

Special Procedures Branch
Office of the United Nations High
Commissioner for Human Rights
(OHCHR)

ATT: Prof. Alena Douhan, Special
Rapporteur on the negative impact of
unilateral coercive measures on the
enjoyment of human rights; and Mr.
Obiora C. Okafor, Independent Expert
on human rights and international
solidarity

10/7/2022 Solna

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Reply to joint communication from the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and the Independent Expert on human rights and international solidarity

Dear Prof. Douhan and Mr. Okafor,

With reference to your letter of 2 August 2022, PostNord Group AB (PostNord) provides the following observations by way of assistance to your enquiries.

1. Background

On 24 February 2022, the Russian Federation (Russia), assisted by the Republic of Belarus (Belarus), invaded Ukraine. Russia's acts of military aggression against Ukraine, supported by Belarus, have sparked widespread international condemnation, including by the Human Rights Council that has expressed its "grave concern" at numerous reports of "gross and systematic violations and abuses of human rights" and "violations of international humanitarian law".

In response, the European Union (EU) has adopted a series of restrictive measures against Russia and Belarus. These sanctions have been imposed against a large number of individuals and entities. The EU has also imposed broad import and export prohibitions on a wide range of products, as well as on

services including the transfer and/or transportation of such products. Violations of EU sanctions law may attract criminal and other penalties.

In order to ensure its compliance with such rapidly evolving, extensive, and complex new legal requirements, PostNord temporarily suspended its postal services in Sweden and Denmark to/from Russia and Belarus on 24 March 2022 respectively 28 March 2022. On 24 May 2022, it partially resumed services to/from Russia and Belarus. As of the date of this letter, PostNord has resumed all outbound services to Russia and Belarus, all inbound services from Russia and Belarus to Denmark and will resume within very shortly all inbound services from Russia and Belarus to Sweden.

2. PostNord's compliance with EU sanctions law and its respect for human rights

2.1 PostNord's legal obligations under EU sanctions law

2.1.1 *Overview of the EU sanctions regime*

Your letter states that “sanctions against the postal service are not present”. For the avoidance of doubt, EU sanctions are legally binding and directly applicable in all EU Member States, and PostNord is legally required to comply with EU sanctions law.

Following Russia's invasion of Ukraine, the EU sanctions regime rapidly changed and expanded in scope (and continues to do so). As of today, the EU has adopted eight sanctions packages that target exchanges with Russia and Belarus in specific economic sectors. These eight sanctions packages were adopted, and came into effect, at a very quick pace, which required in-scope companies trading with Russia and Belarus to take swift and ongoing action to ensure compliance.

Under the EU sanctions regime, PostNord must ensure that no funds or economic resources are provided to any persons or entities targeted by sanctions. As of the date of this letter, more than 1,200 individuals and legal entities are subject to such individual sanctions.

PostNord also needs to ensure that it complies with a comprehensive set of complex trade related sanctions. These sanctions span across a vast range of sectors and commercial activities, including the financial sector, trade within certain geographical areas, and trade involving certain products and items, including technology. These cover inter alia: (i) dual-use items, (ii) items deemed relevant for Russia's military (including electronics, computers, telecommunication products, sensors, and marine products etc.); (iii) luxury goods (including perfumes, clocks, cigars, and electronic items for domestic use

etc.); and (iv) specified items for certain sectors (e.g. oil refining and aviation). Further, it is prohibited to provide technical assistance and other services in relation to such products and items, such as the transfer and/or transportation of such goods.

2.1.2 *Requirements for compliance*

EU operators such as PostNord must perform adequate due diligence and ensure that their business activities do not breach or circumvent sanctions. According to official guidance from the European Commission, due diligence measures must be calibrated according to the specificities of the operator's business and its related risk exposure. Therefore, EU operators must implement procedures that reflect their individual business model, the location of their operations, and their customers and staff.

