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الدورة الثامنة والأربعون

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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

زيارة إلى جمهورية فنزويلا البوليفارية

تقرير المقررة الخاصة المعنية بالأثر السلبي للتدابير القسرية الانفرادية في التمتع بحقوق الإنسان، ألينا دوهان * * *

موجز

أجرت المقررة الخاصة زيارة إلى جمهورية فنزويلا البوليفارية في الفترة من 1 إلى 12 شباط/فبراير 2021 لتقييم أثر الجزاءات أحادية الجانب التي فرضتها عدة دول ومنظمات دولية على حقوق الإنسان الواجبة للفنزويليين. وتلخص المقررة الخاصة إلى أن الجزاءات المفروضة على قطاعات صناعات النفط والذهب والتعدين، والحصار الاقتصادي، وتجميد أصول المصرف المركزي، والجزاءات المحددة الأهداف المفروضة على الفنزويليين ورعايا وشركات بلدان ثالثة، وإفراط المصارف وشركات البلدان الثالثة في الامتثال لهذه الجزاءات، قد أدت إلى تفاقم الأزمة الاقتصادية والاجتماعية التي كانت قائمة قبل فرض الجزاءات وأثرت تأثيراً مدمراً على جميع السكان، ولا سيما على من يعيشون في فقر، والنساء، والأطفال، وكبار السن، والأشخاص ذوي الإعاقة أو المصابين بأمراض مزمنة أو مهددة للحياة، والسكان الأصليين. ولم تسلم أي طبقة من طبقات المجتمع من هذه الآثار. وتوصي المقررة الخاصة برفع هذه الجزاءات، التي فرضت في معظمها باسم حقوق الإنسان والديمقراطية وسيادة القانون، لأنها تقوض تلك المبادئ والقيم والقواعد التي فرضت باسمها.

* تأخر تقديم هذا التقرير عن موعده من أجل تضمينه أحدث المعلومات.

** يُعمَّم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعمَّم باللغة التي قُدِّم بها فقط وبالإسبانية.



الرجاء إعادة الاستعمال

Annex

Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, on her visit to the Bolivarian Republic of Venezuela

I. Introduction

1. The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, visited the Bolivarian Republic of Venezuela from 1 to 12 February 2021 at the invitation of the Government. The purpose of the visit was to assess the impact of unilateral sanctions on the enjoyment of human rights by Venezuelans. On 12 February she presented her preliminary observations to the Government, and through a press conference.¹

2. The Special Rapporteur sought to meet all possible interlocutors who might provide first-hand information relevant to her assessment. She was honoured to meet the President and Vice-President of the Republic, senior members of the Government, the judiciary and the legislature, and the heads of the various public services. She met representatives of political parties, trade unions, the private sector and the church. She had consultations with international organizations, national humanitarian organizations and other non-governmental organizations working in areas relating to health, education, human rights, child protection, women, older persons and indigenous populations. She also met medical personnel, teachers, professors, independent researchers and members of the general public, including victims and their families, especially in the health sector, and visited schools, hospitals and primary health centres in Caracas and Carabobo State.

3. She met with the resident coordinator, representatives of the United Nations country team, including from the Office of the United Nations High Commissioner for Human Rights (OHCHR), and members of the diplomatic community. She reiterates her gratitude to all these interlocutors, who have generously offered their time, information, analysis, experiences and thoughts to help her understand in a short time what has proved to be a complex and alarming situation.

4. The Special Rapporteur commends the hospitality of the Government, and the constructive and cooperative way in which the Government facilitated her visit throughout, which enabled frank and open exchanges. She expresses particular thanks to the Ministry of Foreign Affairs for its efficient engagement with her office, and to the office of the resident coordinator for its support and advice.

5. During her visit to the country in 2019, the United Nations High Commissioner for Human Rights signed an agreement whereby the Government consented to an operational presence of OHCHR to develop technical cooperation, and to invite 10 special procedure mandate holders to conduct visits in the following two years. The Special Rapporteur's visit is the first within that agreed programme.²

6. The conclusions and recommendations contained in the report are the result of a comprehensive process based on the principles of comprehensiveness, collection of materials from all types of interlocutors, verification of facts and data, and an assessment of facts within the framework of the Universal Declaration of Human Rights, relevant human rights and humanitarian law, fundamental principles of international law, and other applicable international treaty, and customary legal, norms.

¹ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26747&LangID=E.

² The visit of the Independent Expert on the promotion of a democratic and equitable international order (see A/HRC/39/47/Add.1) predated the agreement.

II. Sanctions

7. The United States of America has imposed sanctions against the Bolivarian Republic of Venezuela since 2005, targeting individuals and entities deemed to be involved in drug trafficking, and has maintained an arms embargo since 2006, considering the State to be cooperating insufficiently in counter-terrorism efforts.

8. Further targeted sanctions were declared in 2015, first in response to the repression of Venezuelan protests in 2014 and later for alleged human rights abuses and criminal activity. These sanctions – asset freezes and bans on transactions and travel – targeted individuals and entities accused of undermining democracy, committing human rights abuses, restricting freedom of expression or peaceful assembly, and corruption.

9. In 2017, the United States imposed sanctions against the Government and State entities, including State oil company *Petróleos de Venezuela (PDVSA)*, blocking them from transactions and access to United States and other financial markets. In 2019, after the Government of the United States recognized Juan Guaidó as the interim president of the country, it imposed further sanctions against *PVDSA*, the Central Bank and key officials to pressure President Nicolás Maduro to step down in favour of Mr. Guaidó. The sanctions further precipitated the plunge of Venezuelan oil output – the country’s main source of foreign revenue.

10. On 2 June 2020, the United States also imposed secondary sanctions against four tankers managed out of Greece and their operating companies for loading Venezuelan oil, blocking them from transactions in United States dollars and from accessing ports of call in the United States.³ On 24 June 2020, it imposed sanctions on the captains of five Iranian tankers that had transported oil products to the Bolivarian Republic of Venezuela. United States sanctions since 2018 have also targeted gold and other mining sectors, and the food, banking and financial services sectors.

11. As at 22 January 2021, the United States Department of the Treasury had imposed sanctions on more than 165 individuals, and the United States Department of State had revoked the visas of more than 1,000 individuals and their families.⁴

12. The Special Rapporteur takes note that since Joseph R. Biden Jr. became President, the Government of the United States has been reviewing the humanitarian impact of its sanctions against the Bolivarian Republic of Venezuela. On 4 February 2021, the United States Government Accountability Office announced that the Department of State had asked humanitarian organizations serving in the Bolivarian Republic of Venezuela about challenges arising from the sanctions, and that the United States Department of State and Department of the Treasury had “taken steps to mitigate negative consequences”.⁵ On 8 March, a senior government official expressed scepticism about the wisdom of maintaining those sanctions and said they were being reviewed “to ensure that they punish President Nicolas Maduro’s government ... and not the Venezuelan people”, but also that there was “no rush” to lift the sanctions during the review.⁶

13. The Special Rapporteur sought to meet with representatives of the Office of Foreign Assets Control, of the United States, to obtain the views of the Office, clarify policy, verify information and engage in dialogue, but received no response.

14. The European Union imposed sanctions (“restrictive measures”) against the Bolivarian Republic of Venezuela in November 2017.⁷ These consisted of an arms embargo, a ban on exports of goods that might be used for internal repression, a ban on exports of equipment, technology or software intended primarily for use in telecommunications monitoring or interception, and travel bans and asset freezes against individuals whose

³ See www.freightwaves.com/news/us-targets-greek-tankers-carrying-venezuelan-crude.

⁴ See <https://fas.org/sgp/crs/row/IF10715.pdf>, p. 1.

⁵ See www.gao.gov/products/gao-21-239.

⁶ See www.voanews.com/usa/us-monitoring-iran-sends-fuel-tankers-venezuela-defiance-sanctions.

