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IMPLEMENTATION OF THE STATE SANCTIONS POLICY THROUGH THE PRISM OF HUMAN RIGHTS PROTECTION

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Melnychenko R.V. Implementation of the state sanctions policy through the prism of human rights protection.

The article provides a comprehensive legal analysis of ensuring and protecting human rights in the implementation of Ukraine's sanctions policy, particularly in the context of national security. Sanctions are an important instrument of state response to threats to sovereignty, territorial integrity, and other national interests, especially under conditions of armed aggression and martial law, but their application involves significant interference with human rights, in particular the right to property and the right to effective judicial protection. The study examines the legal framework of sanctions policy, including the Law of Ukraine «On Sanctions», as well as the mechanism of their application, covering the preparatory stage, decision-making, and judicial review. It is established that each stage contains procedural shortcomings restricting the rights of sanctioned persons: limited transparency of the evidentiary basis, lack of proper participation in decision-making, the extrajudicial nature of sanctions, and the complexity of judicial challenge. Particular attention is paid to international human rights standards, reflected in the case law of the European Court of Human Rights and the European Union, which require proportionality, a fair balance between public interest and individual rights, and effective judicial control. The study also considers mechanisms for protecting individuals' rights within international sanctions regimes, demonstrating the development of independent review procedures despite certain limitations. It concludes that there is an imbalance between the effectiveness of sanctions mechanisms and human rights guarantees in Ukraine, and highlights the need to improve the national sanctions mechanism by ensuring transparency, clear standards of proof, and effective judicial review, as a key condition for the legitimacy and effectiveness of sanctions policy in line with modern international human rights standards.

Key words: sanctions, human rights, principles, asset recovery, procedural guarantees.

Мельниченко Р.В. Реалізація санкційної політики держави крізь призму захисту прав людини.

У статті здійснено комплексний юридичний аналіз проблеми забезпечення та захисту прав людини в умовах реалізації санкційної політики України, зокрема у контексті забезпечення національної безпеки. Санкції виступають важливим інструментом державного реагування на загрози суверенітету, територіальній цілісності та іншим національним інтересам, що набуває особливого значення в умовах збройної агресії та воєнного стану. Водночас їх застосування пов'язане із суттєвим втручанням у права людини, зокрема право власності та право на ефективний судовий захист. У роботі досліджено нормативно-правову основу санкційної політики, включаючи Закон України «Про санкції», а також механізм їх застосування, який охоплює підготовчий етап, етап ухвалення рішення та стадію судового контролю. Встановлено, що на кожному з цих етапів існують суттєві процесуальні недоліки, які обмежують права підсанкційних осіб: від обмеженої прозорості формування доказової бази до відсутності належного участі особи під час ухвалення рішення, позасудового характеру запровадження санкцій та складності їх подальшого оскарження у судовому порядку. Окрему увагу приділено аналізу міжнародних стандартів захисту прав людини у сфері санкцій, що відображено у практиці ЄСПЛ та ЄС, які висувають вимоги пропорційності, справедливого балансу між публічним інтересом і правами особи, а також забезпечення ефективного судового контролю. Досліджено механізми захисту прав осіб у міжнародних санкційних режимах,

що демонструють тенденцію розвитку процедур незалежного перегляду санкційних рішень, хоча вони й мають обмеження. На підставі проведеного дослідження зроблено висновок про наявність розбалансування між ефективністю санкційних механізмів та гарантіями захисту прав людини в Україні, а також про необхідність удосконалення національного механізму санкцій для забезпечення прозорих процедур, чітких стандартів доказування та ефективних засобів незалежного судового перегляду. Отже, забезпечення належного балансу між захистом національної безпеки та гарантіями прав людини є ключовою умовою легітимності та дієвості санкційної політики держави та має відповідати сучасним міжнародним стандартам прав людини.

Ключові слова: санкції, права людини, стягнення активів, процесуальні гарантії.

