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EU Sanctions Policy Vis-à-Vis Russia – A Case of Normative Power?

Abstract: This research piece investigates the role of norms in European Union (EU) sanctions policy towards Russia in the context of the Russia-Ukraine War. It aims to answer the research question of the extent to which the EU's foreign policy in this particular case can be interpreted as having normative power. As an analytical lens, the Normative Power Europe (NPE) framework is used. In order to tackle the question, this study deploys an interdisciplinary approach drawing from EU law and social sciences. It combines EU legislation and case law of the European Court of Justice on the one hand, with a qualitative content analysis of official EU press releases on the other. The first part of the analysis focuses on the doctrinal legal analysis of the relevant EU law in order to account for the normative-legal basis and legitimacy of EU autonomous sanctions. The second part investigates if the EU in this particular case is guided by international norms (milieu goals) or economic interests (possession goals) and which foreign policy instruments it uses to pursue its objectives. The study finds that the EU is committed to its normative identity.

Key Words: EU Sanctions Policy, EU Foreign Policy, Russia-Ukraine War, Interdisciplinary Analysis, Normative Power Europe (NPE)

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Introduction

Context of the Conflict and International Reaction

On 21 March 2014, following the Euromaidan protests and the military intervention by Russian special forces in February, the president of the Russian Federation, Vladimir Putin, signed a municipal law¹ enabling the de facto annexation of Crimea and the city of Sevastopol.² Previously, there was a declaration of independence of the Republic of Crimea on 11 March 2014, which was not recognized by the international community³, and a controversial regional referendum was held on 16 March in the absence of international observers.⁴ The annexation constituted the first case of such a claim by a permanent member of the Security Council of the United Nations against another member state of the international organization.⁵ As a consequence of the annexation, a violent conflict broke out in the Donbas region between pro-Russian separatists and Ukrainian armed forces.⁶ Several attempts to find a peaceful solution through dialogue and diplomacy within the framework of multilateral formats were subsequently instituted. Despite some progress made by the signing of the Minsk agreements⁷, the conflict could not be resolved and eventually led to the Russian military invasion of Ukraine in February 2022, constituting a massive threat to European and international peace and security and causing a humanitarian crisis.⁸ The reaction of the international community was diverse, reflecting the continuous tension between norms and values on the one hand, and economic and strategic interests on the other. For instance, China refused to openly condemn Russia's aggression, instead emphasizing its bilateral relations and criticizing the West for imposing sanctions.⁹ India's reaction has been characterized as "publicly neutral" and "subtle pro-Moscow".¹⁰ The European Union (EU) was among the first actors to gradually impose sanctions, which have come to exhibit unprecedented scope and intensity, targeting trade, finance and energy sectors. Moreover, the EU decided to apply autonomous sanctions because United Nations (UN) Security Council measures were blocked

1 President of the Russian Federation, "Laws on admitting Crimea and Sevastopol to the Russian Federation," March 21, 2014, <http://en.kremlin.ru/acts/news/20625>.

2 Thomas D. Grant, "Annexation of Crimea," *American Journal of International Law* 109, no. 1 (2015); Sabine Fischer, "The Donbas Conflict," *Stiftung Wissenschaft und Politik* 10 (2019): 5.

3 United Nations, "General Assembly Adopts Resolution Calling upon States Not to Recognize Changes in Status of Crimea Region," news release, 27 March 2014, <https://press.un.org/en/2014/ga11493.doc.htm>.

4 Grant, "Annexation of Crimea," 85.

5 Ibid, 68.

6 Samy Westfall and Claire Parker, "Why Is Ukraine's Donbas Region a Target for Russian Forces?," *Washington Post*, May 3, 2022.

7 OSCE, "Protocol on the results of consultations of the Trilateral Contact Group," 5 September 2014, www.osce.org/home/123257; United Nations Peacemaker, "Package of measures for the Implementation of the Minsk agreements," 12 February 2015, https://peacemaker.un.org/sites/peacemaker.un.org/files/UA_150212_MinskAgreement_en.pdf.