⁷ See www.consilium.europa.eu/en/press/press-releases/2020/11/12/council-extends-sanctions-on-venezuela-until-14-november-2021/.

actions were deemed by the European Union to undermine democracy or the rule of law, or who were responsible for serious human rights violations. The stated objective is to pressure the Government to respect democratic institutions, hold free and fair elections and talks with the opposition, and free political prisoners.

15. On 16 November 2020, the European Commission issued a guidance note for humanitarian actors to minimize the potential adverse effects of European Union sanctions on the delivery of humanitarian aid to the country during the pandemic.

16. As of January 2021, 36 Venezuelan officials were being targeted with European Union travel bans and asset freezes, including 11 who had been placed on the list in June 2020 for acting against the democratic functioning of the National Assembly and for removing the parliamentary immunity of several deputies, including National Assembly President Juan Guaidó. Shortly after the Special Rapporteur's visit, the European Union imposed sanctions on 19 more Venezuelan officials, on similar grounds, bringing the total to 55.⁸ Those sanctions have been renewed annually, most recently on 12 November 2020.

17. Since its decision to leave the European Union, or "Brexit", the United Kingdom of Great Britain and Northern Ireland has maintained the sanctions regime imposed by the European Union. British regulations that came into force on 31 December 2020 authorized sanctions against the Bolivarian Republic of Venezuela to encourage respect for democratic principles and human rights and compliance with international human rights law.

18. The United Kingdom has been blocking the country's access to almost \$2 billion in gold deposited with the Bank of England, referring to the uncertainty of the democratic legitimacy of the Government. On 5 October 2020, the Court of Appeal in the United Kingdom overturned a High Court ruling that had "recognized" Mr. Guaidó's Central Bank board over Mr. Maduro's board. On 9 December 2020, the Supreme Court of the United Kingdom granted Mr. Guaidó's board permission to appeal. At the time of finalizing the present report, the legal battle over who had the right to control that gold was ongoing, with a final decision expected within a few months.⁹

19. Canada has sanctioned 113 Venezuelans; 1 person has been removed from the list. The sanctions consist of asset freezes and prohibitions on financial dealings, and are authorized either by a 2017 agreement with the United States or a law promoting justice for victims of corrupt foreign officials. The persons sanctioned are accused of repression, gross human rights violations, corruption, censorship, extrajudicial killings and other acts.¹⁰

20. In 2018, Mexico imposed asset freezes and travel bans against government officials, and in 2019 froze the financial assets of companies involved in food trade with the Government of Venezuela, following investigations that suggested the possibility of corruption and money laundering.¹¹ Since 2019, Colombia has imposed entry bans on about 200 government officials and other individuals involved in business and trade.¹² Curaçao prohibited imports of Venezuelan gold and issued travel bans in 2019, indicating that trade in Venezuelan gold was associated with criminal activity. In 2018, Panama imposed sanctions against Mr. Maduro and other Venezuelan officials for their alleged involvement in money laundering, financing terrorism and financing the proliferation of weapons of mass destruction. In total it sanctioned 55 Venezuelan officials and 16 entities doing business in Panama that were linked to Mr. Maduro's family.¹³

⁸ See www.consilium.europa.eu/en/press/press-releases/2021/02/22/venezuela-19-officials-added-to-the-eu-sanctions-list/.

⁹ See <https://www.supremecourt.uk/cases/uksc-2020-0195.html>.

¹⁰ See www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/venezuela.aspx?lang=eng.

¹¹ See https://vpitv.com/lo-ultimo/ultimas_noticias_sobre_venezuela/senado-mexicano-aprueba-acuerdo-en-rechazo-a-las-elecciones-en-venezuela/; and https://elpais.com/internacional/2019/07/18/america/1563464146_218094.html.

¹² See www.eltiempo.com/politica/gobierno/colombia-prohibe-el-ingreso-al-pais-a-200-personas-cercanas-a-maduro-320994.

¹³ See www.mef.gob.pa/wp-content/uploads/2020/10/Anexo-A-Resolucion-2-2018.pdf.

21. In 2018, Switzerland imposed an arms embargo and banned exports of equipment that could be used in repressive activities and intercepting civilian communications. It also imposed targeted sanctions against individuals and entities, including seven senior government officials, citing its concern about violations of individual freedoms and an election process that lacked legitimacy. The list mostly coincides with that for European Union sanctions.¹⁴

22. In September 2019, 16 of the Inter-American Treaty of Reciprocal Assistance countries approved a resolution authorizing targeted sanctions, including asset freezes, against government officials allegedly involved in drug trafficking, terrorist activities, organized crime and/or human rights violations. The sanctions were approved on grounds that the political and economic crisis in the Bolivarian Republic of Venezuela was a threat to peace and security throughout Latin America; Colombia accused the country of providing safe haven for Colombian rebels.¹⁵

III. Economic and humanitarian situation

23. In the early 2000s, the Government initiated a broad range of social projects in the spheres of housing, education, literacy, food, electricity and water supply, health care, family planning, computer literacy and communal development, many of which were implemented at no or almost no cost to the people. The projects were funded by State revenue, essentially derived from oil exports. At the time, under President Hugo Chávez, an estimated 70 per cent of State revenue was invested in these social development projects, in the framework of the Bolivarian Revolution, and most products, from machinery and spare parts to food and medicine, were imported primarily from the United States and Europe. Internal production remained underdeveloped and could not meet the needs of internal consumption. The economy's gradual decline started in 2014 with the drop in oil prices, and the related dwindling State revenue, which undermined these massive social programmes. While the poorest strata of society had benefited for a decade from the social investments of the State, most areas of life began to suffer.

24. The sanctions exacerbated the deepening economic and social crisis. The Government's revenue reportedly shrank to 1 per cent of its pre-sanctions revenue. Remittances from abroad decreased due to the blocking of State assets and the complexity of – and impediments to – bank transfers. Hyperinflation resulted in the total devaluation of the national currency, causing public sector monthly salaries to drop from the equivalent of \$150–\$500 in 2015 to \$1–\$10 in 2020, while growing impoverishment affected almost all strata of society. In 2018/19, the Government introduced new economic policies: price controls were lifted and the private sector was allowed to re-enter the economy.

25. The tightening of sanctions from 2017 undermined the positive impact of the multiple reforms and the State's capacity to maintain infrastructure and continue to implement social programmes. Today, the country faces a lack of necessary machinery, spare parts, electricity, water, fuel, gas, food and medicine. Venezuelan assets frozen in the United States, the United Kingdom and European Union banks amount to \$6 billion. The purchase of goods and payments by public companies are blocked. Numerous interlocutors from the private sector, non-governmental organizations (NGOs), universities and public offices and citizens reported the refusal or reluctance of foreign banks to open, or allow them to keep, accounts, or to send transfers in or out of the Bolivarian Republic of Venezuela; difficulties in obtaining visas and buying airplane tickets; the need to act through third-country agents, which increased costs and caused delays; and the need to pay extra insurance costs. To mitigate this economic and financial strangulation and the related growing overcompliance, in October 2020 the Government adopted the Anti-Blockade Constitutional Law.

¹⁴ See www.admin.ch/gov/en/start/documentation/media-releases.msg-id-70265.html.

¹⁵ See www.eltiempo.com/politica/gobierno/colombia-prohibe-el-ingreso-al-pais-a-200-personas-cercanas-a-maduro-320994.

IV. Effects of sanctions on the people

26. The Special Rapporteur cautions that some figures in the present report indicate trends rather than exact measures, given the difficulty in obtaining and verifying reliable statistics.

27. The sectoral sanctions, secondary sanctions and overcompliance by a multitude of actors further accentuated the pre-existing economic and humanitarian situation by preventing the earning of revenue and the use of resources to develop and maintain infrastructure and to support the economic reform efforts and social programmes. This has had a devastating effect on the people, especially the most vulnerable, such as women, children, older persons, persons with disabilities or life-threatening or chronic diseases, and indigenous communities.

