

The principle of non-intervention in the face of the Venezuelan crisis

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1. Introduction

In February 2021 the United Nations Special Rapporteur ‘on Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights’ visited Venezuela in order to assess the health and humanitarian conditions of the Venezuelan people. Among her recommendations, the Rapporteur reminded ‘all parties of their obligation under the UN Charter to observe principles and norms of international law, including principles of sovereign equality, political independence, *non-intervention in the domestic affairs of states*, and peaceful settlement of international disputes’.¹

The purpose of this contribution is to analyse the Venezuelan crisis under the lens of the principle of non-intervention in the affairs of other States, which has been, not surprisingly, the *leitmotiv* of diplomatic notes and exchanges between the States and international organizations involved all throughout the constitutional crisis which exploded in January 2019.

After an examination of the relevant factual background (section 2), this paper examines the nature of the sanctions imposed on Venezuela in order to assess whether those measures are to be categorized as counter-measures or mere acts of retorsion (section 3), while in the subsequent section 4 the principle of non-intervention in the light of economic coercion is analysed. This contribution aims at demonstrating that the recognition of the ‘new’ Venezuelan Government is inextricably linked to the

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¹ UN Human Rights, Office of the High Commissioner, Press Release (12 February 2021) <www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26747&LangID=>> emphasis added.



sanctions at issue, and that this circumstance is the key element required in order to assess the intention of those States which adopted the economic sanctions against Venezuela. The present author's thesis is that the *whole* course of action taken by certain States against Venezuela, rather than the sanctions as such, is to be qualified as unlawful due to the breach of the principle of non-intervention (section 5).

2. *Factual background*

The Presidential elections, held in Venezuela on 20 May 2018, and the re-election of Nicolas Maduro, triggered the institutional crisis at the heart of the legal questions dealt with in this paper. On 23 January 2019 – about two weeks after the proclamation of Mr Maduro as President of the Republic – the President of the Parliamentary Assembly of Venezuela, Juan Guaidó, announced that he would assume the *interim* Presidency, in view of the arrangement of new elections. The claim of the self-proclaimed President, based on Articles 233, 333 and 350 of the Venezuelan Constitution,² was immediately supported by the United States (US), as well as by almost all the States of South America and by 19 members of the European Union (EU). Just a couple of days later, the US President issued Executive Order (EO) n 13857, through which a number of sanctions were imposed on the Government of Venezuela 'in light of actions by persons affiliated with the illegitimate Maduro regime, including human rights violations [...] and continued attempts to undermine the Interim President of Venezuela and undermine the National Assembly, the only legitimate branch of government duly elected by the Venezuelan people, and to prevent the Interim President and the National Assembly from exercising legitimate authority in Venezuela'. It is worth noting, moreover, that the US almost immediately gave financial support to the 'new' Government.³

² The constitutional provisions mentioned in the text regulate, respectively, the causes of permanent impediment of the President of the Republic, the right to civil disobedience and resistance in the event of authoritarian changes contrary to democratic principles.

³ See eg 'US to provide Venezuela's Guaidó with \$52 million in funding' Reuters (25 September 2019) <www.reuters.com/article/uk-venezuela-politics-usa-idUKKBN1W934Q>.



It must be emphasized, however, that the true core of these sanctions dates back to 2015, when another US President had issued the first, and maybe the most important, EO against ‘[c]ertain Persons Contributing to the Situation in Venezuela’⁴. Through this Order, all property and interests in property that were in the United States and which belonged to specific members of the Venezuelan government were blocked and could not be transferred, paid, exported or withdrawn. The legal basis of the presidential power to impose this kind of unilateral measures is to be found in the International Emergency Economic Powers Act (50 USC 1701 ff) (IEEPA), which grants the US President the authority to block any property in which any foreign country or a national thereof has any interest. In August 2017, the US President issued EO 13808, prohibiting the Venezuelan public authorities, including Venezuela’s state oil company (Petròleos de Venezuela, SA), from access to the US financial markets, as well as to transactions related to bonds released by the Government of Venezuela.⁵ In March 2018, the same President issued EO 13827 prohibiting transactions involving ‘any digital currency, digital coin, or digital token, that was issued by, for, or on behalf of the Government of Venezuela’.⁶ Two months later, the US President imposed measures that significantly affected the financial stability of the target State, prohibiting transactions related to the purchase of Venezuelan debt.⁷ By virtue of EO 13850, the US Administration outlined a specific framework to block the assets of any person determined by the Secretary of the Treasury ‘to operate in the gold sector of the Venezuelan economy or in any other sector of the Venezuelan economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State’. Within this framework more than 20 individuals have been sanctioned, including those who have allegedly helped Nicolas Maduro and the Venezuelan state oil company to evade oil sanctions. Pursuant to EO 13850, the Secretary of

⁴ Executive Order 13692 of 8 March 2015 ‘Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela’.

⁵ Executive Order 13808 of 24 August 2017 ‘Imposing Additional Sanctions with Respect to the Situation in Venezuela’.

⁶ Executive Order 13827 of 19 March 2018 ‘Taking Additional Steps to Address the Situation in Venezuela’.

⁷ Executive Order 13835 of 21 May 2018 ‘Prohibiting Certain Additional Transactions with Respect to Venezuela’.



the Treasury designated that Company as the first and fundamental target of the unilateral US economic and financial measures, with the result that all properties and interests linked to the Venezuelan state oil Company which were subject to US jurisdiction were blocked.⁸ Between the end of 2019 and the first half of 2020, the Treasury sanctioned a number of shipping companies and vessels for transporting Venezuelan oil to third Countries, like Cuba, in violation of the sanctions summarized so far. As has been remarked, the purpose of these sanctions has been, and still is, ‘to pressure Maduro to leave power’.⁹

As for the EU, the picture is a bit more composite. On 13 November 2017, the EU Council adopted a decision “concerning restrictive measures in view of the situation in Venezuela”, which set forth an arms embargo against Venezuela as well as sanctions against individuals and entities belonging or related to the Government.¹⁰ On the one hand, Article 1 of this decision prohibited the ‘sale, supply, transfer or export of arms and related material of all types [...] to Venezuela by nationals of Member States or from the territories of Member States’. On the other hand, Article 7 required EU Members to freeze funds and economic resources ‘belonging to or owned, held or controlled by: (a) natural or legal persons, entities or bodies responsible for serious human rights violations or abuses or the repression of civil society and democratic opposition in Venezuela; (b) natural or legal persons, entities or bodies whose actions, policies or activities otherwise undermine democracy or the rule of law in Venezuela’. After the Presidential elections, the EU High Representative questioned the legitimacy of the electoral process and urged the Venezuelan Government to take ‘concrete steps to fully respect the country’s Constitution and create the conditions that will allow all relevant political and social actors to play an active part in addressing the considerable challenges with which their country is faced’.¹¹ By a decision adopted in

⁸ See Congressional Research Service, Report by C Ribando Seelke, ‘Venezuela: Overview of US Sanctions’ (22 January 2021) 2.