8 Nataliya Katser-Buchkovska, "The Consequences of the War in Ukraine Will Be Far-Reaching," *World Economic Forum*, April 22, 2022.

9 Mercy A. Kuo, "China's Ukraine Response Is All About the US (Not Russia)," *The Diplomat*, April 5, 2022.

10 Ashley J. Tellis, "What Is in Our Interest?: India and the Ukraine War," *Carnegie Endowment for International Peace*, April 25, 2022.

by Russia's veto.¹¹ Given the EU's high dependency on Russian energy imports especially when it comes to crude oil, natural gas and solid fossil fuels,¹² it is surprising that it imposed such comprehensive sanctions regimes that go against its own energy security interests. Following this line of thought, the research question is introduced in the next subchapter.

Research Question

This study focuses on the EU's sanctions policy towards Russia within the context of the Russia-Ukraine War since 2014. More specifically, it investigates the EU's commitment to norms. In so doing, the following research question is addressed: *"To what extent can the restrictive measures imposed by the EU against Russia be considered a case of normative power?"*. Considering the external threat posed by Russia's military aggression, this question is crucial, because it addresses the challenges the EU faces to its normative identity. Moreover, given the increasing contemporary geopolitical tensions, the question of the relationship between EU sanctions and EU normativity is expected to be of increasing relevance to academia and policymakers alike. Importantly, the conflict is still ongoing at the time of writing, which is why the EU's policy is constantly adapting according to the developments on the ground.¹³

Literature Review

There is a body of literature dealing with the purpose, objective and effectiveness of international sanctions.¹⁴ Legal scholars have emphasized several challenges for the practical application of sanctions policies, *inter alia* the importance of granting the individual targets the fundamental right to judicial review.¹⁵ Moreover, the Lisbon Treaty has rendered the European Council a

11 United Nations, "Russia Blocks Security Council Action on Ukraine." news release, 26 February, 2022, <https://news.un.org/en/story/2022/02/1112802>.

12 European Council, "Infographic – Where Does the EU's Energy Come From?", 16 April 2023, <https://www.consilium.europa.eu/en/infographics/where-does-the-eu-s-energy-come-from/>.

13 This contribution is based on the master's thesis by the author, written at the Institute for European Global Studies. Hence, data used for the analysis is considered until April 2022.

14 David A Baldwin, "The Sanctions Debate and the Logic of Choice," *International Security* 24, no. 3 (1999): 82; Thomas J. Biersteker and Clara Portela, "EU Sanctions in Context: Three Types," (European Union Institute for Security Studies, 2015); Gary C. Hufbauer, Jeffrey J. Schott, and Kimberly A. Elliott, *Economic Sanctions Reconsidered: History and Current Policy*, vol. 1 (Washington DC: Institute for International Economics, 1985); Robert A. Pape, "Why Economic Sanctions Do Not Work," *International Security* 22, no. 2 (1997); Dursun Peksen, "Autocracies and Economic Sanctions: The Divergent Impact of Authoritarian Regime Type on Sanctions Success," *Defence and Peace Economics* 30, no. 3 (2019); Iain Cameron, "Respecting Human Rights and Fundamental Freedoms and EU/UN Sanctions: State of Play," (2008); Anna-Sophie Maass, "The Actorness of the EU's State-Building in Ukraine-before and after Crimea," *Geopolitics* 25, no. 2 (2020); Clara Portela et al., "Consensus against All Odds: Explaining the Persistence of EU Sanctions on Russia," *Journal of European Integration* 43, no. 6 (2021); Viljar Veebel, "European Union as Normative Power in the Ukrainian-Russian Conflict," *International Politics* 56, no. 5 (2019).