Problem statement. Sanctions legislation is one of the key instruments used by the state in combating economic crimes and ensuring national security. In Ukraine, the significance of sanctions policy has increased considerably due to the ongoing armed aggression and the introduction of martial law. Within the framework of such policy, the state applies various restrictive measures, including the freezing of assets, blocking of accounts, prohibition of economic activity, restrictions on the use of property, and other types of sanctions.

At the same time, the application of such measures is directly associated with significant interference in the sphere of human rights and freedoms, primarily the right to property and the right to effective judicial protection. Thus, the relevant restrictive measures are imposed by an extra-judicial decision of a public authority, whereas judicial control over such decisions is exercised only after their adoption through the procedure of judicial appeal.

In this regard, the issue arises of ensuring an appropriate balance between the need for the state to respond promptly to threats to national security and the necessity of respecting human rights guarantees. Of particular relevance is the determination of the limits of permissible interference with the property rights of persons subject to sanctions, as well as the provision of effective procedural mechanisms for their judicial protection in accordance with the principle of the rule of law.

Purpose of the study. The purpose of the study is to conduct a comprehensive analysis of the legal problems of ensuring and protecting human rights in the context of the implementation of sanctions policy by Ukraine, as well as to identify systemic contradictions between the public interests of national security and the guarantees of fundamental individual rights that arise in the process of applying restrictive measures.

State of research on the issue. The issue of restricting human rights in the interests of national security has been examined in numerous scholarly works in both domestic and international law. Considerable attention has been devoted to the principles of legality, proportionality, and the necessity of state interference in the sphere of human rights.

At the same time, despite the existence of a significant number of scientific studies, the issue of the correlation between the state's sanctions policy and guarantees of human rights, particularly regarding the limits of permissible interference with the right to property and the provision of effective judicial protection for persons subject to sanctions, requires further comprehensive scientific analysis.

The regulatory framework of sanctions policy in Ukraine consists of the Law of Ukraine «On Sanctions» No. 1644-VII of 14 August 2014 [1], the Law of Ukraine «On the Bureau of Economic Security» No. 1150-IX of 28 January 2021, the Law of Ukraine «On the Security Service of Ukraine» No. 2229-XII of 25 March 1992, the Law of Ukraine «On the National Security and Defense Council of Ukraine» No. 183/98-VR of 5 March 1998, the Criminal Code of Ukraine, the provisions of the Constitution of Ukraine regarding the possibility of restricting rights and freedoms, as well as other regulatory legal acts. International standards for regulating sanctions policy are determined by the provisions of the European Convention on Human Rights and the case law of the European Court of Human Rights.

Main body of the research. According to Part 1 of Article 1 of the Law, sanctions are special economic and other restrictive measures applied for the purpose of protecting national interests. At the same time, Part 3 of Article 1 of this Law provides that the application of sanctions does not exclude the application of other measures aimed at protecting national interests, national security, sovereignty and territorial integrity of Ukraine, its economic independence, as well as the rights, freedoms and legitimate interests of citizens of Ukraine, society, and the state [1].

For a more comprehensive understanding of this issue, it is necessary to refer to the procedure for the application of sanctions established in Ukrainian legislation. The specific features of this procedure

are defined in Article 5 of the Law. According to this legal provision, the decision on the application of sanctions is adopted by a special coordinating body under the President of Ukraine – the National Security and Defense Council of Ukraine – on the basis of proposals submitted by the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the National Bank of Ukraine, and the Security Service of Ukraine. Decisions of the National Security and Defense Council of Ukraine enter into force by a decree of the President of Ukraine and, in certain cases, are additionally approved by the Verkhovna Rada of Ukraine and are binding for execution [1].

Taking into account the peculiarities of the legal regulation of sanctions policy, the mechanism for the application of sanctions in Ukraine can be considered as a sequential process that may conditionally be divided into several interconnected stages.

The first stage is the preparatory (pre-trial) stage, during which authorized state bodies collect, analyze, and assess information that may indicate the existence of threats to national security, territorial integrity, or the economic interests of the state. At this stage, an evidentiary base is formed to substantiate the necessity of applying restrictive measures. Such information may be obtained from various state authorities, including law-enforcement agencies, intelligence services, or other competent institutions. Based on the results of this analysis, the relevant bodies prepare proposals regarding the application of sanctions and submit them for consideration to the National Security and Defense Council of Ukraine.

