

**Mandate of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights**

Ref.: AL OTH 109/2023  
(Please use this reference in your reply)

11 September 2023

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, pursuant to Human Rights Council resolution 49/6.

In this connection, I would like to bring to your attention information I have received from various sources concerning **the discontinuation by Mölnlycke Health Care AB (Sweden) of the provision of medical dressings for Belarusian patients with the skin disease Epidermolysis Bullosa (EB), in the context of the decision by the European Union to impose and expand sanctions against Belarus.**

According to the information received:

Epidermolysis Bullosa (EB) comprises a set of rare genetic skin conditions in which patients, including children, lack the anchor that connects the skin's outer and inner layers, causing each to move separately. EB patients have extremely fragile skin and recurrent blisters and sores resulting from routine friction between the layers or trauma.

Dressings applied to wounds on the skin of EB patients must be changed very frequently, which can result in further damage, bleeding and pain. Silicone-based dressings minimize these effects while protecting the surrounding skin and facilitating healing.

Special dressings for the EB patients in Belarus used to be procured through procurement companies, paid from the state budget and provided to all those in need around the country. Lists of patients are compiled and updated by the Belarussian health authorities.

In 2023 procurement companies reported on the impossibility to deliver dressings and bandages for the Belarusian EB patients because of the refusal by Mölnlycke Health Care AB to continue provision of these medical goods, without providing any explanation about the reasons of such a decision.

As of August 2023, the remaining stock of dressings and bandages for Belarusian EB patients can only cover the needs for a maximum period of 2 months (approximately until October 2023). The situation is critical and concerns several goods, including Mepitel, Mepilex, Mepilex lite and Mepilex transfer. The reported shortages have a serious impact on the treatment of 124 patients suffering from EB in the country, with 17 of them suffering from what is called a “dystrophic epidermolysis bullosa” (DEB).



rights.

I take note of the fact that medicine, medical equipment and pharmaceutical goods are exempted from existing unilateral sanctions regimes imposed by the European Union against Belarus. Under the EU Council Regulation (EC) No 765/2006, restrictive measures (prohibitions) do not apply to the sale, supply, transfer or export of such goods and/or technologies (para. 3(b) art. 1e, para. 3(b) art. 1f, para 2(b) art. 1s, et al.).<sup>5</sup> Therefore, formally there are no grounds for interruption of supplies by Mölnlycke Health Care AB to Belarus for the medical needs of the Belarusian EB patients. At the same time due to other reasons already reiterated to the European Commission in earlier communications (cases nos. [OTH 106/2022](#) and [OTH 75/2023](#)) businesses show reluctance to engage with countries under sanctions even as concerns food, medicine, medical equipment and other humanitarian goods.

I note with great concern that such humanitarian carveouts do not effectively address the issue of over-compliance and de-risking by banks and businesses, including pharmaceutical companies and medical equipment producers, due to the broad interpretation and application of sanctions, multiple and over-lapping sanctions regimes; expansion of secondary sanctions, civil and criminal penalties for alleged circumvention of sanctions regimes. The above reasons exacerbate the level of uncertainty and fear of unintended transgression of the imposed restrictions and prohibitions, result in over-compliance and consequently has a detrimental non-selective effect over the human rights of people living in countries under sanctions, disproportionately affecting the most vulnerable.

In a view of the seriousness of the situation and the reported very limited stock of bandages available for the EB patients in Belarus, I urge the European Commission and other relevant EU bodies to take prompt action, within the scope of their competence, to enable resumption of deliveries of medicine for Belarusian EB patients and to ensure producers of these specialized medical products, as well as banks, transportation and delivery companies that they are not subjected to any penalties for their involvement in the delivery of such products to Belarus and other countries under sanctions.

I also call on European Union to review its sanctions frameworks and to exercise precautionary principle to ensure that they do not violate human rights, even unintentionally.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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<sup>5</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R0765-20230228>

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would also be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain whether the exemptions for medicine, medical equipment contained in the EU Council Regulation (EC) No 765/2006 is extended to all actors involved in activities relevant to the supply of these goods to Belarus (e.g. financial sector, transport companies, insurance companies etc.).
3. Please provide information on the measures undertaken by the European Union to provide guidance and clarity to all actors with regards to the scope and application of the EU exemptions, including for medicines and medical equipment.
4. Please provide information on the measures undertaken by the European Union institutions and organs to ensure that the sanctions are compliant with the EU and its member states' obligations under the UN Charter, international human rights law, other obligations under international law and relevant instruments.
5. Please provide information on human rights impact assessment and due diligence mechanisms that the European Union has developed and implemented prior to adoption and implementation of its restrictive measures against Belarus and other concerned countries.
6. Please provide information on the legislative and policy measures adopted and implemented to effectively address over-compliance and de-risking by businesses and financial institutions domiciled in EU member states and/or their jurisdiction, and that these businesses act in full compliance with human rights standards.