15 Peter Van Elsuwege, "The Adoption of 'Targeted Sanctions' and the Potential for Inter-Institutional Litigation after Lisbon," *Journal of Contemporary European Research* 7, no. 4 (2011): 489.

central EU institution regarding the decision-making in this field and norms influence these decisions.¹⁶ The notion of *European norms* in international relations has been described as ambiguous due to its double meaning as “a sort of European virtue claiming universal validity” and a tool for the advancement of its proper interests.¹⁷ Norms-based foreign policy and the soft-power capacity linked to the EU are juxtaposed to notions of *realpolitik* most prominently promoted by China, India and Russia. In the absence of hard power capabilities, the EU arguably relies on norms or economic leverage in order to advance its proper interests in the international system.

Theoretical Framework

EU Foreign Policy and External Action

EU Foreign Policy is “the area of European policies that is directed at the external environment with the objective of influencing that environment and the behavior of other actors within it, in order to pursue interests, values and goals.”¹⁸ Integral to the EU’s foreign policy is the Common Foreign and Security Policy (CFSP), responsible for “developing and implementing the political and diplomatic dimension of EU foreign policy.”¹⁹ The European Council represents the heads of state or government of the 27 member states and is tasked with defining the Union’s strategic interests, objectives and guidelines in the field of the CFSP. Importantly, the EU’s objectives in its external relations influence both the internal developments and the EU’s identity as an international actor.²⁰ The EU’s commitment to norms and values as well as its strategic interests are codified in Treaty on European Union (TEU) articles, such as Art. 3(5) TEU and Art. 21 TEU. They highlight the fundamental guiding principles for EU external actions.²¹

16 Viktor Szép, “New Intergovernmentalism Meets EU Sanctions Policy: The European Council Orchestrates the Restrictive Measures Imposed against Russia,” *Journal of European Integration* 42, no. 6 (2020).

17 Zaki Laïdi, *EU Foreign Policy in a Globalized World*, (New York: Routledge, 2008): 1.

18 Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (London: Bloomsbury, 2022), 1.

19 *Ibid.*, 12.

20 Ramses A. Wessel and Joris Larik, *EU External Relations Law: Text, Cases and Materials* (London: Bloomsbury, 2020), 9–11.

What Are Sanctions and What Are They Good for?

Sanctions have been defined in various ways by scholars from the social sciences, humanities and international law.²² Objectives may include punishment or compliance, and they may serve to bring about a normative or behavioral change in the target. With respect to actors, next to states, international organizations have become increasingly important.²³ Sanctions can be grouped into different types, such as institutional, economic or targeted sanctions.²⁴ Economic sanctions are “measures of an economic – as contrasted with diplomatic or military – character taken to express disapproval of the acts of the target or to induce that [target] to change some policy or practices or even its governmental structure.”²⁵ They refer to embargoes and restrictions, which can be of a rather general kind or directed towards trade in certain sectors, goods or services, such as arms or oil embargoes.²⁶ Targeted measures are directed against individual legal or natural persons and they include for instance asset freezes or travel bans. The EU has the possibility to adopt three different kinds of restrictive measures, which may be categorized according to their respective relationship to UN sanctions.²⁷ EU autonomous sanctions are imposed by the EU in the absence of UN measures and serve as a foreign policy tool with the purpose of “expressing concern about what is believed to be unacceptable behavior and to reaffirming EU values on the international scene.”²⁸ This study focuses on autonomous, economic and targeted sanctions. It does not provide an assessment according to international law. Regarding sanctions purposes, a nuanced typology by Cameron distinguishing between eight different categories serves as a basis. For instance, *compliance* means “the sanctioning party’s intention is that the receiver ought to change some aspect of its foreign or domestic policy.” Another example is *symbolism*, which refers to a case where “the sanctions provide the domestic audience of the sender, international constituencies (such as NGOs) and the receiver itself with evidence of disapproval but without inflicting serious material damage.”²⁹ Based on these definitions, the following working definition of *sanctions* is developed for the present study:

22 See inter alia Johan Galtung, “On the Effects of International Economic Sanctions, with Examples from the Case of Rhodesia,” *World Politics* 19, no. 3 (1967): 379; Jean Combacau, “Sanctions,” *Encyclopedia of Public International Law*, ed. Rudolf Bernhardt (Amsterdam: North Holland, 1992), 337–338; Clara Portela, *European Union Sanctions and Foreign Policy: When and Why Do They Work?* (London: Routledge, 2012); Jonathan Law and Elizabeth A. Martin, “Sanction,” *A Dictionary of Law* (Oxford University Press, 2022); Vera Axyonova, “The Effectiveness of Sanctions and Regime Legitimacy in Central Asia: Examining the Substance of EU Sanctions against Uzbekistan,” *L’Europe en formation*, no. 1 (2015): 22; Nicholas Mulder, *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (New Haven: Yale University Press, 2022).

23 Barry E. Carter, “Economic Sanctions,” online in *Max Planck Encyclopedia of Public International Law* (New York: Oxford University Press, 2011).

24 Tom Ruys, “The European Union Global Human Rights Sanctions Regime (Eughrsr),” *International Legal Materials* 60 no. 2 (2021): 2.

25 Andreas F. Lowenfeld, *International Economic Law* (Oxford University Press, 2003), 698.

26 Ruys, “The European Union Global Human Rights Sanctions Regime (Eughrsr),” 6.

27 Biersteker and Portela, “EU Sanctions in Context: Three Types.”

28 *Ibid.*, 2.

29 Iain Cameron, *EU Sanctions: Law and Policy Issues Concerning Restrictive Measures* (Cambridge: Intersentia, 2013), 6–7.

Sanctions are a foreign policy instrument that is used by a state or international organization (sender) against another state, non-governmental entity or individual (target) in reaction to violations of international norms or principles with either one or several of the following purposes: making the target comply, symbolic condemnation, solidarity with friendly states, signaling consequences, limiting or stabilizing a conflict, punishment, or deterrence.

Normative Power Europe (NPE)

The EU arguably constitutes a *normative power* as opposed to *military power* or *hard power*.³⁰ The Union's distinctive identity derives from the fact that constitutional principles such as democracy and respect for fundamental human rights are legally enshrined, for instance in the TEU.³¹ It is this identity that "predisposes it to act in a normative way in world politics."³² Similarly, *soft power* refers to a form of influence based on attraction, persuasion and cooptation rather than coercion or inducement.³³ The NPE has been interpreted "as a lens through which to understand the EU's external actions [...]"³⁴ Manners emphasized the power of ideational factors in shaping world politics. However, in practice a clear separation between normative and hard power is not straightforward. The former is "often used together with material incentives and/or physical force",³⁵ which is why NPE may encompass both dimensions. Tocci et al. advanced NPE for empirical analysis and defined "'normative' as being strongly based on international law and institutions, and thus the most 'universalizable' basis upon which to assess foreign policy."³⁶ Drawing from the operationalization of the NPE by previous researchers,³⁷ three dimensions form the basis of the present analysis. The first one groups together interests, goals and intentions. The second one includes the types of foreign policy instruments used and the actions taken. The third is concerned with the results or the effect of a given policy. First, discourse is compared with the real-world behavior and effects in order to analyze interests. For instance, the EU's Russia policy prior to 2014 serves as an example of how energy security poses an impediment to principled

30 Ian Manners, "Normative Power Europe: A Contradiction in Terms?," *JCMS: Journal of Common Market Studies* 40, no. 2(2002): 235.

31 *Ibid.*, 240–41.

32 *Ibid.*, 252.

33 Joseph S. Nye Jr., *Soft Power: The Means to Success in World Politics* (New York: PublicAffairs, 2004), 7.

34 Vicki Birchfield, "A Normative Power Europe Framework of Transnational Policy Formation," *Journal of European Public Policy* 20, no. 6 (2013): 908.

35 Ian Manners, "The Concept of Normative Power in World Politics," *Danish Institute for International Studies Brief* (2009): 4.