The main problem at this stage is the limited transparency of the process of forming the evidentiary basis. Information used to substantiate the imposition of sanctions often has the status of official or classified information, which makes it difficult to verify its reliability. As a result, the sanctioned person does not have the opportunity to examine the evidence that served as the basis for submitting a proposal to impose sanctions.

Another problem is the absence of a procedural mechanism allowing the person concerned to participate at the preparatory stage. Individuals with respect to whom sanction proposals are being prepared are not involved in the procedure for considering their possible inclusion in sanctions lists and do not have the opportunity to provide explanations or refute the information used against them.

In addition, at this stage there is a problem related to the absence of clearly defined standards of proof. The legislation does not establish detailed criteria for assessing the sufficiency of evidence required for submitting a proposal to impose sanctions, which may lead to broad discretionary powers of the competent authorities.

The second stage is the adoption of a decision on the application of sanctions. According to Ukrainian legislation, the decision to impose restrictive measures is adopted by the National Security and Defense Council of Ukraine, after which it is enacted by a decree of the President of Ukraine. From that moment sanctions acquire legal force and begin to directly affect the rights and interests of the person concerned.

A key problem at this stage is the extra-judicial nature of adopting sanctions decisions. The application of sanctions does not require prior judicial review or the establishment of a person's guilt in court. As a result, restrictions on property and other rights may be imposed without the procedural guarantees that are normally ensured in judicial proceedings.

Another issue is the absence of the right to be heard before sanctions are imposed. A person with respect to whom the decision is taken is usually not notified of the consideration of the issue and does not have the opportunity to present arguments before the decision is adopted. This creates a situation in which sanctions are imposed without taking into account the position of the interested party.

In addition, the issue of substantiation and reasoning of sanctions decisions is problematic. In the practice of applying sanctions, situations sometimes arise in which the reasons for imposing restrictive measures are formulated in general terms or do not contain a detailed description of the factual circumstances, which complicates further judicial appeal.

The third stage of the sanctions mechanism is judicial review of sanctions decisions. It is at this stage that a person subject to sanctions obtains the opportunity to apply to a court in order to verify the legality and substantiation of the relevant decision and to protect his or her rights.

However, in practice, individuals and entities subject to sanctions have very limited opportunities to protect their rights after sanctions are imposed. In cases where the sanctions do not directly interfere with the right to private property, the only national legal remedy available remains the challenge of the Presidential Decree in the Supreme Court of Ukraine, since, under Part 4 of Article 22 of the Code of Administrative Procedure of Ukraine, the Supreme Court has exclusive jurisdiction over cases involving the challenge of acts, actions, or omissions of the President of Ukraine [2]. If a sanctioned person disagrees

with the Supreme Court's decision, they may bring an application before the European Court of Human Rights alleging violations of their rights after exhausting all available domestic remedies.

In practice, however, a person subject to sanctions is effectively deprived of the ability to challenge the substantive grounds for the imposition of sanctions, their justification, or reasonableness, because in established judicial practice the Supreme Court has held that reviewing such matters would involve interference with the discretionary powers of the President of Ukraine and other competent authorities.

Another problem at this stage is the limited access to evidence used as the basis for sanctions, which complicates the ability to effectively refute the arguments of state authorities. Moreover, a further issue relates to the timing of judicial review, as judicial challenges typically occur after sanctions have already been applied. This means that restrictions on the rights of a sanctioned person take effect even before their legality has been examined by a court. In cases of prolonged court proceedings, such restrictions may have significant economic or reputational effects on the sanctioned person.