⁹ Congressional Research Service, Report by Ribando Seelke (n 8) 1.

¹⁰ Council Decision (CFSP) 2017/2074 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela.

¹¹ Declaration by the High Representative on behalf of the EU on the presidential and regional elections in Venezuela (22 May 2018) <www.consilium.europa.eu/en/press/press-releases/2018/05/22/declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-presidential-and-regional-elections-in-venezuela/>.



June 2018, the EU Council added 11 individuals holding official positions to the sanctions list for human rights violations and for undermining democracy and the rule of law in Venezuela.¹² Accordingly, after the proclamation of Maduro's second consecutive term, the EU High Representative stated 'that the presidential elections last May in Venezuela were neither free, fair, nor credible, lacking democratic legitimacy' and reiterated the full support of the EU to the National Assembly, 'which is the democratic legitimate body of Venezuela'.¹³ At the same time, the EU Council promoted the establishment of the International Contact Group, involving some Latin American Countries, in order to find a peaceful way out of the Venezuelan institutional crisis towards the holding of new presidential elections. It must be highlighted that, given the Italian opposition, the EU could not formally recognize Mr Guaidó as the Interim Head of the Venezuelan Government.¹⁴ Consequently, 19 EU States proceeded on their own to recognize Mr Guaidó as the legitimate Venezuelan President.¹⁵ It is interesting to observe that the EU High representative expressed, in January 2020, the full support of the EU 'to Juan Guaidó as *President of the National Assembly*'¹⁶ without making any reference to Mr Guaidó as the interim President. One year later, the same

¹² Council Decision (CFSP) 2018/901 of 25 June 2018 amending Decision (CFSP) 2017/2074 concerning restrictive measures in view of the situation in Venezuela.

¹³ Declaration by the High Representative on behalf of the EU on the situation in Venezuela (26 January 2019) <www.consilium.europa.eu/en/press/press-releases/2019/01/26/declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-situation-in-venezuela/>.

¹⁴ 'Italy blocks EU statement on recognizing Venezuela's Guaidó: sources' Reuters (4 February 2019) <www.reuters.com/article/us-venezuela-politics-europe-eu-idUSKCN1PT1G2>.

¹⁵ See eg the statement issued by the Austrian Ministry for Foreign Affairs: 'Austria along with Spain, Portugal, Germany, the United Kingdom, Denmark, the Netherlands, France, Hungary, Finland, Belgium, Luxemburg, the Czech Republic, Latvia, Lithuania, Estonia, Poland, Sweden and Croatia takes note that Mr. Nicolás Maduro has chosen not to set in motion the electoral process. Subsequently, and in accordance with the provisions of the Venezuelan Constitution, they acknowledge and support Mr. Juan Guaidó, President of the democratically elected National Assembly, as President ad interim of Venezuela, in order for him to call for free, fair and democratic presidential election' Federal Ministry, Republic of Austria (4 February 2019) <www.bmeia.gv.at/en/the-ministry/press/announcements/2019/02/joint-declaration-on-venezuela/>.

¹⁶ 'Venezuela: Declaration by the High Representative Josep Borrell on behalf of the EU on the latest developments on the National Assembly' (9 January 2020) emphasis added.



EU High Representative undoubtedly ‘downgraded’ Mr Guaidó to the mere position of one of the ‘political and civil society actors striving to bring back democracy to Venezuela’.¹⁷

The reaction of the Venezuelan Government to the US position was immediate: on 23 January 2019 the President Maduro announced the severance of diplomatic relations with the US. In early February 2019, the Venezuelan Ministry for Foreign Affairs issued a *Communiqué* alleging the violation by US authorities of basic rules of customary international law¹⁸ and maintained, since the beginning of the institutional crisis, that US sanctions were to be considered as unilateral, arbitrary and unlawful,¹⁹ being in flagrant violation of Venezuelan sovereignty.²⁰ As for the EU, the Venezuelan Government held a similar position, even though aiming at emphasizing the division within the EU member States. In addition, on 24 February 2021, the Venezuelan Minister for Foreign Affairs officially declared the EU Representative in Caracas *persona non grata*, after the European decision to renew and extend the sanctions regime against Venezuelan officials, which, according to Venezuela, ‘have no legal basis in the shared norms of International Law’.²¹ On 25 February 2021, the EU Council, by way of strict reciprocity, agreed that the head

¹⁷ ‘Venezuela: Declaration by the High Representative on behalf of the European Union’ (6 June 2021) <www.consilium.europa.eu/en/press/press-releases/2021/01/06/venezuela-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-the-situation/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Venezuela%3A%20Declaration%20by%20the%20High%20Representative%20on%20behalf%20of%20the%20European%20Union&fbclid=IwAR0lxsqWC2JCxwIpszIIqXZDdUm1IZ4ainxt63ZJ0KQTqiNco0nqQ9ybCto>.

¹⁸ Bolivarian Republic of Venezuela, *Communiqué*, ‘Venezuela rejects decision of European governments to comply with the coup plan executed by the US’ (4 February 2019) <www.mppre.gob.ve/comunicado/venezuela-rechaza-gobiernos-europeos-plegados-a-golpe-de-estado/>.

¹⁹ Bolivarian Republic of Venezuela, *Communiqué*, ‘Bolivarian Government rejects aggression and economic war induced by the US government against Cuba, Nicaragua and Venezuela’ (18 April 2019) <www.mppre.gob.ve/en/comunicado/bolivarian-government-rejects-aggression-and-economic-war-induced-by-the-us-government-against-cuba-nicaragua-and-venezuela/>.