28. The scarcity of resources and the reluctance among foreign partners, banks and delivery companies to deal with Venezuelan partners, mainly because of the sanctions imposed by the United States, have made it impossible to buy essential technological equipment and supplies for the repair and maintenance of public electricity, gas, water, transport, telephone and communication systems, and for schools, hospitals and other public institutions, undermining the enjoyment and exercise of the most fundamental rights to life, food, water, health, housing and education.

29. The Government of the Bolivarian Republic of Venezuela considers the impact of the sanctions as a crime against humanity and, pursuant to article 14 of the Rome Statute of the International Criminal Court, submitted a referral to the Court on 13 February 2020. The case is being investigated by a pretrial chamber.¹⁶

A. Impoverishment, nutrition and the right to food

30. Non-governmental sources estimate that poverty increased dramatically between 2014 and 2020, affecting 94 per cent of the people; of those, 67 per cent fell into extreme poverty and 64 per cent into multidimensional poverty.¹⁷ The Government recognizes that poverty has increased and strives to minimize its effects through its social programmes.

31. The Bolivarian Republic of Venezuela produces only 25 per cent of the food it consumes, importing the rest.¹⁸ The drop in oil revenues, exacerbated by the sanctions, provoked a food and nutrition crisis. Between 2015 and 2019, food availability reportedly decreased by 73 per cent as food imports fell. The Food and Agriculture Organization of the United Nations recorded a 213.8 per cent increase in undernourishment or chronic hunger. The National Survey on Living Conditions, carried out by an independent national academic investigation network, revealed that between 2014 and 2020, the lack of food and the related deterioration in the quality of the population's diet have had devastating nutritional effects for the most vulnerable groups, in particular the poorest, including children and older persons. Minimum wage is reportedly only enough to cover around 2 per cent of the food basket. Food supply has reportedly been compromised by the fall in imports, the operational collapse of State-owned companies, the lack of supply of intermediate inputs for the agrifood sector, the shortage of gasoline for the production and distribution of final products to markets, and the precarious purchasing power of workers.¹⁹

32. With more than 2.5 million people living in severe food insecurity, the most affected have resorted to such coping mechanisms as decreasing the number of meals per day (one or two instead of three); reducing the quality of food; selling household assets (decapitalizing) to eat; and reducing health, clothing and education expenses. There has been a related increase in family crises, tensions, violence and separations, child labour, involvement in the

¹⁶ See www.icc-cpi.int/venezuela.

¹⁷ See, for example, <https://insoencovi.ucab.edu.ve/indicador-pobreza/>.

¹⁸ See www.el-carabobeno.com/fedeagro-a-maduro-venezuela-solo-produce-el-25-de-los-alimentos-y-el-resto-se-importa.

¹⁹ See <https://devtechsys.com/insights/2020/12/07/note-on-the-malnutrition-report-in-venezuela-by-susana-raffalli-the-hidden-face-of-the-venezuelan-crisis-in-times-of-pandemic-additional-comments-on-the-particular-effects-on-venezuelan-children/>.

grey economy, criminal activity, forced labour, domestic violence, prostitution and migration.

33. The Special Rapporteur commends the efforts of NGOs and research and academic institutions that have been able to assess the nutritional state of children in the country. It was estimated in 2020 that at least 50 per cent of children under 5 years of age were at risk of acute malnutrition; children under 24 months old were the most affected age group, with 36 per cent experiencing acute malnutrition.²⁰

34. The Government reported that, as of December 2020, 88 per cent of households were receiving supplementary food provided through local committees for supply and production (CLAP). The programme was established by the Government in 2017 in response to sanctions and the related food scarcity. The food packages contain basic food staples such as corn flour, rice, butter, cooking oil, milk powder, sugar, canned fish, vegetables and fruit (usually locally produced), and pork or chicken (depending on availability) to provide complementary proteins, fats and carbohydrates.

35. In its January 2020 food security assessment, the World Food Programme estimated that 7.9 per cent of the Venezuelan population was severely food insecure and another 24.4 per cent was moderately food insecure.²¹ In a study conducted in 2019, 77 per cent of older respondents reported that they did not have access to sufficient food;²² many of the worst affected depended totally on the food packages to survive.

36. Official statistics indicate that in 2020, CLAP food packages were distributed to 7.5 million families,²³ although their contents were reduced because of the increase in the prices of cooking oil and butter. Another government response to the economic and food crisis has been the distribution, through the “Carnet de la patria” system, of a monthly stipend to an estimated 19 million beneficiaries (9 million households).

B. Right to health: a disastrous situation

37. The free and universal health-care system established through the Bolivarian Revolution, which was severely undermined by the oil crisis, has deteriorated further since 2017 amid the economic and financial sanctions. Nevertheless, owing to its infrastructure and the availability of human resources, it has continued to retain capacity that can be mobilized and supported to implement immediate remedial actions.²⁴ Concerns include a dire insufficiency, and increases in the prices, of basic medicines and vaccines; electricity shortages; water shortages and related hygiene and sanitation problems; deteriorating infrastructure and equipment because of a lack of maintenance and the absence of spare parts; the unavailability of new equipment due to the lack of resources or refusal by suppliers to sell or deliver; the lack of equipment to protect against infectious diseases; the loss of critical staff because of low salaries; degraded working conditions for the remaining personnel; and construction of hospitals and primary health-care centres stopped. The Venezuelan Medical Federation has cited a decline in the number of registered doctors, from 66,138 in 2014 to 35,939 at the end of 2019.²⁵ Hospitals report that as little as 20 per cent of their equipment is functioning, which sometimes prevents them from doing even standard blood tests.

²⁰ Ibid.

²¹ See https://reliefweb.int/sites/reliefweb.int/files/resources/Main%20Findings%20WFP%20Food%20Security%20Assessment%20in%20Venezuela_January%202020-2.pdf.

²² See <https://reliefweb.int/sites/reliefweb.int/files/resources/Rapid%20needs%20assessment%20of%20older%20people%20in%20Venezuela.pdf>.

²³ See www.mppp.gob.ve/wp-content/uploads/2021/01/Venezuela-en-cifras-2021-26-enero-1.pdf, p. 181.

²⁴ See www3.paho.org/hq/index.php?option=com_docman&view=download&category_slug=162-en9841&alias=45491-ce162-inf-22-e-paho-tc-respond-491&Itemid=270&lang=eng.

²⁵ See <https://elpitazo.net/reportajes/hospitales-sin-insumos-tambien-se-quedan-sin-medicos/>.

38. The country is almost entirely dependent upon foreign pharmaceutical supplies and heavily dependent on imports of medicine.²⁶ Sanctions have blocked purchases of items such as human albumin, immunoglobulin and other blood products, affecting, for example, 5,859 people suffering from haemophilia and Guillain-Barré syndrome. Even antibiotics are scarce.²⁷

39. The national pharmaceutical federation reported that about 85 per cent of the globally available medicine required is not reaching the country. This has led to the deaths of many people with preventable or treatable diseases or conditions. It has also placed the health of some 300,000 people with chronic conditions at risk because they have been unable to obtain their medicine and treatments.²⁸

40. Other deleterious effects include the growing issue of teenage pregnancy, which is rising to a crisis level. Girls as young as 12 and 13 years old who have had to resort to exchanging sex for food or other necessities are becoming pregnant amid a lack of access to information about, and use of, contraception, and are also contracting HIV/AIDS at a higher rate owing to the increase in unprotected relations.