Accordingly, an analysis of the sanctions mechanism in Ukraine shows that at each stage – from the preparatory collection of information to judicial review – there are significant procedural problems that can adversely affect the effectiveness of human rights protection. Limited transparency in the formation of the evidentiary basis, the lack of involvement of the affected person in the decision-making process, the extra-judicial nature of sanctions adoption, as well as the challenges of subsequent judicial review, create a risk of disproportionate interference with the rights of sanctioned persons. In this context, it becomes particularly important to improve the national sanctions regime by enhancing procedural transparency, clarifying standards of proof, and ensuring effective judicial oversight of sanctions decisions.

Although sanctions are not criminal punishments, their consequences can be comparable to restrictions applied in criminal law. In particular, this refers to the freezing of assets, prohibition on the use of property, or the conduct of business activities, which in practice can lead to substantial limitations on the rights and freedoms of an individual without a prior judicial decision, in contrast to procedures provided in criminal proceedings. This feature of the sanctions mechanism gives rise to a number of systemic problems that manifest at all stages of sanctions application – from the establishment of grounds for their introduction to their subsequent judicial review.

First, the person against whom sanctions are applied does not have the opportunity to exercise individualized legal protection at the decision-making stage. Second, there is a risk of disproportionality between the restrictions imposed and the legitimate aim pursued by those measures. Third, access to evidence and information that served as the basis for the imposition of sanctions is limited, which significantly complicates the effective judicial challenge of such decisions.

A separate procedural regime is established for sanctions in the form of asset recovery of individuals or legal entities into the state treasury, which may be applied only during the period of martial law. According to Part 2 of Article 51 of the Law of Ukraine «On Sanctions», if a person has created a significant threat to national security, sovereignty, or territorial integrity of Ukraine, including through terrorist activities, or has materially facilitated such actions by others, the Ministry of Justice must file a claim with the High Anti-Corruption Court of Ukraine for the application of sanctions and recovery of assets of the sanctioned person into the state treasury. In accordance with paragraph 2 of Part 1 of Article 51 of the Law, one of the necessary preconditions for the High Anti-Corruption Court to issue a ruling on such recovery is the existence of an already imposed sanctions measure in the form of asset blocking imposed on that person [1].

Thus, Ukrainian legislation combines two mechanisms for the application of sanctions: an administrative mechanism (through the National Security and Defence Council) and a judicial mechanism (through the High Anti-Corruption Court). However, even within this model, the key issue remains the compliance of sanctions mechanisms with human rights protection standards.

In this context, the provisions of the Constitution of Ukraine are of particular importance. According to Article 41, everyone has the right to own, use, and dispose of their property, including the results of their intellectual and creative activities. At the same time, Part 1 of Article 64 of the Constitution provides that human and civil rights and freedoms cannot be restricted except in cases provided for by the Constitution of Ukraine [3]. It follows that any restriction on property rights within the framework of sanctions policy must be justified, necessary, and proportionate to the legitimate aim pursued.

The issue of the relationship between sanctions and human rights is also actively discussed in academic literature. For example, in the Journal of Human Rights Practice, Tamara Horbachevska, Yuriy Barabash, and Olena Uvarova note that some sanctions mechanisms (such as asset confiscation) can violate human rights if they are not accompanied by adequate procedural guarantees [4].

For a fuller understanding of human rights protection standards in the context of sanctions, it is necessary to refer to the practice of international judicial institutions.

An important reference for Ukraine in assessing the lawfulness of state interference with the property rights of sanctioned persons is the case law of the European Court of Human Rights **(hereinafter –** ECtHR). In the case *James and Others v. the United Kingdom*, the ECtHR stated the following regarding expropriation: *«not only must a measure depriving a person of his property pursue, on the facts as well as in principle, a legitimate aim «in the public interest», but there must also be a reasonable relationship of proportionality between the means employed and the aim sought to be realised (see, amongst others, and mutatis mutandis, the above-mentioned Ashingdane judgment. This latter requirement was expressed in other terms in the Sporrong and Lönnroth judgment by the notion of the «fair balance» that must be struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The requisite balance will not be found if the person concerned has had to bear «an individual and excessive burden». Although the Court was speaking in that judgment in the context of the general rule of peaceful enjoyment of property enunciated in the first sentence of the first paragraph, it pointed out that «the search for this balance is ... reflected in the structure of Article 1 (P1-1)»»* [5].