²⁰ Bolivarian Republic of Venezuela, *Communiqué*, ‘Venezuela rechaza maniobra de EEUU en su pretensión de interferir en elecciones parlamentarias’ (4 September 2020) <www.mppre.gob.ve/comunicado/venezuela-rechazo-eeuu-pretension-interferir-elecciones/>.

²¹ Bolivarian Republic of Venezuela, *Communiqué*, ‘Venezuela rejects the imposition of new unilateral coercive measures from the EU’ (22 February 2021) <www.mppre.gob.ve/en/comunicado/venezuela-rejects-imposition-new-unilateral-coercive-measures-from-eu/>.



of the Mission of the Bolivarian Republic of Venezuela to the European Union be declared *persona non grata*.²² Alongside these diplomatic actions, the Venezuelan government unsuccessfully lodged an application at the Court of Justice of the EU (CJEU) on 6 February 2018 for the annulment of the Council acts related the economic sanctions referred to above.²³ Against the judgment of the CJEU – according to which Venezuela lacked the necessary standing to maintain its annulment action – Venezuela brought an appeal, currently pending before the CJEU.²⁴

3. *The legal nature of economic sanctions against Venezuela*

The legal nature of the measures adopted by the US and the EU needs to be assessed. While the EU still prefers to use the expression ‘restrictive measures’, the American legislation, summarized above, expressly qualify those measures as sanctions.²⁵ In fact, the relevant US Executive Orders and EU decisions seem to fall within the definition of sanction commonly used in international legal doctrine, that is to say a measure taken by an international subject – typically a State or an International Organization – in reaction to an undesirable or an allegedly wrongful conduct of another actor for the purpose of making the target of the sanction desist from that behaviour.²⁶ As is well known, these kind of sanctions are characterized as being *autonomous* in nature and *economic* in their content:

²² Council of the European Union, Venezuela: head of mission to the EU declared *persona non grata*, Press release (25 February 2021) <www.consilium.europa.eu/en/press/press-releases/2021/02/25/venezuela-head-of-mission-to-the-eu-declared-persona-non-grata/>.

²³ *Bolivarian Republic of Venezuela v Council of the European Union* case T-65/18 (20 September 2019).

²⁴ See the Opinion of Advocate General Hogan delivered on 20 January 2021(1) case C-872/19 P *Bolivarian Republic of Venezuela v Council of the European Union*. In para 123 of this Opinion, the Advocate General proposed, in his conclusion, ‘that the Court of Justice should rule that the General Court erred in law in so far as it held that the present proceedings were inadmissible for want of standing on the part of the appellant for the purposes of the fourth paragraph of Article 263 TFEU’.

²⁵ See the US Department of the Treasury website <<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/venezuela-related-sanctions>>.

²⁶ See eg M Bothe, ‘Compatibility and Legitimacy of Sanctions Regimes’ in N Ronzitti (ed) *Coercive Diplomacy, Sanctions and International Law* (Brill 2016) 33.



on the one hand, these measures decisively differ from institutional sanctions adopted by the UN Security Council under Article 41 of the UN Charter – that is to say sanctions in the proper and technical sense – being adopted by a single State or a single organization, which, as such, are not vested with ‘the mandate of the international society to ascertain the violation of the international legality’.²⁷ On the other hand, the measure at issue affects the economic structure of the targeted State, namely its trade and financial capacity.²⁸ It may be argued that the immediate purpose of autonomous sanctions is precisely to weaken the target State’s economy, as recently underlined, for instance, by the International Court of Justice with regard to the US sanctions against Iran.²⁹ The final outcome pursued by the State adopting the restrictive measure is to induce the target State to modify, or in some cases even to reverse, the course of its domestic and/or foreign affairs. Moreover, sanctions are nowadays the main tool by which certain States *stigmatise* the behaviour of another State,³⁰ by reason of its inconsistency with the former State’s values³¹ or with those of the international community as a whole. Unilateral sanctions, however, do not constitute a homogeneous legal phenomenon, since they can be divided, at least, into two different categories: *primary* sanctions, namely those adopted by a State against another State or private individuals and entities belonging to the latter State, and *secondary* sanctions, that is to say extraterritorial restrictive measures, affecting private parties (individuals and companies) of third States which enjoy economic or financial relations with the target State.³²

²⁷ See, among many others, A Pellet, A Miron, ‘Sanctions’ (2013) *Max Planck Encyclopedia of International Law* para 64; Bothe (n 26) 34.

²⁸ See BE Carter, ‘Economic Coercion’ (2009) *Max Planck Encyclopedia of International Law* para 2.

²⁹ *Alleged Violations of the 1955 Treaty of Amity, Economic Relations and Consular Rights (Islamic Republic of Iran v United States of America)* (Preliminary Objections) [2021] ICJ Rep para 80.

³⁰ See, among others, S Silingardi, *Le sanzioni unilaterali e le sanzioni con applicazione extraterritoriale nel diritto internazionale* (Giuffrè 2020) 58.

³¹ See eg ‘National Security Strategy of the United States of America’ (December 2017) <<https://trumpwhitehouse.archives.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>> 42: ‘We may use diplomacy, *sanctions*, and other tools to isolate states and leaders who threaten our interests and whose actions *run contrary to our values*’ (emphasis added).

³² For this categorization see Silingardi (n 30) 54 ff.



The restrictive measures adopted against Venezuela almost entirely fall within the first group, being directed against the Venezuelan Government, State organs and officials, as well as Venezuelan companies, such as the Venezuelan State oil company. It should be emphasized, however, that pursuant to Executive Order n. 13850, a certain number of secondary sanctions has been adopted by the US Administration³³: for instance, in 2019 the Treasury sanctioned a Moscow-based bank for aiding the Venezuelan state oil company to funnel revenue from oil sales. In late 2020, two affiliates of Rosneft, Russia's State-controlled oil and gas company, have been also affected by US restrictive measures, by reason of their financial assistance to the Venezuelan company. Apart from these extraterritorial restrictions – which give rise to specific legal questions not falling within the scope of the present contribution³⁴ – the US sanctions, as well as those adopted by the EU, do not affect nationals of third States.