41. The sanctions have resulted in the blocking of transactions aimed at purchasing medicine abroad. This prevented the purchase of blood components in 2020 for 2,586,106 patients and 123,000 others in need of blood transfusions, according to the Ombudsman's Office. The blocking of immunoglobulin purchases had affected over 200 children suffering from Kawasaki syndrome. The obstruction of the purchase, through the Pan American Health Organization (PAHO), of vaccines against meningitis, rotavirus infection, malaria, measles, yellow fever and influenza had deprived approximately 2.6 million children of those vaccines. Moreover, the blocking of purchases of antibiotics, anaesthetics and anti-tuberculosis treatment had prevented about 180,000 surgical operations.

42. Surveys by State and civil society actors in the past five years show the resumption or spread of preventable diseases, such as measles and diphtheria; growing numbers of infectious diseases, such as malaria and tuberculosis; and high levels of food insecurity and child malnutrition. While they have also shown increased maternal and infant mortality rates, the Special Rapporteur notes that there was a slight improvement in that area after humanitarian cooperation between the United Nations Children's Fund (UNICEF), PAHO and church and other humanitarian organizations was activated in 2019.

43. According to the National Survey on Living Conditions, general mortality increased by 31 per cent between 2017 and 2018. Based on that survey, two economists have estimated that the impact of the sanctions had inflicted "very serious harm to human life and health, including an estimated more than 40,000 deaths from 2017 to 2018; and that these sanctions would fit the definition of collective punishment of the civilian population".²⁹ Although the figure is an estimate, it indicates a very distressing situation.

44. One concrete example is the freeze and diversion of the assets of CITGO (a subsidiary of *Petróleos de Venezuela* in the United States), which has prevented children from receiving liver, kidney and bone marrow transplants in foreign hospitals under a programme financed by the State, which was abruptly halted in 2017 because of sanctions. Payments cannot be made, as assets are frozen and access to the international banking system is blocked. Prior to the suspension of the programme, over 500 children had received such transplants in Argentina and Italy. As of June 2021, 53 children were awaiting the resumption of the programme to receive transplants that cannot be done in the Bolivarian Republic of Venezuela. A total of 14 children, including 3 who were 3 years old or younger, have died.

45. The Special Rapporteur visited the Quimbiotec plant, which produced nearly 600,000 doses of blood-derived products in 2011. Production dropped to around 300,000 doses in

²⁶ See www.wola.org/wp-content/uploads/2020/10/Oliveros-informe-completo-2.pdf, p. 31.

²⁷ See www.thenewhumanitarian.org/news-feature/2018/10/25/worse-war-zone-inside-venezuela-s-healthcare-crisis. See also [www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)00277-4/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)00277-4/fulltext).

²⁸ See www.accionsolidaria.info/website/wp-content/uploads/2018/02/Informe-salud-CIDH-Audiencias-Febrero-2018.pdf.

²⁹ See <https://cepr.net/images/stories/reports/venezuela-sanctions-2019-04.pdf>.

2015 and to 1,610 in 2020, and eventually came to a complete halt, as the sanctions prevented the purchase of components and reagents for the medicine produced at the plant, and spare parts from abroad. The plant is now struggling to maintain its equipment and keep its most critical personnel until it can resume operation. On 15 June 2020, one supplier of equipment and maintenance services informed the director of Quimbiotec that, due to the sanctions imposed by the United States, the supplier claimed it could no longer provide any product to, and/or service, entities in or linked to the Bolivarian Republic of Venezuela, but expressed interest in being able to provide services to Quimbiotec, should there be any change in the sanctions.

46. The most modern hospital – the children’s heart hospital – once handled 90 per cent of children’s heart operations in the country. In 2015, up to 5 heart surgeries were performed there each day; this dropped to fewer than 120 surgeries for all of 2020 due to shortages in funding, equipment, spare parts, medicine and qualified staff. The hospital has been unable to repair haemodynamic equipment that supports vascular intervention procedures because the sanctions have prevented it from making payments.

47. The J.M. de Los Ríos children’s hospital in Caracas has been the main hospital for children from outside the capital. Care in several of its 34 specialist areas is reportedly no longer available. The hospital lacks basic medicine, medical equipment and instruments, and can no longer provide food for the patients. Patients requiring oncology and haematology services cannot receive complete treatment, which has forced families to seek supplemental treatment elsewhere – if they can afford it. Here again, the poorest are the most affected. Since the imposition of sanctions in 2017, organ transplants at the hospital have been suspended; 137 children are currently waiting for kidney transplants.

48. The Special Rapporteur met with child patients suffering from chronic nephrology and haematology pathologies, and parents of children who had died from these pathologies in the hospital because treatment could not be provided. They referred to water and electricity shortages; a lack of essential medicines; insufficient equipment, such as dialysis machines (5 were operational, out of 20); technical equipment falling apart for lack of spare parts; the reduction in the capacity of intensive care units because of a lack of respirators; a lack of magnetic resonance imaging (MRI) capacity; the spread of opportunistic diseases; the spread of malaria, dengue, lupus and gastrointestinal diseases because of unsanitary water and hygiene conditions; and a lack of food.

49. In December 2020, the Joint United Nations Programme on HIV/AIDS (UNAIDS) estimated that 110,000 Venezuelans were living with HIV/AIDS, less than half of whom were receiving antiretroviral treatment, and an estimated 38 per cent were not aware of their status. Access to HIV testing and treatment has been an ongoing challenge. Because of the lack of prenatal testing and monitoring, many pregnant woman are giving birth to HIV-positive children.³⁰

50. Prior to 2016, each year the State was supplying – free of charge – through the Strategic Fund of PAHO, an estimated \$12 million worth of antiretroviral drugs, other drugs and reagents for HIV diagnosis, control and monitoring tests and treatment to cover the needs of people in the country living with HIV/AIDS. In 2016, it stopped purchasing such supplies due to rising costs. Although NGOs began to partially take over this role, severe shortages developed. As a result, 80,000 out of an estimated 120,000 persons living with HIV/AIDS had to suspend their treatment for lack of drugs.

51. In 2015, 2,300 people with HIV/AIDS were reported to have died; that mortality rate more than doubled by 2018.³¹ It declined substantially in 2019 after PAHO, UNICEF, the Office for the Coordination of Humanitarian Affairs and UNAIDS began to deliver humanitarian aid through a network of 68 Venezuelan NGOs that covers most of the country.

52. Maintaining the sanctions in the context of the pandemic has further impoverished the most vulnerable strata of society, with 43 per cent of households reporting the impossibility

³⁰ Information received from stakeholders during the mission.

³¹ Ibid.

of working, or a loss of their resources.³² Not only were sanctions not eased despite urgings from the Secretary-General of the United Nations, the United Nations High Commissioner for Human Rights and special procedure mandate holders, but additional sanctions were imposed in 2020. Preliminary findings on their impact on the population in the course of the pandemic are contained in the Special Rapporteur's report to the General Assembly in 2020.³³

53. On 17 June 2021, the Government of the United States issued general licences that authorized transactions and activities involving the Government of the Bolivarian Republic of Venezuela and a number of Venezuelan banks so long as they were "related to the prevention, diagnosis, or treatment of" the coronavirus disease (COVID-19). The Special Rapporteur calls on the Government of the United States, and banks and companies worldwide, to make effective use of these humanitarian exemptions.

54. The Special Rapporteur regrets that an agreement between the Government of the Bolivarian Republic of Venezuela and the United Nations Development Programme (UNDP) to unfreeze Central Bank assets in the Bank of England for UNDP to purchase medicine, protective kits, disinfectants and vaccines has not been endorsed by the political opposition, and thus the transaction has been blocked. On 10 June 2021, the Government deplored that the United States had caused the Swiss bank UBS to block part of a payment to COVAX, the vaccines pillar of the Access to COVID-19 Tools (ACT) Accelerator,³⁴ for vaccines. While the Special Rapporteur welcomes the announced waivers that would make it possible to access Central Bank assets frozen in the United States to purchase vaccines through the COVAX mechanism,³⁵ she is concerned that they may not be applied in practice. By the end of June 2021, the Bolivarian Republic of Venezuela was only able to obtain COVID-19 vaccines from China and the Russian Federation.