Thus, the Court formulated the key standard for the protection of property rights, according to which state interference with property rights is permissible only on the condition of maintaining a «fair balance» between the public interest and the protection of the fundamental rights of the individual. A violation occurs when the individual is compelled to bear an "individual and excessive burden».

The legal system of the **European Union (EU)** faces the same internal tension as Ukraine: the requirement for sanctions' effectiveness often calls for surprise, whereas the rule of law demands procedural fairness.

Sanctioning decisions of the Council of the EU are adopted on the basis of Articles 29 of the Treaty on European Union and 215 of the Treaty on the Functioning of the European Union. A key feature that attracts criticism is the absence of the right to be heard prior to the imposition of sanctions. As stated in the European Commission's reply to a parliamentary question from Mr. Michaël von der Schulenburg, Member of the European Parliament: *«According to established case law, in the case of a primary decision to include the name of a natural or legal person in the list of persons and entities whose funds are to be frozen, the Council is not obliged to inform the relevant person or entity in advance of the grounds on which it intends to rely to include them on such a list. In order to prevent a decrease in effectiveness, such a measure, by its nature, must have an element of surprise and be applied immediately»*. This approach, although pragmatic, creates a significant risk for human rights. It legitimizes extrajudicial interference at the initial stage, placing the burden of further contestation on the individual. At the same time, the EU emphasizes that such measures are preventive, temporary, and reversible, and the main guarantee lies in the possibility of subsequent judicial protection in the courts of the EU in accordance with Article 47 of the Charter of Fundamental Rights of the European Union. The quality of this subsequent judicial review is precisely what is decisive for assessing the proportionality of the restrictions [6].

A similar approach is applied in the case law of the European Union (hereinafter – EU). In case «Kadi v Council and Commission» (Joined Cases C-402/05 P and C-415/05 P, 2008), the Court of Justice of the European Union (CJEU) examined the legality of an EU regulation implementing United Nations Security Council sanctions against individuals suspected of links to terrorist organizations. The applicants argued that the freezing of their assets was imposed without prior notification of the grounds for their listing and without any opportunity to defend their rights. The Court held that even if an EU measure implementing a UN Security Council resolution is adopted to fulfil international obligations, it must nevertheless comply with fundamental rights protected by EU law. As a result, the Court annulled the EU regulation as it applied to the applicants, finding that it violated their rights to property, to be heard, and to effective judicial review, because they were not provided with access to the reasons for their listing or to the evidence on which the measures were based. Thus, the Court established the fundamental principle that even EU acts in the field of international sanctions are subject to full judicial review with respect to respect for fundamental human rights [7].

As a consequence of this judicial practice and growing international concerns about sanctions regimes that lacked effective appeal procedures, the United Nations Security Council adopted Resolution 1904 in December 2009, which established the office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee. The primary task of this Office of the Ombudsperson is to consider delisting requests from individuals and entities included on the consolidated sanctions list and to prepare independent reports and recommendations on potential removal from the list [8].

The creation of this mechanism was a precedent-setting step in the practice of international sanctions regimes, since it was the first time the UN system introduced a specialized procedure for the review of complaints by sanctioned persons. This enhanced transparency in the sanctions process and strengthened confidence in international institutions by providing sanctioned persons with the possibility of seeking an independent review of the grounds for their listing.

At the same time, this mechanism has certain limitations. First, the Ombudsperson's findings are recommendatory in nature, and the final decision on removal from the sanctions list remains with the relevant Sanctions Committee. Second, some information provided by Member States to the Ombudsperson remains confidential, restricting the extent to which the sanctioned person can fully examine the evidence underlying the listing. Third, the Ombudsperson's mandate is limited to the ISIL and Al-Qaida sanctions regime, leaving other UN sanctions regimes without a similar independent review mechanism.