Moreover, it seems useful to assess whether the measures at issue may be defined – at first glance, at least – as collective countermeasures. For this purpose, two cumulative conditions are necessary: *a*) the violation of an obligation *erga omnes* on the part of the target State, as well as *b*) the *prima facie* breach of an international obligation by the State adopting the sanction. Both circumstances are lacking in the case at issue.

a) The US sanctions are essentially motivated as a reaction to the violation of democracy standards ‘as well as human rights abuses, including arbitrary or unlawful arrest and detention of Venezuelan citizens, interference with freedom of expression’ by the Maduro *régime*³⁵. As for the EU, the sanctions currently in force were adopted pursuant to Article 21 of the Treaty of the European Union, according to which the external action of the organization shall be aimed, *inter alia*, at consolidating and supporting democracy, the rule of law and human rights.³⁶ As seen in

³³ Silingardi (n 30) 146.

³⁴ As observed by Bothe (n 26) 41, extraterritorial sanctions adopted by the US, affecting third States, may give rise to the violation of customary rules on the territorial scope of national jurisdiction. On these kinds of restrictive measures, see in detail M Sossai, ‘Legality of Extraterritorial Sanctions’ in M Asada (ed) *Economic Sanctions in International Law and Practice* (Routledge 2020) 62 ff; Silingardi (n 30) 125-174.

³⁵ Executive Order 13884 of 5 August 2019 ‘Blocking Property of the Government of Venezuela’ Preamble.

³⁶ On the EU sanctions, see among many others E Paasivirta, A Rosas, ‘Sanctions, Countermeasures and Related Actions in the External Relations of the EU: A Search for



section 2 of this contribution, the issue of democratic legitimacy in Venezuela represents the main concern of the EU and the most important purpose pursued by its sanctions. According to Freedom House, 'Venezuela's democratic institutions have deteriorated since 1999, but conditions have grown sharply worse in recent years due to the continued concentration of power in the executive and harsher crackdowns on the opposition'.³⁷ As for the respect of human rights, a huge number of observers shed light on the fact that political rights and civil liberties have been seriously undermined during the last 5 years. Amnesty International describes 'an unprecedented human rights crisis', due to extrajudicial executions, arbitrary detentions, cases of torture and inhuman treatment.³⁸ That said, what matters for the purpose of our analysis is whether such a situation amounts to a 'serious breach of obligations *erga omnes* of general international law' and, consequently, if it gives rise to a lawful reaction by States which are not directly injured by the wrongdoer. The limits of the present contribution do not allow an examination of the controversial issue of third-party countermeasures in international law.³⁹ However, even if one admits that Article 54 of the Draft Articles on State Responsibility (ARSIWA) permits this kind of reaction by States not directly injured by a given wrongful act, it remains, nonetheless, that the latter must, at least, consist of the violation of an obligation owed to the international community as a whole, in the terms of Article 48, para 1, of the ARSIWA. While the violation of *fundamental* human rights surely amounts to an internationally wrongful act *erga omnes*, it seems highly questionable that the breach of democratic values also gives rise to such a wrongful situation. Suffice to say that despite a clear commitment to democratic governance in the framework of the UN, a right to democracy

Legal Frameworks' in E Cannizzaro (ed), *The European Union as an Actor in International Relations* (Kluwer 2002) 207 ff; M Gestri, 'Sanctions Imposed by the European Union: Legal and Institutional Aspects' in Ronzitti (n 26) 70 ff.

³⁷ Freedom House, *Freedom in the World 2020: Venezuela* <<https://freedomhouse.org/country/venezuela/freedom-world/2020>>.

³⁸ Amnesty International, *Venezuela 2019* <<https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/>>.

³⁹ See MDwidowicz, *Third-Party Countermeasures in International Law* (CUP 2017); and, for a skeptical view, C Focarelli, 'International Law and Third-party Countermeasures in the Age of Global Instant Communication' (2016) 29 QIL-Questions Intl L 17 ff.



has not yet emerged in customary international law,⁴⁰ and, *a fortiori*, it cannot be said that it belongs to common values of the international community as a whole.

b) According to the ILC, countermeasures are ‘measures that would otherwise be contrary to the international obligations of an injured State *vis-à-vis* the responsible State, if they were not taken by the former in response to an internationally wrongful act by the latter’.⁴¹ At first glance, the sanctions against Venezuela do not violate any international obligation incumbent upon the US, or on the EU. In particular, it should be noted that the *Treaty of Friendship, Commerce and Navigation*, signed between Venezuela and the US in 1836, was terminated in 1851, at least with regard to provisions related to trade relations and navigation.⁴² From this point of view, the sanctions against Venezuela differ from those adopted against Iran because the latter allegedly breaches a bilateral Treaty concluded between the US and Iran in 1955.⁴³ This aspect was decisive for the International Court of Justice in dismissing the claim, raised by Nicaragua, that the economic restrictions adopted against that State by the US were contrary to the principle of non-intervention. According to the Court, those sanctions breached the bilateral Treaty of Friendship, Commerce and Navigation which had been concluded by the Parties in 1956.⁴⁴ The absence of treaty commitments appears to be crucial, since, *in principle*, States are free to engage or not to engage into economic or financial relations with other States. Economic sanctions are normally examined under the lens of the well-known *Lotus* principle –

⁴⁰ See G H Fox, ‘Democracy, Right to, International Protection’ (2008) *Max Planck Encyclopedia of International Law* paras 35-37 in particular.

⁴¹ Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, ILC, Report of the International Law Commission on the Work of its 53rd Session’ (23 April-1 June and 2 July-10 August 2001) UN Doc A/56/10 128 para 1.

⁴² United States Department of State, A List of Treaties and Other International Agreements of the United States in Force on 1 January 2020 <www.state.gov/wp-content/uploads/2020/08/TIF-2020-Full-website-view.pdf> 484. It goes without saying that the rules established within the World Trade Organization system may apply to and limit the recourse to unilateral economic sanctions. On this specific point see M Bothe (n 26) 35-37.

⁴³ See *Alleged Violations of the 1955 Treaty of Amity, Economic Relations and Consular Rights*, currently pending before the ICJ (n 29).