While awaiting a reply, I urge the European Union institutions and organs to consider taking all necessary steps to assess the human rights impact of the EU sanctions against Belarus, and in particular on vital sectors, including healthcare. Such review of both due diligence and due process, which are critical to any human rights-based policy should evaluate responsibilities and determine accountability for possible violations of human rights.

I would also appreciate receiving a response within 60 days. Past this delay, this communication and any response received from European Union will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

I may consider to publicly express my concerns about this issue in the future as in my view the information thus far available to me is reasonably reliable and a

matter of obvious human, human rights and public interest.

Please be informed that letters on this matter have been also sent to the concerned company, Mölnlycke Health Care AB, as well as to the Governments of Sweden and of the United States of America.

Please accept, Excellency, the assurances of my highest consideration.

Alena Douhan  
Special Rapporteur on the negative impact of unilateral coercive measures on the  
enjoyment of human rights

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, I would like to refer to the relevant international norms and standards that are applicable to the issues brought forth by the situation described.

Reference is made to the international human rights standards on the right to life, in particular article 6 of the International Covenant on Civil and Political Rights (ICCPR), which provides for the positive obligation to ensure access to the basic conditions necessary to sustain life (CCPR general comment no. 6, para. 5; CCPR general comment no. 36, para. 21) and which requires special measures to protect persons in vulnerable situations whose lives are particularly endangered by specific threats (CCPR, general comment no. 36, para. 23). Measures, including the obstruction of humanitarian assistance, and of access to basic and life-saving goods and services such as food, health, electricity and safe water and sanitation run counter to the right to life (CCPR/C/ISR/CO/4, para. 12; A/73/314, para. 27). I wish to recall that any deaths attributable to such measures amount to an arbitrary deprivation of life (A/73/314, para. 13).

The International Covenant on Economic, Social and Cultural Rights (ICESCR) enshrines “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (art. 12(1)). The realization of the right to health entails, inter alia, the “treatment and control” of diseases (art. 12(2)(c)) and conditions to ensure “all medical service and medical attention in the event of sickness” (art. 12(2)(d)). General Comment No. 14 (2000) of the CESCR, which states that the agreed interpretation of the right to health includes, inter alia, the availability and the physical accessibility of goods necessary to ensure this right (paras 12(a, b)), with these goods being “medically appropriate and of good quality” (para 12(d)). I also refer to paragraph 50 of the same General Comment no. 14 which notes that violations of the right to health can include “the denial of access to health facilities, goods and services to particular individuals or groups”.

Moreover, deterioration of one’s health condition as well as growing physical and psychological suffering due to the unavailability of adequate and appropriate medical treatment may have adverse effects on the enjoyment of other human rights including the right to education, the right to work, human dignity, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement (CESCR, general comment no. 14, E/C.12/2000/4, para. 3).

Regarding children, who comprise most patients suffering from EB, I recall States’ obligations under the Convention on the Right of the Child (CRC), particularly with reference to articles 23 and 24, with specific focus on mentally or physically disabled children who should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate their active participation in the community. Similar obligations are provided under the Convention on the Rights

of Persons with Disabilities (CRPD).

Regarding the withholding of medical treatment or acts that cause treatment to be withheld, such as obstacles causing delays, I refer to the prohibition of inhuman treatment that is contained in article 7 of the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Convention on the Rights of Persons with Disabilities (CRPD) provides for the obligation “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity” and to “refrain from engaging in any act or practice that is inconsistent with the present Convention” as having universal extraterritorial character. Unavailability of bandages for EB patients prevents them from the possibility to be integrated in the society and to live a life with dignity, and affecting a broad range of human rights, including access to physical environment (art. 9), freedom from torture and inhuman treatment (art. 15), right to live independently and to be involved in the community (art. 19), to education (art. 24), to health, habilitation and rehabilitation (art. 25-26) of the CRPD.

Reference is also made to the UN Guiding Principles on Business and Human Rights (A/HRC/17/31, Annex), which highlight States’ and businesses’ responsibility to respect all internationally recognized human rights at minimum those set forth in the Bill of Rights (the UN Declaration on Human Rights and the two Covenants) (principles 11 – 13 of the Guiding Principles) and put forward global standards with regards to the expected conduct for all business enterprises wherever they operate, which should not lead to violations of human rights, including in the case of Belarus, the right to health and the protection against torture and other cruel, inhuman or degrading treatment or punishment.

Under the UN Guiding Principles on Business and Human Rights, responsibility of businesses to respect human rights includes their obligation to “(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (guiding principle 13). Business enterprise’s “activities” are understood to include both actions and omissions.

Principles 17-21 lay down the four-step human rights due diligence process that all business enterprises should take to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Principle 22 further provides that when “business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”. Furthermore, business enterprises should remedy any actual adverse impacts that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy

should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to the guiding principle 25).