Nonetheless, international practice demonstrates a gradual improvement in procedures for protecting the rights of sanctioned persons. Notably, on 19 July 2024 the UN Security Council adopted Resolution 2744 (2024) to strengthen the mandate of the «Focal Point» for other sanctions regimes. This resolution aims to enhance procedural fairness by establishing updated procedures for considering delisting requests submitted by individuals, groups, or entities designated under various UN sanctions regimes, excluding the ISIL and Al-Qaida list, which remains under the Ombudsperson's purview [9].

The «Focal Point» mechanism receives delisting requests and manages the procedural process, including communication with relevant states and sanctions committees. However, unlike the Ombudsperson, the Focal Point is not vested with the authority to conduct an independent assessment of the materials or to make formal recommendations for removal. Its role is mainly procedural, focusing on the transmission and coordination of information between the applicant, Member States, and the sanctions committees. As a result, the level of procedural guarantees offered by the Focal Point mechanism remains limited compared to those under the Ombudsperson mechanism.

For Ukraine, consideration of such international approaches is important for several reasons. First, Ukraine is a member state of the United Nations and participates in the implementation of UN sanctions regimes. Second, Ukraine aligns itself with the legal standards of the EU regarding the rule of law and human rights protection. Third, sanctions increasingly have a transnational character, and their effects may be felt across different jurisdictions, complicating the judicial challenge of such measures and highlighting the importance of effective procedural safeguards at the national level.

At the same time, the current sanctions regime established by Ukrainian law does not provide even the minimal level of procedural guarantees that exist in the United Nations system under the modernized «Focal Point» mechanism. In particular, Ukrainian legislation does not envisage the creation of an independent body empowered to review requests by sanctioned persons to reassess the grounds for sanctions, which significantly limits the possibilities for effective protection of their rights.

In current U.S. case law, the issue of the legality of sanctions is also becoming increasingly relevant, especially in connection with the development of digital technologies. Illustrative in this context is the case Van Loon v. Department of the Treasury (5th Cir., 2024), in which the appellate court considered the legality of the sanctions imposed by the Office of Foreign Assets Control (hereinafter – OFAC) of the U.S. Department of the Treasury on the cryptographic protocol Tornado Cash. The sanctions were imposed due to the fact that this protocol was used to anonymize cryptocurrency transactions, which, according to the U.S. government, could facilitate money laundering and the financing of illegal activities. However, the plaintiffs challenged these restrictive measures, claiming that the sanctions were applied in excess of the powers provided by law. Upon considering the case, the court concluded that the sanctions were applied unlawfully, since the object of the restrictive measures was, in fact, program code, which is not owned by any specific person. In its decision, the court stated the following: «*Because these immutable smart contracts are not «property» under the word's common, ordinary meaning or under OFAC definitions, we hold that OFAC exceeded its statutory authority. Accordingly, we need not address whether Tornado Cash qualifies as an «entity» or whether it has an «interest» in the immutable smart contracts»* [10].

This case is significant for the development of modern sanctions practice, particularly amid the rapid evolution of digital technologies. The court's decision underscores that **even when a legitimate goal such as combating money laundering exists, administrative agencies cannot exceed the statutory limits of their authority.** The Fifth Circuit stressed that decentralized and immutable software protocols like *Tornado Cash*'s smart contracts cannot be treated as property subject to blocking under sanctions law because they are not owned or controlled by any specific entity or person.

For Ukraine, this case has demonstrative importance, as it highlights the need for clear statutory definitions of what constitutes sanctionable objects and the limits of the powers of competent authorities responsible for implementing sanctions. U.S. sanctions jurisprudence also shows that even in the area of sanctions – traditionally regarded as a domain of broad executive discretion – courts engage in meaningful review of the legality of decisions by state bodies. Furthermore, the case raises the issue of adapting sanctions legislation to new technological realities, especially in relation to decentralized digital systems that may lack a clear owner or controlling entity.

International and national case law thus indicates that the effectiveness of sanctions policy must be balanced with respect for fundamental human rights and the rule of law. At the same time, the practice of applying sanctions in Ukraine reveals certain problems in this area.