⁴⁴ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* (Merits) [1986] ICJ Rep 14 126 para 245, 148, sec 11 of the *dispositif*.



namely that States have the right to do whatever is not prohibited by international law – so that the lawfulness of economic restrictive measures essentially depends on the rules that may be applicable to a given situation.⁴⁵ According to a number of scholars, a clear rule of general international law has not yet developed regarding the use of economic sanctions,⁴⁶ which still appear to be ‘a fact of international life and a tool of international diplomacy’.⁴⁷ In other words, the precise legal characterization of sanctions will depend on the *specific* circumstances and on the obligations in force between the States and/or international organizations involved.⁴⁸ Generally speaking, however, the economic sanction is not, *per se*, contrary to international law and therefore it can *prima facie* be qualified as a measure of *retorsion*,⁴⁹ that is to say a mere unfriendly act.⁵⁰

A case-by-case approach is thus required in order to assess whether a given system of sanctions amounts to a violation of customary rules of international law, such as the principle of non-intervention in domestic and foreign affairs of States.⁵¹

4. *Economic sanctions in the light of the principle of non-intervention*

Against the background described above, it did not come as a surprise that the Venezuelan Government invoked the principle of non-intervention in domestic and foreign affairs of States. For instance, in late 2019 Foreign Minister, Jorge Arreaza, emphasized ‘the validity of the principles of sovereign equality, non-intervention in internal affairs, ter-

⁴⁵ A Hofer, ‘The Developed/Developing Divide on Unilateral Coercive Measures: Legitimate Enforcement or Illegitimate Intervention?’ (2017) 16 Chinese J Intl L 175 ff.

⁴⁶ Carter (n 28) paras 29-30; Silingardi (n 30) 189-191, 220.

⁴⁷ Carter (n 28) para 33.

⁴⁸ V Lowe, A Tzanakopoulos, ‘Economic Warfare’ (2013) *Max Planck Encyclopedia of International Law* para 36.

⁴⁹ Among many others see T Giegerich, ‘Retorsion’ (2011) *Max Planck Encyclopedia of International Law* paras 10, 25; N Ronzitti, ‘Sanctions as Instruments of Coercive Diplomacy: An International Law Perspective’ in Ronzitti (n 26) 31; Pellet, Miron (n 27) para 65.

⁵⁰ Draft Articles on Responsibility of States for Internationally Wrongful Acts (n 41) 128 para 3.

⁵¹ Bothe (n 26) 41.



ritorial integrity of States' and clearly stated that the aim of 'illegal' unilateral coercive measures against Venezuela is 'not only to suffocate Venezuela economically, financially and commercially, but also to cause maximum social suffering, to erode our nation's capacity to sustain itself and, in the end, to cause an implosion that allows foreign military intervention'.⁵²

According to the ICJ, '[t]he principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference'.⁵³ While this notion seems, at first glance, to be fully applicable to a huge number of cases, it should be noted that it is often invoked by way of 'abstract rhetoric of law',⁵⁴ so that, in such circumstances, 'le principe de non-intervention est en même temps tout et rien'.⁵⁵ The principle belongs, nonetheless, to the realm of general international law, if not to the so-called 'fundamental rights and duties of States'. Although this doctrine appears to be 'shrouded in mystery'⁵⁶ and notwithstanding its declining fate, it can be maintained that the rules relating to sovereignty, such as the principle at issue, still play a crucial role in the international community as they provide a core of basic obligations aimed at the peaceful coexistence of independent States.⁵⁷

⁵² Ministerio del Poder Popular para relaciones exteriores, 'Statement by Foreign Minister Jorge Arreaza at the Preparatory Meeting of Foreign Ministers for the XVIII Summit of Heads of State and Government of the NAM' (23 October 2019) <<http://brasil.embajada.gob.ve/discurso/statement-by-foreign-minister-jorge-arreaza-at-the-preparatory-meeting-of-foreign-ministers-for-the-xviii-summit-of-heads-of-state-and-government-of-the-nam/>>.

⁵³ *Nicaragua* (n 44) para 202.

⁵⁴ M Jamnejad, M Wood, 'The Principle of Non-Intervention' (2009) 22 *Leiden J Intl L* 345, 349.

⁵⁵ B Conforti, 'Le principe de non-intervention' in M Bedjaoui (dir), *Droit international: bilan et perspectives* (Pedone 1991) 489.

⁵⁶ HPh Aust, 'Fundamental Rights of States: Constitutional Law in Disguise?' (2015) 4 *Cambridge J Intl & Comparative L* 521.

⁵⁷ S M Carbone, L Schiano di Pepe, 'States, Fundamental Rights and Duties' (2009) *Max Planck Encyclopedia of International Law* para 36. As well-known, the principle of non-intervention was listed by the ILC among the rights and duties of States in the early years of the UN (see Draft Declaration on Rights and Duties of States with commentaries, in YB Intl L Commission 1949 286). The principle is also one of the core parts of the UN GA Declaration on Principles of International Law concerning Friendly relations and Cooperation among States in accordance with the Charter of the United Nations (UNGA Res 2625 (XXV) of 24 October 1970).



The statement made by the ICJ, according to which the principle of non-intervention is ‘part and parcel of customary international law’⁵⁸ seems, nowadays, unquestioned.⁵⁹ Emerging in the context of Inter-American cooperation,⁶⁰ due to the need of the Latin-American States ‘to cope with intrusive actions by the US which could not be defined as war’,⁶¹ the practical relevance of this principle is confined to measures by which a State seeks to influence the conduct of another State in matters falling in the latter’s domestic jurisdiction. For the limited purposes of the present paper, it is necessary to identify the exact content of the principle and, consequently, attempt to assess whether the sanctions adopted against Venezuela may qualify as internationally wrongful due to the violation of the principle itself. The starting point of every doctrinal scrutiny of the question rely on the *Nicaragua* judgment, where the ICJ highlighted two *objective* elements of unlawful intervention: firstly, it must ‘be one bearing on matters in which each State is permitted, by the principle of State sovereignty, to decide freely’ and, secondly, ‘[i]ntervention is wrongful when it uses methods of coercion in regard to such choices’.⁶² Alongside these objective elements, it is contended that international practice gives relevance to a subjective element as well, namely the *intention*, on the part of the intervening State, to impose certain conduct or consequences on the State against which the intervention is directed.⁶³

Some scholars argue that economic sanctions as such are ‘likely’ in violation of the principle of non-intervention, taking into account the overwhelmingly positive voting record in favour of certain resolutions in

⁵⁸ *Nicaragua* (n 44) para 202.

⁵⁹ See eg M Kohen, ‘The Principle of Non-Intervention 25 Years after the Nicaragua Judgment’ (2012) 25 *Leiden J Intl L* 157 ff.