36 Natalie Tocci, "Profiling Normative Foreign Policy: The European Union and Its Global Partners," in *Who Is a Normative Foreign Policy Actor? The European Union and Its Global Partners*, ed. Natalie Tocci (Brussels: Centre for European Policy Studies, 2008), 1.

37 *Ibid.*; Arne Niemann and Tessa De Wekker, "Normative Power Europe? EU Relations with Moldova," *European Integration Online Papers* 14, no. 1 (2010).

action.³⁸ Hence, accounting for material interests related to trade or energy security is crucial.³⁹ Scenarios in which norms are at odds with such interests and the former are prioritized over the latter would constitute a strong case for authentic normative foreign policy. Another common analytical distinction with reference to normative goals is the one between milieu goals and possession goals.⁴⁰ Milieu goals are associated with the shaping of the external environment of a state, whereas possession goals refer to “the enhancement or preservation of one or more of the things to which it [the state,] attaches value” and are “generally pursued to the exclusion of others”.⁴¹ Second, a foreign policy qualifies as normative only if it has been implemented by normative means,⁴² defined as “instruments (regardless of their nature) that are deployed within the confines of the law.”⁴³ This legal dimension on the one hand refers to “the legal commitments of a foreign policy actor towards itself”, meaning that in its actions it upholds internal legal principles such as democracy, transparency and accountability.⁴⁴ On the other hand, the actions shall be taken on a multilateral basis, seeking UN approval and in accordance with external legal principles deriving from international law.⁴⁵ Another criterion for the assessment of the normativity of foreign policy means is the absence of double standards.⁴⁶ The third dimension of the framework accounts for the actual effectiveness of a given policy, which is central because otherwise the element of *power* would be lacking. Without influencing Russia’s behavior in the desired way, the actions of the EU can hardly be classified as powerful. In sum, a normative foreign policy actor justifies its actions by referring to milieu goals and international normative principles rather than possession goals.⁴⁷ It uses means in respect of international and domestic legal obligations rather than violating them. To be considered a normative power in a specific field, the policy must be effective in reaching the normative goals. It is to be tested if the EU in its sanctions policy towards Russia has pursued normative goals by using normative means. And if so, to what degree these policy goals have been achieved.

38 Birchfield, “A Normative Power Europe Framework of Transnational Policy Formation,” 916; Thomas Diez, “Constructing the Self and Changing Others: Reconsidering Normative Power Europe,” *Millennium* 33, no. 3(2005): 916.

39 Niemann and De Wekker, “Normative Power Europe? EU Relations with Moldova,” 8.

40 David Cadier, “Continuity and Change in France’s Policies Towards Russia: A Milieu Goals Explanation,” *International Affairs* 94, no. 6 (2018); Tocci, “Profiling Normative Foreign Policy: The European Union and Its Global Partners,” 7; Elisabeth Johansson-Nogués, “The (Non-) Normative Power EU and the European Neighbourhood Policy: An Exceptional Policy for an Exceptional Actor,” *European Political Economy Review* 7, no. 2 (2007).

41 Arnold Wolfers, *Discord and Collaboration: Essays on International Politics* (Baltimore: Johns Hopkins Press, 1962), 73., as cited in Cadier (2018).

42 Tocci, “Profiling Normative Foreign Policy: The European Union and Its Global Partners,” 8.

43 *Ibid.*, 10.

44 *Ibid.*, 10.

45 *Ibid.*, 11.