C. Migration and the drain of human resources

55. Emigration accelerated with the tightening of sanctions. At the end of 2015, the Office of the United Nations High Commissioner for Refugees estimated that 695,000 Venezuelans had left the country. In accordance with data provided by the Government and the immigration authorities of host countries and NGOs, migration figures varied from 1.2 million to 5.6 million by May 2021.

56. Most public services have lost 30 to 50 per cent of their personnel, including many of the most highly qualified workers (such as doctors, nurses, engineers, teachers, professors, judges and police officers), resulting in internal disorganization, increased workloads for remaining staff and reduced services and a decline in their quality. Public hospitals report shortages of qualified personnel, with between 50 and 70 per cent of such posts vacant.

57. Heads of State-run companies responsible for the supply of water, electricity, gas and telecommunications reported that they had lost an estimated 30 per cent of their employees.

58. The judiciary, which employed some 22,390 staff at full capacity, had 467 vacancies in 2017 and 8,138 in 2020, hampering the right to justice. In a meeting with the Special Rapporteur on 4 February 2021, the President of the Supreme Court reported that judiciary staff who had many years of training – "the best ones" – had left, and that the others were busy with survival needs, which had a negative impact on their performance. He reported that, in that sense, sanctions had impacted the administration of justice.

59. The telecommunications sector, which, six years ago, was a leader in the region, reported that 50 per cent of the best experts and 70 per cent of engineers and technicians had left to find work in other countries.

³² Ibid.

³³ A/75/209.

³⁴ See www.reuters.com/world/americas/venezuela-says-payments-covax-vaccine-system-have-been-blocked-2021-06-10/; and <https://peoplesdispatch.org/2021/06/14/global-outcry-after-venezuela-financially-blocked-from-covax-initiative/>.

³⁵ See www.argusmedia.com/en/news/2226060-us-waives-covidrelated-venezuela-transactions.

60. The Ministry of the Interior, Justice and Peace reported that out of a police force of 130,000 trained at the police academy, 94,000 officers remained. The country would need 200,000 police officers to fulfil the various police missions.

D. Delivery of essential public services

61. Senior ministers managing State companies in charge of the main public services explained how past economic policies had led to the country's almost complete dependence on imports to sustain its economy and essential public services. Health services, education, electricity generation, water distribution, agricultural processing, transportation, telecommunications and production of pharmaceuticals have been undermined by the impossibility of buying new equipment, spare parts to repair used or obsolescent equipment, and components for equipment maintenance.

62. An estimated 90 per cent of households are reportedly connected to the national water distribution system, but outages are frequent due to cuts in the electricity that supplies water pumps. The Special Rapporteur met people in and outside Caracas who confirmed that water was delivered regularly once or twice a week in collective tanks, distributed to households at certain hours, and had to be boiled to be consumed.

63. The minister responsible for water explained that only 50 per cent of the system's distribution units were running because it was impossible to buy spare parts and perform maintenance work, so water had to be distributed in rotation to ensure delivery to all. He reported that 52 per cent of the water distribution system used technology from the United States, and 29 per cent of it used German and Swiss equipment. The sanctions have made it impossible to invite the relevant experts to perform maintenance, and have forced authorities to reduce by 30 per cent the chemical agents used to treat and purify the water to make it potable. The last foreign hydropower company remaining (Sinohydro Corporation, owned by China) is departing because payments could not be made due to blocked transactions. The minister confirmed the loss of experts, including experienced engineers and technicians. The resulting water shortages and unsanitary water have adverse consequences on the rights to life, to health and to hygiene.

64. The Bolivarian Republic of Venezuela can only produce 40 per cent of the electricity it needs, and power lines are working at less than 20 per cent of their transmission capacity. Of 195 electricity production units, 31 have stopped functioning. The electric system also faced four cyberattacks in 2019, which provoked blackouts. The minister in charge said that in the south-west region, electricity production was at 20 to 25 per cent of its potential because thermopower machines were damaged and needed to be repaired.

65. Diesel is essential to the energy grid, including electricity generation, and for agriculture production, the transportation of food, water pump operation, public transport, transit and ambulances. A shortage in diesel – described as imminent at the time of the visit – would precipitate a catastrophic situation for the people, aggravating existing issues with food production, storage, transportation and supply. In 2020, the United States eliminated an exemption to sanctions that allowed the Bolivarian Republic of Venezuela to exchange crude oil for diesel, directly threatening the food supply,³⁶ essential power generation and public transport.

66. The country currently needs a minimum of 110,000 barrels of gasoline per day to meet the demand. Production in January 2021 was approximately 31,000 barrels per day. According to the ministry responsible, only one production unit out of five was operating in May 2021, partly due to the lack of spare parts and the chemicals needed to refine the crude oil. The shortage of gasoline, with the resulting rise in transportation prices, impedes access to hospitals, schools and other public services, exacerbates the challenges in delivering and distributing food and medical supplies – especially in remote areas of the country – and results in delays in public services, including criminal and civil justice services, thus violating the rights to freedom of movement, food, health, education and access to justice.

³⁶ See www.reuters.com/article/venezuela-diesel-agriculture-idUSL1N2ML22P.

67. The Special Rapporteur is concerned that members of indigenous population are among those most affected by the gasoline shortages. She was informed about the Government's decision in late 2020 to suspend civil aviation flights to several indigenous communities in remote parts of the country, purportedly to maintain strategic reserves at local airports for ensuring air bridges in response to emergencies. This has deprived these communities of much needed supplies, exacerbating an already acute food and health crisis.³⁷

68. The Special Rapporteur has raised with the Government of the United States her concerns that it has imposed sanctions on non-United States companies, vessels and individuals involved in delivering gasoline to the Bolivarian Republic of Venezuela, including captains of Iranian vessels who the United States has designated as being involved in terrorist activity without evidence and due process, and about its Rewards for Justice programme. No response has been received to communications sent by the Special Rapporteur in September 2020³⁸ and April 2021.³⁹

69. Similarly, sea transportation has reportedly dropped by 72 per cent because shipping companies trading with the country have been sanctioned, and Venezuelans cannot get the spare parts required for the maintenance and operation of vessels. The domestic train system was developed by China, France, Spain and the United States. The subway trains were manufactured in France and Spain, but only 28 of the 48 trains currently operate.

E. Rights to education, information, property, access to justice and reputation

70. Government support of school and university education has significantly decreased since 2016. Among other impacts, the supply of uniforms, shoes, backpacks and office supplies has been reduced or stopped, and, the number of daily meals provided at school has been reduced from two to one, or eliminated entirely. Where meals are still provided, the quantity has been decreased and there is less food variety. Since the outbreak of the pandemic, the effort to develop online teaching at all levels has been hampered by factors such as the costs of accessing existing platforms; technical difficulties; lack of Internet coverage in parts of the country; insufficient equipment (antennas, modems); power shortages; and a lack of printers and paper to print documents at home. University researchers who providing information during the visit estimate that 30 per cent of students in private schools and universities cannot overcome these obstacles, a figure that rises to 80 per cent for students in public institutions.

71. A consequence of the sanctions has been the suspension of the Government's Canaima programme to produce and distribute, free of charge, compact laptop computers and tablets to the estimated 14 million pupils and students in the country. The programme started in 2015; 6.5 million laptop computers have been assembled and distributed throughout the country. Each computer contained the relevant curriculum, materials, including digital textbooks, and was connected to the central library, for digitalized books, and to the Internet. Since 2020, the only way to build new laptop computers under the programme has been by assembling them from broken ones, as there is no longer any access to spare parts.