⁶⁰ See the Organization of American States Charter, which, at art 19, states the prohibition of intervention in internal and external affairs of States and, at art 20, expressly establishes that ‘a State may use or encourage the use of *coercive measures of an economic or political character* in order to force the sovereign will of another State and obtain from it advantages of any kind’ (for a general analysis of the principles of the OAS Charter see J-M Arrighi, ‘Organization of American States (OAS)’ (2017) *Max Planck Encyclopedia of International Law*).

⁶¹ Ronzitti (n 49) 3.

⁶² *Nicaragua* (n 44) para 205.

⁶³ See, among many others, R Jennings, A Watts, ‘Oppenheim’s International Law: Vol 1’ (Longman 1992) 430; Jamnejad, Wood (n 54) 348.



which the GA condemns this form of coercion in international relations.⁶⁴ Since at least 1965, admittedly, the GA has condemned the use of coercive economic measures to influence a State's domestic affairs.⁶⁵ Moreover, States such as Russia, China and India declared, in a joint statement issued in 2016, that unilateral sanctions are to be considered contrary to the 'principles of sovereign equality of States, non-intervention in the internal affairs of States and cooperation'.⁶⁶ Similarly, a couple of months later, Russia and China issued a joint declaration on the 'Promotion of International Law', in which they stated that economic sanctions are inconsistent with recognized principles of customary international law, such as the prohibition of intervention in domestic affairs of States.⁶⁷

The normative value of the GA resolutions, however, is far from being clear, given that their content is often very vague⁶⁸ and, above all, that these acts reflect political purposes and are often adopted in a deeply divided vote.⁶⁹ From this point of view, 'the resolutions are indicative of a clear divide on the issue of economic coercion between developing and developed States'⁷⁰, so that this state of practice and *opinio iuris* makes it difficult to assess whether unilateral sanctions are, *as such*, prohibited by the principle of non-intervention.⁷¹ This opinion appears to be shared by

⁶⁴ See, for instance, DH Joyner, 'International Legal Limits on the Ability of States to Lawfully Impose International Economic/Financial Sanctions' in Ronzitti (n 26) 190 ff, 198.

⁶⁵ See eg UNGA Res 2131 (XX) of 21 December 1965 'Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty'; UNGA Res 42/173 of 11 December 1987 'Economic Measures as a Means of Political and Economic Coercion against Developing Countries'; see also the resolutions on 'Human Rights and Unilateral Coercive Measures' annually submitted to the Assembly by the Non-Aligned Movement. See extensively A Hofer (n 45) 186 ff.

⁶⁶ Joint Communiqué of the 14th Meeting of the Foreign Ministers of the Russian Federation, the Republic of India and the People's Republic of China (19 April 2016) <www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/t1356652.shtml> para 6.

⁶⁷ The Declaration of the Russian Federation and the People's Republic of China on the Promotion of International Law (25 June 2016) <https://www.mid.ru/en/foreign_policy/news/asset_publisher/cKNonkJE02Bw/content/id/2331698?p_p_id=101_INSTANCE_cKNonkJE02Bw&_101_INSTANCE_cKNonkJE02Bw_languageId=en_GB>.

⁶⁸ Carter (n 28) para 8.

⁶⁹ Hofer (n 45) 184.

⁷⁰ *ibid* 212.

⁷¹ See extensively Silingardi (n 30) 208-225.



the majority of international law scholars, who deem at least debatable that the principle of non-intervention imposes a general restraint on the freedom of States to adopt means of economic pressure.⁷² In the *Nicaragua* case, the ICJ found that it was unable to regard economic sanctions ‘as a breach of the customary law principle of non-intervention’⁷³ and that the element of coercion ‘forms the very essence’ of prohibited intervention.⁷⁴ Remarkably, however, it did not exclude that, *in abstracto*, a measure of this kind may give rise to an unlawful coercion, even though it did not indicate the exact *threshold* that an economic pressure must meet to fall within the principle at issue.⁷⁵ Moreover, the role played by coercion is to be assessed in the light of two considerations. First, cases of State practice fundamentally address intervention *involving the use of force*, that is to say, as remarked by the ICJ itself, a kind of intervention in which the element of coercion is particularly obvious⁷⁶: suffice to mention the *Nicaragua* and the *Armed activities on territory of Congo* cases.⁷⁷ This circumstance should not be overlooked. While examining the content of non-intervention, the ICJ in *Nicaragua* expressly confined its role *only* to the definition of ‘those aspects of the principle which appear to be relevant to the resolution of the dispute’,⁷⁸ that is to say to the alleged use of force by the respondent State. Second, State practice shows that interventions not implying the use of force or other forms of coercion have nonetheless been considered to be a breach of the principle of non-intervention: support and funding of a political opposition to a foreign government as well as the premature recognition of governments,⁷⁹ or the exercise of prescriptive and enforcement jurisdiction in the territory of another State⁸⁰ are the most blatant examples. Having regard to these

⁷² See among others Bothe (n 26) 41; Jamnejad, Wood (n 54) 369-370; Ph Kunig, ‘Intervention, Prohibition of’ (2008) *Max Planck Encyclopedia of International Law* para 26.

⁷³ *Nicaragua* (n 44) para 245.

⁷⁴ *ibid* para 205.

⁷⁵ M Jamnejad, M Wood (n 54) 370.

⁷⁶ *Nicaragua* (n 44) para 205.

⁷⁷ *Armed Activities on Territory of Congo (Democratic Republic of Congo v Uganda)*, (Merits) [2005] ICJ Rep 168.

⁷⁸ *Nicaragua* (n 44) para 205.

⁷⁹ See below para 5.

⁸⁰ Jamnejad, Wood (n 54) 372-373.



specific cases it seems possible to share the opinion that it is not the element of coercion ‘mais celui de *l’atteinte aux droits souverains* qui sert de dénominateur commun à tous les formes d’actes catalogués d’intervention’.⁸¹

However, as already noted, a clear and specific prohibition of unilateral sanctions as being contrary to non-intervention has not yet crystallized through practice and *opinio iuris sive necessitatis*. In other words, the general requirement of coercion must be met in order for the economic sanctions to be deemed as unlawful intervention. Measures of retribution, such as those at issue, are likely to violate the principle when they amount to an overwhelming pressure *causing* the target State to be forced to make (or not to make) certain decisions falling within the scope of its domestic jurisdiction.⁸²

This high threshold does not appear to have been met in the case of Venezuela. It is true that economic sanctions adopted by the US and the EU had, and still have, an adverse impact on population and on the enjoyment of human rights (for example in the field of economic and social rights),⁸³ and that, for this reason, Venezuela has even called into play the International Criminal Court.⁸⁴ But the causal link referred to above doesn’t seem to be met in this case, to the extent to which, at least, it is not proven that the Venezuelan government has changed, *because of sanctions as such*, the ‘ordinary’ course of its political action both in its domestic sphere and in its international relations with other States.

