EU's sanctions policy and that it is therefore extremely difficult to gauge the policy's impact and effectiveness on the ground and thus to draw the necessary conclusions. The Parliament therefore calls on the Council and the Commission to carry out this evaluation work, recalling that the sanctions policy used against South Africa proved effective in helping to end apartheid.

The resolution also notes the lack of **overall coherence** of sanctions applied, which, as a result, lack credibility. 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 the Parliament, 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.

Furthermore, the Parliament considers that recourse to sanctions should be envisaged in the case of actions by authorities that **seriously undermine security and human rights** or where all contractual and/or **diplomatic options** have been **explored** or have clearly reached stalemate. 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 the Parliament, 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. The Parliament stresses, in this regard, the indirect impact of 'symbolic' measures as an expression of the EU's moral condemnation, although it warns against placing too much emphasis on the idea of sanctions as symbolic measures, as this could result in them becoming totally devalued. The Parliament provides an overview of measures that could be implemented to make sanctions more effective. It suggests measuring the impact of a sanction on the private and professional activities of the members of a target regime, or on the operation thereof, or its ability to bring about a stop to, or to alter, the policies which have led to its adoption. It also considers 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 any case, the Parliament opposes 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 the Parliament, 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. The Parliament considers that 'human rights' clauses, the system of generalised preferences and development aid should be used as tools of such a comprehensive and integrated policy approach. In terms of 'human rights' clauses (which imply that the non-compliance with human rights in a country with which an agreement has been signed may lead to the annulment of this agreement), the Parliament considers that these must not be implemented in isolation by the EU. On the contrary, according to the Parliament the implementation of human rights clauses and possible sanctions must complement each other. Furthermore, the Parliament calls on the Commission and the Member States to include human rights clauses in all agreement (whether sectoral or more general) and **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.

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, the Parliament calls on the Council, in the absence of UN Security Council sanctions, to cooperate with non-EU sanctioning states to coordinate their actions in order to increase their effectiveness. The Parliament considers in particular that the signing of a free trade agreement with a region in a targeted country should be used as a "carrot" and means of pressure to improve human rights and that such an agreement should, in any case, not include the country to which sanctions are being applied.

Better evaluate situations to target sanctions: the Parliament underlines 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 it suggests 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, the Parliament calls 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. It believes 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. The Parliament therefore deplores the fact that, owing to a lack of evaluation, it is impossible to assess the effectiveness of targeted measures. However, the Parliament recognises 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. It therefore welcomes 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, the Parliament considers 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. It therefore supports the use of targeted financial sanctions against key leaders of targeted regimes and their immediate family members. The plenary also calls for a limited application of the "extraordinary exemptions" to the freezing of assets. It calls for the creation of a specific procedure for objections in the event that a Member State wishes to grant an exemption to the freezing of assets. In addition, the Parliament calls for measures to prevent leaders of targeted regimes from accessing financial services within the EU's jurisdiction. In this context, the Parliament calls for enhanced cooperation with the SWIFT management in Europe, so as to achieve improved results in the freezing of blacklisted accounts and the elimination of money transfers from/to such accounts. With regard to frozen assets, the plenary calls on the Council and the Commission to investigate the possibility of using frozen

income of targeted authorities in a constructive manner, for example by allocating them to victims of human rights violations or for development purposes.

At the same time, the Parliament calls 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**. The Parliament includes 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, it regrets the fact that certain Member States have not complied with certain EU visa bans.

The problem of 'blacklists' in the fight against terrorism: the plenary highlighted the dangers of establishing blacklists for persons accused of terrorism, which are sometimes drawn up in an unclear manner. It recalls the obligation of Member States to draft sanctions that fully respect fundamental rights and stresses that the current blacklisting procedures at both the EU and the UN levels are **deficient** from the perspective of legal security and legal remedies. The plenary therefore calls on the Council to draw all the necessary conclusions and to fully apply the judgments of the Court of First Instance as regards EU autonomous sanctions. It also calls on the Council and the Commission to review the existing procedure for blacklisting and delisting, in order to respect blacklisted individuals' and entities' substantive human rights, rights to appeal before an independent and impartial body and due process, including the right to be notified and adequately informed of the charges brought against the individual or entity in question. The plenary considers that Article 75 of the revised treaty would be an opportunity to be seized by Parliament in order to remedy the shortcomings in current practice as regards the inclusion of names on a blacklist. It considers that this issue should be included on the agenda for the 2009 legislative programme. The Parliament regrets, 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. It is therefore important that Member States guarantee effective parliamentary control over the work of the secret services, while reiterating that the system of anti-terrorist lists, provided that it respects the most recent case-law of the Court of Justice, is an effective instrument of European Union anti-terrorist policy.

Towards a varied sanctions policy: while in favour of sanctions, the Parliament considers 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, the Parliament notes 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 case, the Parliament urges that sanctions be systematically accompanied by 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 to achieving this objective.

Recommendations in relation to the EU institutions and Member States: the Parliament calls 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, the Parliament asks 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. In this respect, the Parliament considers

that the ratification of the Lisbon Treaty should be the time to improve the expertise of the relevant EU services working in the field of sanctions and to enhance cooperation between the different services. That is why the Plenary calls on the Commission to set up a **network of independent experts** to put forward to the Council the most appropriate restrictive measures and to draw up a report on the development of the situation on the basis of the established criteria and objectives and, where necessary, to suggest ways in which implementation of sanctions might be improved. According to the Parliament, the setting-up of such a network would improve transparency and discussions on sanctions in general, and would also strengthen the implementation and ongoing monitoring of sanctions in particular cases.