72. Due to the impediments in buying necessary equipment and spare parts, as well as the scarcity of financial resources, the Government has been unable to launch a new satellite or conclude an agreement to rent one, resulting in shrinking Internet coverage (10 per cent of the territory in comparison to 50 to 90 per cent coverage in 2015). Private actors now provide some Internet coverage, resulting in higher costs for access.

73. Although academics, scholars and researchers may still publish their work in international scientific and academic reviews, their ability to travel abroad to attend international conferences has been hampered because of flight, visa and money transfer restrictions due to sanctions, thus limiting possibilities for academic research. The

³⁷ Information provided by the Government of the Bolivarian Republic of Venezuela.

³⁸ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25541>.

³⁹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26324>.

combination of these factors, aggravated by other effects of the sanctions, has further compromised the right to education.

74. The blocking of property, assets and bank accounts of citizens by foreign and correspondent banks, quite often because of overcompliance, has resulted in multiple violations of the right to property, including for third-country nationals, in particular through the termination of contracts with third-country companies.

75. The Special Rapporteur also underlines that targeted and secondary sanctions violate the rights to fair trial, procedural guarantees, freedom of movement, property and reputation. Sanctions against representatives of opposition groups for participation in elections violate their right to hold and express opinions, and to participate in public affairs. While pursuant to article 275 of the Treaty on the Functioning of the European Union listed persons have the possibility of accessing the European Court of Justice, there are no procedural guarantees before sanctions decisions are taken. The Special Rapporteur notes that no access to justice is guaranteed as regards sanctions imposed by the United States.

76. Several interlocutors consistently informed the Special Rapporteur about the chronic lack of official public statistics in vital areas. This has prevented analysis of, among others, health and nutrition situations, making it difficult to identify needs and the level of urgency of those needs and to design appropriate responses. She notes, however, that detailed official information exists, some of which has been shared with her by the Government, and that such information should be publicly released.

77. The Special Rapporteur is disturbed by reports that some medical professionals were reportedly dismissed or otherwise sanctioned for participating in public protests about the deteriorating conditions of work and care in the health system, or had been threatened by superiors or even arbitrarily detained.⁴⁰ In one instance, the Minister of Health was dismissed in May 2017 after she publicly released health statistics that showed worsening trends.⁴¹

F. International cooperation, aid and humanitarian assistance

78. The Special Rapporteur welcomes reports of the Government's greater engagement with the organizations and agencies of the United Nations system, other international agencies and NGOs in providing humanitarian aid, and facilitating the rehabilitation of water systems and the critical supply – by UNICEF for instance – of vaccines, medicines, tests, reagents, school supplies and food, thus helping around 4 million people. She continues to deplore, however, the refusal of the Government of the United Kingdom to allow the Government of the Bolivarian Republic of Venezuela to access its own State assets, frozen in the Bank of England, to buy medicine, vaccines, protective kits and medical equipment through third-party institutions. She hopes that in line with its human rights commitments the United Kingdom will release the property of the State of the Bolivarian Republic of Venezuela.

79. In recent months, several measures were announced by the Government of the Bolivarian Republic of Venezuela that were perceived as an effort to strengthen its control of NGOs, both domestic and foreign. On 27 October 2020, it published a resolution requiring foreign NGOs to register their activities. On 20 November 2020, the superintendency of banking institutions announced that all business and financial operations carried out by non-profit organizations in the country were to be monitored. On 30 March 2021, the Ministry of the Interior, Justice and Peace published an administrative ruling requiring all NGOs and non-profit organizations, including those which were already legally registered, to re-register in a unified registry within the National Office against Organized Crime and Terrorism Financing, under the Organic Law against Organized Crime and Terrorist Financing.

80. The Special Rapporteur understands that the Government's concern vis-à-vis some domestic and foreign NGOs may arise from the suspicion that, in the name of human rights and humanitarian purposes, some may conduct activities that contribute to the destabilization

⁴⁰ A/HRC/41/18, para. 36.

⁴¹ See <https://www.bbc.com/news/world-latin-america-39896048>.

of the country situation and fuel anti-Government campaigns. She recalls, however, that the work of bona fide NGOs remains essential in alleviating the impact of unilateral sanctions on the country, particularly as such sanctions affect the most vulnerable groups. She supports the approach of NGOs working to protect the independence, impartiality and integrity of their activities, and their insistence that the legal framework being put in place should facilitate their work, in accordance with international human rights law, and should not be used to silence well-founded criticism or criminalize their legitimate activities. She transmits to these organizations the invitation of the Attorney General to engage in an open dialogue with his office to work out the differences together and to embark on constructive cooperation in the respect of their independence.

V. Assessment of the legal basis for the imposition of sanctions

81. The Special Rapporteur considers that the state of national emergency announced by the Government of the United States on 8 March 2015 as the ground for introducing sanctions against the Bolivarian Republic of Venezuela, which has been repeatedly extended and is still in place, contravenes the requirements of article 4 of the International Covenant on Civil and Political Rights. It does not correspond to the criteria of the existence of a threat to the life of the nation, the limitation of measures to those strictly required by the exigencies of the situation, their limited duration, the absence of discrimination, the prohibition to derogate from the right to life and the prohibition of punishment of activity that does not constitute a criminal offence. This concern was raised in a communication, dated 29 January 2021, transmitted by several United Nations human rights experts.⁴² To date, no response to the communication has been received from the United States.

82. The Special Rapporteur underlines that the sanctions against critical economic and life-support sectors, such as oil, gold and mining, and against the State-owned airline and the television industry, constitute a violation of international law. They do not fit the criteria applied to countermeasures to exclude their wrongfulness in accordance with the law of international responsibility. The announced purpose of the “maximum pressure” campaign of the Administration of the United States – aimed at changing the Government of the Bolivarian Republic of Venezuela⁴³ – violates the principle of sovereign equality of States and constitutes an undue intervention in the domestic affairs of the Bolivarian Republic of Venezuela that also affects its regional relations.

83. In accordance with article 51 of the articles on responsibility of States for internationally wrongful acts and article 54 of the articles on the responsibility of international organizations, countermeasures must be commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question with due account for the observance of humanitarian law and fundamental human rights.

84. In accordance with customary norms on the immunity of State property, the assets of the Central Bank and property used for public functions belong to the State of the Bolivarian Republic of Venezuela rather than to the Government or any individual. Therefore, the freezing of assets of the Central Bank on the ground of non-recognition of its Government, and the adoption of relevant sanctions, violates the sovereign rights of the country and prevents the Government from exercising its duty to guarantee the needs of the population.

85. The Special Rapporteur underlines that the targeting of State officials *ex officio* (including the Attorney General of the Bolivarian Republic of Venezuela, who is entitled to represent the State in the course of international adjudication) contradicts the prohibition on punishment for activity that does not constitute a criminal offence; prevents the officials from representing the interests of the country in international courts and other international and national institutions, including to bring civil suits as regards State property; and undermines the principle of sovereign equality of States. She also notes that repeated refusals of banks in

⁴² See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25879>.

⁴³ See <https://ve.usembassy.gov/the-united-states-imposes-maximum-pressure-on-former-maduro-regime/>.

Portugal, the United Kingdom and the United States to release Venezuelan assets even for buying medicine, vaccines and protective kits managed by United Nations organizations, violate the above principle, impede the ability of the Bolivarian Republic of Venezuela to respond to the COVID-19 emergency and result in the violation of a number of fundamental human rights, including the rights to life and to health.