⁸¹ E David, ‘Portée et limite du principe de non-intervention’ (1990) *Revue Belge Droit International* 351 ff, 353 (emphasis added); similarly Kunig (n 72) para 9. See also, in general terms, Conforti (n 55) 494, who argued that measures adopted by the interfering State ‘soient objectivement capables, compte tenu des circonstances, *de produire une modification* de ces choix’.

⁸² Giegerich (n 49) paras 24-25; Lowe, Tzanakopoulos (n 48) para 38; Kunig (n 72) para 25.

⁸³ See extensively M Weisbrot, J Sachs, ‘Economic Sanctions as Collective Punishment: The Case of Venezuela’, Center for Economic and Policy Research (April 2019) 14 ff.

⁸⁴ On 13 February 2020 Venezuela asked the Prosecutor of the International Criminal Court to investigate US officials for crimes against humanity resulting from unilateral sanctions described in para 2 of this paper. See Statement of the Prosecutor of the International Criminal Court, Mrs Fatou Bensouda, on the referral by Venezuela regarding the situation in its own territory (17 February 2020) <<https://www.icc-pi.int/Pages/item.aspx?name=200217-otp-statement-venezuela>>.

5. *The violation of the principle of non-intervention as a result of a series of actions against Venezuela*

The conclusion reached in the previous section does not exhaust the analysis of possible violations of non-intervention against Venezuela. As already noted, outside the area of the use of force a breach of non-intervention is deemed to occur in, at least, two cases, which appear particularly relevant to the situation at issue. On the one hand, the support given by a State to a political ‘opposition group within another State is perhaps one of the clearest examples of unlawful intervention in the affairs of that State’.⁸⁵ In the *Nicaragua* case, the ICJ found that funding and supporting of *contras* was ‘undoubtedly an act of intervention in the internal affairs of Nicaragua’.⁸⁶ While it is true that the group at issue was able to destabilize the internal order of the State concerned through armed activities, it may be argued that the *Nicaragua* judgment ‘is clear that it is not legitimate for a state to intervene in order to overthrow a ‘bad regime’’.⁸⁷ On the other hand – and probably in the same vein – a premature recognition of a new government is to be seen as an unlawful intervention as well. In such a case the recognition of an opposition group as the ‘new’ authority ‘conduit à refuser au gouvernement légal le droit souverain de continuer à s’exprimer au nom de l’ensemble de l’État alors que, par hypothèse, les insurgés n’ont pas encore conquis une effectivité suffisante pour prétendre contester l’exercice de ce droit’.⁸⁸ As is well-known, in fact, a formal recognition of a new government is permissible only where it *effectively* exercises control of at least the larger part of the territory of State concerned⁸⁹. When this requirement is not met, recognition is to be considered premature and, as such, a tortious interference with the independence of the State concerned, whose sovereignty is denied ‘au prix d’une falsification du droit ou de la réalité’.⁹⁰ In the first half of the twentieth century, a leading international law scholar argued that ‘[t]he illegality of such action is so generally admitted that [...] even those who

⁸⁵ Jennings, Watts (n 63) 431.

⁸⁶ *Nicaragua* (n 44) para 228.

⁸⁷ Jamnejad, Wood (n 54) 368.

⁸⁸ David (n 81) 358.

⁸⁹ JA Frowein, ‘Recognition’ (2010) *Max Planck Encyclopedia of International Law* para 15.

⁹⁰ David (n 81) 357.



adhere to the political view of recognition admit that at least this particular aspect of it is governed by international law'.⁹¹ The unilateral act of recognition performs a number of functions within the international legal order, among which a crucial role is represented by that of 'constatation [et] contrôle' of the social reliability of the new government, and, in particular, of its capacity to guarantee the respect and application of international law in the territory and with regard to the persons subject to its jurisdiction.⁹² It may be added, in this regard, that a premature recognition of a new government also affects the function of international law 'eine Sprache zwischen formal gleichrangigen Akteuren bereit zu halten'.⁹³

That said, the approach taken towards the Venezuelan Government seems to fall within the two cases of unlawful intervention mentioned in this section. The US, in particular, recognized the new government led by Juan Guaidó, provided it with a financial support and adopted economic sanctions against the *régime* of Nicolas Maduro with the declared purpose of contributing to overthrowing the latter.⁹⁴ The recognition of the 'new' Venezuelan government is to be considered premature, given that, at the time it was adopted, the *interim* President Guaidó did not exercise any form of control either over the territorial community nor on the effective organization of the State.⁹⁵ It is important to note that this

⁹¹ H Lauterpacht, 'Recognition of Governments: I' (1945) 45 Colum L Rev 815, 823.

⁹² A Tancredi, 'Évolution historique des critères de reconnaissance du statut d'État à des entités contestées' in Th Garcia (dir), *La reconnaissance du statut d'État à des entités contestées: approches de droits international, régional et interne* (Pedone 2018) 29 ff, 30, 33. Although the author refers to the recognition of States, in our opinion the same *rationale* applies to the recognition of governments.

⁹³ HP Aust, 'Die Anerkennung von Regierungen: Völkerrechtliche Grundlagen und Grenzen im Lichte des Falls Venezuela' (2020) 80 Zeitschrift für öffentliches Recht und Völkerrecht 73 ff, 98.

⁹⁴ See above para 2. The position of the EU is partially different, since, to the knowledge of the present author, this organization has not funded the opposition Venezuelan leader, nor it has formally recognized it as the legitimate governmental authority: the recognition was rather made by single European States and not by the EU as such.