In light of the introduction of such rapidly-evolving, extensive, and complex sanctions obligations, PostNord was required to reassess its due diligence measures to ensure compliance with the law and alignment with official EU guidance. Given the legal and practical challenges in doing so, PostNord was required to impose a temporary suspension of its postal services.

2.1.3 *Consequences of non-compliance*

There are severe legal consequences for non-compliance with EU sanctions. Under Swedish law, breaching sanctions may attract criminal fines or imprisonment of up to four years. Moreover, violations of export control laws under the EU Dual-Use Regulation (EU) 2021/821 may attract criminal fines or imprisonment of up to six years.

The Swedish sanctions system is built primarily on the criminal liability of individuals, i.e. the individual(s) responsible for the violation constituting a crime. Thus, if PostNord had not taken measures to prevent violating sanctions law, it would be putting its own employees and/or management at risk of being held criminally liable. Non-compliance may also result in corporate fines, forfeiture, and confiscation for the company.

2.2 PostNord's respect for human rights: necessity, proportionality, and impact

As stated in its Code of Conduct, PostNord recognises its responsibility to comply with mandatorily applicable laws and regulations, and respects internationally-recognised human rights when it conducts its business. Whilst not legally obliged to do so, PostNord conducts human rights due diligence activities and strives to avoid causing or contributing to adverse human rights impacts through its business activities, and addresses such impacts if/when they occur.

The following section describes how PostNord's efforts to ensure compliance with mandatorily applicable trade sanctions law were conducted in a manner compatible with international human rights standards.

2.2.1 *Necessity of the temporary suspension of services to comply with mandatory law*

First, the decision to temporarily suspend postal services to/from Russia and Belarus was not taken lightly. PostNord temporarily suspended its services when, and only to the extent, that was necessary to ensure its compliance with EU sanctions law.

PostNord needed to develop its compliance procedures to accommodate the rapidly-changing, extensive, and complex nature of the EU's sanctions packages. Its compliance procedures also needed to take account of PostNord's obligation to preserve the confidentiality of certain postal items under domestic laws that are designed to safeguard the privacy and protection of correspondence in accordance with internationally-recognised human rights standards. Once PostNord was able to implement such compliance procedures, it partially resumed services as soon as and to the fullest extent possible (see section on proportionality below).

In your letter, it is stated that PostNord's suspension of services "also affected DPD group". While DPDgroup (DPD) is a partner of PostNord, it does not rely on PostNord's USO and UPU postal network to provide its commercial logistics services to/from Russia and Belarus. It is PostNord's understanding that DPD decided, on its own initiative, to suspend its shipments to/from Russia on 28 February 2022.

2.2.2 *Efforts to ensure proportionality and to address any actual or potential adverse impacts on human rights*

Second, PostNord took steps to ensure that any suspension of its services was limited in both scope and duration to what was necessary to meet its compliance obligations. In doing so, it ensured that any adverse impacts on the free flow of communications between affected populations were mitigated.

On 24 May 2022, following intensive efforts to establish adequate compliance procedures, PostNord announced its decision to resume postal services to/from Russia and Belarus for correspondence up to 50 grams. On 11 July 2022, PostNord fully resumed its services for outbound letters and parcels from Sweden and Denmark to Russia and Belarus. On 30 September 2022, PostNord fully resumed its inbound services from Russia and Belarus to Denmark and

PostNord is actively working to resume the remaining suspended inbound services from Russia and Belarus to Sweden as soon as possible.

2.2.3 *Availability of alternative communication means to affected persons*

Third, PostNord also notes the widespread availability of alternative forms of cross-border communication between members of potentially affected populations in Sweden, Denmark, Belarus, and Russia, including via internet, telephone, and fax. The continued availability of such alternative forms of communication substantially reduces any potentially adverse impacts on the freedom of expression and correspondence arising from temporary suspending postal services.



Yours sincerely,

Annemarie Gardshol
President and PostNord Group CEO

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