Such a framework gives rise to a complex legal problem of reconciling a state's sanctions policy with guarantees of human rights, particularly the right to a fair trial and the right to property. The absence of a judicial verdict as a formal establishment of wrongdoing increases the risk of arbitrary interference with an individual's rights and underscores the need for clear procedures for evidentiary standards, transparency in decision-making, and effective judicial oversight of sanctions acts.

Under such conditions, a sanctioned person cannot access the materials on which the decision is based, cannot effectively influence the decision-making process, and is not afforded an opportunity to be heard in advance. This creates a risk of violating basic procedural guarantees, foremost the right to a fair trial and the right to effective judicial protection.

Moreover, Ukrainian legislation uses broad and vague formulations as grounds for imposing sanctions, such as «a real or potential threat to national security». Such language may lead to divergent interpretations and create a risk of excessive or disproportionate interference with human rights.

It should also be noted that sanctions policy is applied not only by national governments but also by international and supranational structures, notably the European Union and the United Nations. Analysis of the practices of these institutions allows identification of common problems in the application of sanctions mechanisms, as well as the determination of legal standards that restrictions on human rights must meet within the framework of sanctions regimes.

International practice in the field of sanctions and human rights has developed standards that should be taken into account when improving national legislation, particularly regarding the transparency of sanctions procedures and effective judicial review.

Conclusion. Sanctions policy of modern states and international organizations is an important tool for responding to threats to national security. Through sanctions, states can apply economic and political pressure on actors whose activities pose a threat to security or public order.

However, analysis of Ukrainian legislation and international judicial practice demonstrates an imbalance between the effectiveness of sanctions mechanisms and the guarantees of human rights protection. In Ukraine, the application of sanctions occurs without adequate procedural guarantees at the decision-making stage, with limited access by sanctioned persons to information and evidence, and with significant restrictions on judicial oversight. These shortcomings create risks of disproportionate interference with property and other rights, a conclusion supported by analytical research on the compatibility of sanctions with human rights and by case law of the European Court of Human Rights (ECtHR) concerning the right to property and effective protection.

International practice – in particular, the CJEU's precedents in Kadi v. Council and Commission (Joined Cases C-402/05 P and C-415/05 P, 2008) and the ECtHR's development of the «fair balance» standard – demonstrates the necessity of ensuring clear justification for sanctions, access to evidence, and meaningful judicial review even in matters of national security. These approaches aim to reconcile the effectiveness of sanctions with the principles of the rule of law and human rights, including the right to an effective legal remedy.

At the same time, the practice of implementing sanctions regimes shows that these measures can have complex and ambiguous impacts on human rights. Even sanctions formally aimed at protecting human rights often reveal hidden risks affecting a wide range of rights and freedoms, from economic and social rights to procedural guarantees. Empirical and theoretical research demonstrates that sanctions do not always lead to improvements in human rights situations in targeted countries and are often disproportionate or ineffective by international standards – which calls into question their legitimacy and compliance with international law.

Nevertheless, the use of sanctions is not an unequivocally problematic tool of state policy. Despite their potential effectiveness, sanctions mechanisms can have complex and sometimes unpredictable

consequences, manifesting both in the political and socio-economic spheres. For example, they can affect a state's economic stability, international economic relations, and the overall structure of international relations.

In the context of national sanctions mechanisms such as Ukraine's, the problem is not about rejecting sanctions as a security tool, but about recognizing their potential to give rise to legal and ethical dilemmas related to the protection of human rights. Therefore, the debate surrounding sanctions must remain a subject of active scientific and legal-applied attention, as it engages the fundamental principles governing the interaction between security objectives and human rights as universal values of contemporary law.

In light of all of the above, it can be concluded that the Ukrainian sanctions mechanism requires systemic improvement. This should include increasing the transparency of sanctions application procedures, clearly defining standards of proof, and establishing effective and accessible mechanisms for independent judicial review of sanctions decisions. Ensuring such a balance between national security protection and human rights guarantees is a key condition for the legitimacy and effectiveness of sanctions policy, as well as a guarantee of compliance of the national legal order with modern international human rights standards.

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