⁹⁵ N Ronzitti, 'Venezuela: sul riconoscimento e disconoscimento dei governi, Affari internazionali' (18 February 2019) <www.affarinternazionali.it/2019/02/venezuela-riconoscimento-governi/>; Aust (n 93) 73, 97-98.



state of affairs has not changed over the last year,⁹⁶ during which the Maduro government has firmly maintained the functions of external representation of the State within the UN⁹⁷ as well as in bilateral relations, even with most of the States that had recognized the ‘new’ government. Recently, an ICSID tribunal issued a decision on procedural matters, by which it refused to allow the opposition leader’s legal team to appear in representation of Venezuela in a case re-submitted by ExxonMobil.⁹⁸ These elements have led some authors to contend that the democratic legitimacy of the *interim* President ‘seems to have been - so far - insufficient to trigger or at least secure a more permanent legal (as opposed to merely political) recognition’.⁹⁹ The recognition of Guaidó therefore amounts to a violation of the principle of non-intervention,¹⁰⁰ as stated, for example, by the Italian Government¹⁰¹ and by the Legal Service of the German Federal Parliament,¹⁰² which questioned the recognition made by Germany on 4 February 2019.¹⁰³

In the present author’s opinion, the lawfulness of economic sanctions against Venezuela must be analyzed within the framework of an approach that appears, *in its entirety*, to be aimed at the unlawful interference in

⁹⁶ C De Vito, ‘Venezuela: ruolo Russia e il nuovo confronto internazionale, Affari internazionali’ (28 June 2019) <www.affarinternazionali.it/2019/06/venezuela-ruolo-russia/>.

⁹⁷ See eg the Meeting on the Venezuelan situation held in the Security Council (10 April 2019) UN Doc S/PV.8506.

⁹⁸ *Venezuela Holdings BV and others v Bolivarian Republic of Venezuela* (ICSID Case n ARB/07/27) (1 March 2021) <<https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/07/27>>.

⁹⁹ F Paddeu, A Gurmendi-Dulkenberg, ‘Recognition of Governments: Legitimacy and Control Six Months after Guaidó’ (18 July 2019) *Opinio Juris* <<http://opiniojuris.org/2019/07/18/recognition-of-governments-legitimacy-and-control-six-months-after-guaido/>>.

¹⁰⁰ A Dhar, ‘Is the United States Intervening Unlawfully in Venezuela?’, Cambridge University Law Society’ <www.culs.org.uk/per-incuriam/is-the-united-states-intervening-unlawfully-in-venezuela>.

¹⁰¹ On the position expressed by the Italian Government, see P Turrini, CT Antoniazzi, ‘The Non-Recognition of the Venezuelan President between Democratic Standards and the Principle of Non-Intervention in the Internal Affairs of Other States’ (2019) *Italian YB Intl L* 461, in particular 465.

¹⁰² Deutscher Bundestag, Research Service, ‘Legal questions concerning recognition of the interim president in Venezuela’ (15 February 2019) WD 2-3000-017/19 11.

¹⁰³ Bundesregierung erkennt Übergangspräsidenten an (4 February 2019) <www.bundesregierung.de/bregde/suche/bundesregierung-erkenntuebergangsprasidenten-an-1576740>.



the domestic affairs of that State. As correctly argued, the assessment of an unlawful intervention often depends upon *context*, and even on the state relations between the States concerned.¹⁰⁴ In the case of Venezuela, the unlawfulness of US¹⁰⁵ sanctions decisively depends on the unlawfulness of the context as a whole. It may be maintained that the internationally wrongful act committed against Venezuela is of a *composite* nature, thus falling within the terms of Article 15 of the ILC Draft on State Responsibility, that refers to a series of actions or omissions defined in aggregate as wrongful. In such circumstances, the wrongful act is characterized by a progressive realization in which ‘l’unité du programme et de l’action délictueuse’¹⁰⁶ plays a crucial role. It is noteworthy, moreover, that the composite act may itself be made up of a series of individually wrongful acts,¹⁰⁷ ‘which all contribute to the realization of the global act in question’.¹⁰⁸

In the case at issue, the violation of the principle of non-intervention derives from a series of acts *closely* connected to each other – the (premature) recognition of the Interim President, the financial support provided to the opposition group *and* the adoption of unilateral economic sanctions – realized with the precise intent of interfering in the domestic affairs of the affected State.

6. *Conclusions*

The outbreak of the Venezuelan crisis has given rise to a number of legal questions which involve the relationship between sovereignty, democratic standards and human rights protection. This paper has focused on the unilateral sanctions adopted against Venezuela in order to force the Government led by Nicolas Maduro to allow democracy to prevail in

¹⁰⁴ Jamnejad, Wood (n 54) 367.

¹⁰⁵ The position of the EU is different for, at least, two reasons: the organization, *as such*, has not recognized the ‘new’ Venezuelan government (n 14) and, moreover, it did not provide financial support to Mr Guaidó.

¹⁰⁶ G Distefano, ‘Fait continu, fait composé et fait complexe dans le droit de la responsabilité’ (2006) 52 *Annuaire Français Droit International* 1 ff, 15.

¹⁰⁷ Draft Articles on Responsibility of States for Internationally Wrongful Acts (n 41) 63 para 9. See also J Crawford, *State Responsibility. The General Part* (CUP 2013) 266.

¹⁰⁸ J Salmon, ‘Duration of the Breach’ in J Crawford, A Pellet, S Olleson (eds), *The Law of International Responsibility* (OUP 2010) 383 ff, 391.



the Country. The measures at issue almost entirely fall within the category of primary economic sanctions, being directed against a specific State with a view to weakening its economic structure as a whole. According to the great majority of scholars, a rule of customary international law applicable to these restrictive measures has not yet emerged, so that sanctions should be qualified, *prima facie*, as mere acts of retorsion. The principle of non-intervention is applicable to these measures only insofar as they amount to an overwhelming pressure by which the target State is forced to take, or to abstain from taking, certain decisions falling within the scope of its *domaine réservé*. In the present author's opinion, such a high threshold has not been met in the case of Venezuela and, consequently, sanctions, *as such*, do not amount to a violation of the principle. Their wrongfulness, however, is to be assessed on a partially different ground. These sanctions, and in particular those adopted by the US, are part of a precise *course of action* deliberately aimed at the overthrow of the Nicolas Maduro regime: the US prematurely recognized Juan Guaidó as the *Interim* President and gave financial support to the opposition group led by the latter. The unilateral sanctions were adopted alongside these acts, which *per se* constitute a breach of the non-intervention principle. The wrongfulness of unilateral sanctions is thus determined by the *context* in which they were applied. It is argued that the internationally wrongful act committed against Venezuela is of a *composite* character and consists of three actions, closely related to each other: the premature recognition of Juan Guaidó as the *Interim* President of Venezuela, the financial support given to the 'new' Government and the economic sanctions.