86. The Special Rapporteur is concerned that targeted sanctions in their existing form violate, at the very least, obligations relating to universal and regional human rights norms, including with regard to the rights to freedom of movement, property, privacy, family life, and reputation, labour and economic rights, the presumption of innocence, the right to fair trial, and access to justice. Many such norms (relating to procedural guarantees, the presumption of innocence, and the right not to be punished for action that did not constitute a crime at the time it was carried out) are of a peremptory character. The grounds for the introduction of these sanctions do not constitute, for the most part, international crimes, nor do they meet the grounds for universal criminal jurisdiction, yet on 27 September 2018, a group of States submitted a referral against the Bolivarian Republic of Venezuela to the International Criminal Court. The Special Rapporteur emphasizes that, even in time of war, violating rights associated with procedural guarantees is considered a serious breach of international humanitarian law.⁴⁴

87. Mindful that criminal cases can be initiated on the basis of universal jurisdiction when international crimes are committed, the Special Rapporteur recalls that the list of international crimes is limited to aggression, war crimes, genocide and crimes against humanity. No State is entitled to initiate a criminal case without sufficient jurisdictional ties. There is no basis in international law for initiating the criminal case against the President of the Bolivarian Republic of Venezuela and 14 current and former State officials on allegations of corruption and narco-terrorism, as those acts cannot be qualified as international crimes. Similarly, they cannot be used as grounds to impose unilateral sanctions, especially given the immunities enjoyed by high State officials under customary international law. The absence of grounds or evidence for the charges above is confirmed by the reward offered for any information leading to the arrest or conviction of the individuals named in the case.⁴⁵

88. The Special Rapporteur also expresses concern about the request for the extradition of Alex Saab Morán, the Permanent Representative ad interim of the Bolivarian Republic of Venezuela to the African Union. Mr. Morán, who was included in the list of persons and companies on which the United States had imposed sanctions in 2019, was arrested in Cabo Verde in 2020 during the refuelling of an airplane on which he was travelling and has been detained since, in flagrant violation of diplomatic immunities and without any clear charges. Repeated requests from international organizations and institutions for his release have been ignored.⁴⁶

89. Mindful that the Treaty on the Functioning of the European Union authorizes the European Court of Justice to review the legality of decisions involving restrictive measures and that the Court has made more than 360 judgments in such cases, the Special Rapporteur nevertheless notes that this approach guarantees only limited access to justice, and that no access to justice is provided under United States legislation.

90. Several actions brought by Venezuelan officials to the Court of Justice of the European Union for annulment of their designation, as well as an action for annulment of the relevant regulation of the Council of the European Union, have all been ruled inadmissible by the General Court. Although the European Court of Justice, in a decision dated 22 June 2021, set aside the decision of the General Court, the Special Rapporteur is concerned that qualification of the Government as a legal person within the meaning of article 263,

⁴⁴ Geneva Convention relative to the Protection of Civilian Persons in Time of War, art. 147; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 85 (4) (e).

⁴⁵ See www.justice.gov/opa/pr/nicol-s-maduro-moros-and-14-current-and-former-venezuelan-officials-charged-narco-terrorism.

⁴⁶ See communication CPV 2/2021, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26527> (in French).

paragraph 4, of the Treaty on the Functioning of the European Union may result in a violation of the principle of sovereign equality of States.⁴⁷

91. The Special Rapporteur recalls the existence of a general consensus on the illegality of the application of extraterritorial sanctions. It has been generally agreed that any measures can be taken only by States with sufficient jurisdictional ties. Applying extraterritorial jurisdiction to nationals and companies of third States for cooperation with public authorities, nationals and companies in the Bolivarian Republic of Venezuela, and allegedly threatening third-State parties (such threats have reportedly been made by United States officials and senators) is not justified under international law and results in growing overcompliance with sanctions. The Special Rapporteur notes with concern the reported threats against private businesses and third-country donors, partners and humanitarian organizations, which have led the Government of the Bolivarian Republic of Venezuela to introduce confidentiality clauses in the Anti-Blockade Constitutional Law to protect the identities of partners.

VI. Conclusions

92. The Special Rapporteur notes with concern that sectoral sanctions on the oil, gold and mining industries, the economic blockade of the Bolivarian Republic of Venezuela, the freezing of Central Bank assets, targeted sanctions imposed on Venezuelan and third-country nationals and companies, and growing overcompliance by banks and third-country companies have exacerbated the pre-existing economic and humanitarian situations. They have prevented the earning of revenue and the use of resources to maintain and develop infrastructure and social support programmes, which has a devastating effect on the country's entire population, especially – but not only – those living in extreme poverty, women, children, medical workers, persons with disabilities or life-threatening or chronic diseases, and the indigenous population.

93. Existing humanitarian exemptions are ineffective and insufficient, subject to lengthy and costly procedures, and do not cover the delivery of spare parts or equipment and machinery indispensable for the maintenance and restoration of the economy and vital public services.

94. The Special Rapporteur is concerned that extraterritorial secondary sanctions and reported threats of sanctions result, owing to fear, in overcompliance with existing sanctions regimes, preventing the Government of the Bolivarian Republic of Venezuela, its public sector and private companies from purchasing machinery, spare parts, medicine, food, agricultural supplies and other essential goods even within the licences issued by the Government of the United States. She is also concerned that they result in a growing number of bank transfer refusals, the extension of bank transfer periods (from 2 to 45 days), higher costs for deliveries, insurance and bank transfers, and reported price increases for all goods, in particular imported goods.

95. She notes with concern that the absence of resources and the reluctance of foreign partners, banks and delivery companies to deal with Venezuelan partners, owing to a fear of being sanctioned themselves, make it impossible to purchase vital medical and technological equipment, reagents, and spare parts in order to properly equip medical facilities, nor are these facilities able to access repair services or warranties. In addition, the repair and maintenance of electricity, gas, water, public transport and telecommunications systems necessary to sustain medical facilities, schools, hospitals, houses and others that are provided with public services are also greatly affected, thus undermining the very foundation of social life and the enjoyment of many human rights, including the rights to food, health, education, access to information, and a decent life, and economic and labour rights.

96. Despite the periodic review and increase of wages in the country, the average public-sector salary is estimated at \$2-\$10 per month, covering less than 2 per cent of the basic food basket. This has made people increasingly dependent on social support from the Government, such as food packages delivered through local committees for

⁴⁷ See <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-06/cp210112en.pdf>.

supply and production, regular money transfers through the “Carnet de la patria” system, and multiple subsidies for public servants, as well as foreign humanitarian aid.

97. This has also increased the level of migration, affecting primarily – but not only – high-level public-sector specialists, including doctors, nurses, teachers, university professors, engineers, police officers, judges, technicians and many others. It has also fostered the growing involvement of people in the grey economy and undermined for all an adequate standard of living by violating economic rights, including the rights to work, to decent work, to social security, including social insurance, and to retirement benefits. In some public service areas, up to half of the posts that are necessary to guarantee the normal functioning of those services are vacant. Massive migration in the absence of affordable transportation endangers the lives of migrants and imposes heavy burdens on recipient countries. Access to food, medicine and medical help for Venezuelan migrants, the unavailability of identification documents for children born abroad, the separation of families and the lack of proper care for children left in the country with grandparents have been reported, among other problems.

98. The lack of doctors and nurses and the shortages of medicine, medical equipment, spare parts, relevant software updates, vaccines, tests, reagents and contraceptives previously provided or covered by the Government has resulted in the violation of the right to health, with rising rates of maternal, neonatal and infant mortality, mortality from severe diseases (cancer, AIDS, haemophilia, Guillain-Barré syndrome, heart disease and many others), deteriorating living conditions for persons with special needs and chronic disease, and an unprecedented increase in adolescent pregnancies. The unavailability of resources, including the frozen assets, for buying vaccines and supporting family planning programmes has resulted in outbreaks of preventable and treatable diseases such as malaria, measles and yellow fever, and opportunistic infections.

99. The Special Rapporteur is concerned that the lack of gasoline, with the resulting rise in transportation costs, violates the freedom of movement, impedes access to hospitals, schools and other public services, exacerbates the challenges in delivering and distributing food and medical supplies – especially in remote areas, affecting, inter alia, the indigenous population – and results in delays in public services, including criminal and civil justice. The reported lack of diesel fuel, mostly used for agricultural, industrial and transportation purposes, affects the production and storage of food and worsens food insecurity.

100. She notes with concern that due to the unavailability of new machinery, spare parts and competent staff, people have reduced access to electricity. This impedes, inter alia, the functioning of water pumps, resulting in the violation of the right to water, including drinking water and water for sanitation, and increases the risk of disease.

101. Symbolic salaries, and the absence or insufficiency of school supplies, school uniforms and food at school – which used to be provided by the Government – compounded by transportation problems, electricity shortages and reduced Internet and mobile telephone coverage, endanger the exercise of the right to education. These issues, and the reported impossibility of using online resources with Venezuelan Internet Protocol addresses, affect access to information and freedom of expression. The reported reluctance of foreign partners to cooperate with Venezuelan institutions, including universities, sport societies and NGOs, as well as impediments to money transfers, difficulties in getting visas, and refusals to open bank accounts for Venezuelan citizens or public and private companies based in the country or the closing of their accounts, owing to fear of secondary sanctions, affect the right to education, academic freedom and cultural rights, and impede the delivery of humanitarian aid.

102. The Special Rapporteur is also concerned that shortages of cooking gas, forcing people to cook with wood fires, may violate the right to a favourable environment. She greatly regrets that due to the necessity of meeting the human needs essential for survival, the Government has reportedly suspended all programmes aimed at achieving the Sustainable Development Goals, including in the areas of agricultural and health,

environmental protection, the enhancement of literacy and computer literacy and reconstruction.

103. The Special Rapporteur underlines that the blocking of Venezuelan property and the assets and bank accounts of Venezuelans by foreign and correspondent banks, quite often because of overcompliance and zero-risk policies, violates the right to property. The application of unilateral sanctions has far-reaching consequences, affecting the rights of many third-country nationals, and precipitates the termination of contracts with third-country companies, affecting the economic and property rights of their owners and employees. The Bolivarian Republic of Venezuela has had to halt its donations to regional assistance projects, which has negatively affected the right to humanitarian aid of project beneficiaries beyond its borders.

104. The Special Rapporteur underlines that targeted and secondary sanctions violate the right to a fair trial, procedural guarantees, freedom of movement, property rights and the right to reputation. Sanctions against representatives of opposition groups for participation in elections violate their rights to hold and express opinions, and to participate in public affairs.

105. The Special Rapporteur concludes that the sanctions imposed against the Bolivarian Republic of Venezuela, its citizens and companies affect people within the country and beyond its territory in both the public and private sectors; third-country nationals and employees of third-country companies affected by secondary sanctions or the fear of them; donors; international humanitarian NGOs; and beneficiaries of assistance from international organizations historically financed by the Bolivarian Republic of Venezuela. Persons with low incomes, women, children and persons with special needs or chronic or severe diseases are affected most in terms of economic, social, civil and cultural rights, which undermines their right to development. Some political rights, such as the right to participate freely in political life, have also been affected, as regards moderate opposition leaders who have been targeted for taking part in parliamentary elections.

106. The Special Rapporteur welcomes and encourages the greater engagement of the Government of the Bolivarian Republic of Venezuela with UNDP, UNICEF, UNAIDS, PAHO, the World Food Programme and other international entities, churches, the private sector and humanitarian NGOs to alleviate the suffering of the population through humanitarian aid. She is, however, concerned about reports of mismanagement in the distribution of aid; surveillance and prosecution of national NGO personnel engaged in humanitarian work; and the absence of a clear legal framework ensuring the protection and accountability of the work of international NGOs.

VII. Recommendations

107. The Special Rapporteur reminds all parties of their obligation under the Charter of the United Nations to observe relevant principles and norms of international law. She urges them to settle any disputes through the competent judicial and other international institutions in accordance with international law.

108. She stresses that humanitarian concerns should always prevail over political ones, and that unilateral measures may only be taken with due account of the rule of law. They must be consistent with the international legal obligations of States and may be applied only in the course of internationally lawful countermeasures. She recalls that preliminary and continuous assessments of the humanitarian impact should be conducted, as no good intention can justify the violation of fundamental human rights as “collateral damage”.

109. The Special Rapporteur underlines the inadmissibility of applying sanctions extraterritorially and urges the Government of the United States to end the national emergency regarding the Bolivarian Republic of Venezuela, revise and lift sectoral sanctions against the country’s public and private sectors, review and lift secondary

sanctions against third-State parties, and refrain from imposing sanctions on diesel supplies that may precipitate an even deeper crisis.

110. The Special Rapporteur urges all interlocutors (States, international organizations, banks, private companies and civil society) to avoid coercion, threats, zero-risk policies or any other act that may result in overcompliance, and to interpret limitations in the narrowest possible way before the lifting of unilateral sanctions, taking due account of the guidance issued previously by the Special Rapporteur in December 2020.⁴⁸

111. She calls on all relevant States to review and lift targeted sanctions in accordance with the principles of international law and the rule of law so as to guarantee State officials, such as the Attorney General, the possibility of representing the State on the basis of the principle of sovereign equality of States, and to guarantee the rights of targeted individuals to the presumption of innocence, procedural guarantees and access to justice and other fundamental rights.

112. She recalls that pursuant to the rule of law, targeted sanctions cannot be used as a substitute for criminal charges, with a lower burden of proof. She also reminds States that any civilian or criminal charges can be brought bona fide only when sufficient evidence and jurisdiction exists.

113. She urges the Governments of Portugal, the United Kingdom and the United States, and banks, to unfreeze assets of the Central Bank to allow the purchase of humanitarian goods and restoration of public services through mutually agreed mechanisms monitored by UNDP and other United Nations entities.

114. She calls on all interlocutors to hold a broad view on essential goods – which should be understood as including medicine, vaccines, food, medical and other equipment, spare parts for medical equipment, water supplies, electricity, transportation, industrial equipment and fuel. This is the only way to meet the humanitarian needs, and guarantee the fundamental human rights, of the people of the Bolivarian Republic of Venezuela.

115. She calls on the Government of the Bolivarian Republic of Venezuela and OHCHR to fully implement the cooperation agreement signed between them, to strengthen the OHCHR presence on the ground to monitor, inter alia, the impact of unilateral sanctions on the entire scope of human rights, and to organize visits from the nine other special procedure mandate holders to the country, starting with those focusing on the rights to food, to health and to development.

116. She calls on the Government, UNDP, United Nations agencies and the office of OHCHR in the country to negotiate an agreement to guarantee transparent, fair and non-discriminatory distribution of essential goods and humanitarian aid under the control of international institutions.

117. She calls on the Government, along with the resident coordinator and OHCHR, to complete the drafting of clear and non-discriminatory legislation facilitating humanitarian work by international and national NGOs and to guarantee the security and integrity of their personnel and activities. She emphasizes that such organizations must respect their obligation to abide by the professional standards of humanitarian activity.

118. She calls on all entities in the United Nations system and other international and non-governmental institutions to take due account of the impact of unilateral sanctions on all categories of human rights when assessing the situation in the Bolivarian Republic of Venezuela and elsewhere within the scope of their relevant mandates.

119. She calls on OHCHR, in cooperation with the Office for the Coordination of Humanitarian Affairs and relevant humanitarian actors, to establish a system of humanitarian monitoring and assessment of the impact of unilateral sanctions as

⁴⁸ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26589&LangID=E.

regards, *inter alia*, mortality rates, nutrition and malnutrition, school enrolment, vaccination, spread of diseases, employment, social guarantees and access to medicine.

120. The Special Rapporteur urges the Government to investigate allegations that indigenous communities in the country have been deprived of food and medical assistance in the context of the pandemic, and to fully implement the agreement with PAHO without discrimination.