46 Niemann and De Wekker, “Normative Power Europe? EU Relations with Moldova,” 8.

47 Tocci, “Profiling Normative Foreign Policy: The European Union and Its Global Partners,” 11.

Interdisciplinary Approach

Interdisciplinarity as a research approach may be interpreted in different ways. For instance, in EU Law, Tobler suggests starting with the values enshrined in the TEU before selecting a specific field in which the Union is competent to act in order to analyze the functioning of the system and how it contributes to the realization of the overall aims.⁴⁸ Weber emphasizes the role of concepts and the development and combination of new analytical tools for the resolution of academic or politico-economic problems.⁴⁹ The approach for the present analysis may be best defined as a multidisciplinary juxtaposition of two disciplines. First, the legal analysis incorporates and describes the relevant primary law, namely applicable articles from the Treaties, and secondary law, in particular Council decisions and regulations published in the Official Journal of the EU. Moreover, case law developed by the European Court of Justice (CJEU) serves as an additional source to account for the legal practice and rulings. The qualitative content analysis of official press releases by EU bodies forms the second and main part of the analysis. It follows the lines of a case study design, which may be defined as “the detailed and intensive analysis of a single case”.⁵⁰ The EU’s sanctions policy towards Russia in the context of the Ukraine crisis forms the case. Two instances are considered, namely the EU’s reaction to the 2014 annexation of Crimea and the war in Donbas on the one hand, and the reaction to Russia’s military aggression against Ukraine in February 2022 on the other. The case is selected on the basis of its extraordinary political relevance and because it is expected to provide valuable insights into the EU’s foreign policy behavior and commitment to norms in contexts of crises and military threat. This is the larger phenomenon to which this research aims to contribute. The chosen time period is from February until December 2014 and from February until April 2022, respectively. Secondary sources are consulted to assess the possible effects. By combining concepts, data and methods from legal analysis, EU law and political science this piece provides an innovative contribution regarding the investigation of the EU’s normative power in its sanctions policy towards Russia. Addressing the present research question in this way illustrates the added value of analyzing complex contemporary phenomena through an interdisciplinary lens.

48 Madeleine Herren et al., “A Discussion on European Global Studies,” *Global Europe – Basel Papers on Europe in a Global Perspective* 116 (2018): 8.

49 Ibid., 9.

50 Alan Bryman, *Social Research Methods* (Oxford: Oxford University Press, 2016), 60.

Legal Analysis

Judicial Review and Accountability of EU Legal Acts

In the Treaty on the functioning of the European Union (TFEU), Art. 263 (1) specifies the competence of the CJEU to review the legality of acts by EU institutions. Art. 263 (2) TFEU provides for the right to challenge such acts before the General Court. In several instances, the CJEU has ruled to recognize this right also regarding restrictive measures.⁵¹ This is important, because according to Art. 24 (1) TEU and Art. 275 TFEU, the CJEU does not in principle have jurisdiction in the area of the CFSP. These restrictions imposed on the Court on the basis of the Treaties are an expression of the political nature of the CFSP which renders it “[...] difficult to reconcile judicial review with the separation of powers.”⁵² However, Art. 275 TFEU provides for restrictive measures against natural or legal persons to constitute an exception from this rule, attributing the CJEU *exceptional judicial competence*.⁵³ This exception is the result of several court decisions,⁵⁴ which established that “[...] the principle of effective judicial remedies meant that a listed entity or person must have the right of appeal to the court.”⁵⁵ These progressions signify the general trend towards a *legalization* of the CFSP.⁵⁶

EU Legal Acts in the Context of the Russia-Ukraine War

On 17 March 2014, the Council of the European Union adopted a first decision concerning restrictive measures with regard to actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.⁵⁷ It includes the listings of persons, entities or bodies involved in the actions mentioned and provides for travel restrictions and an asset freeze. The corresponding regulation⁵⁸ was adopted by the Council on the basis of Art. 215 TFEU. The regulation emphasizes that it respects fundamental rights and particularly “[...] the right to an effective remedy and to a fair trial [...]” On 23 June and 31 July 2014, decisions and corresponding regulations on several economic measures were adopted, including restrictions on goods originating in Crimea or

51 See Lonardo and Cairo (2022: 1): “Previously, the Court recognized standing to challenge restrictive measures for natural persons (GC 30 November 2016, Case T-720/14, Rotenberg), companies (ECJ 6 October 2020, Case C-134/19 P, Bank Refah Kargaran v Council), including companies controlled by third countries (ECJ 28 March 2017, Case C-72/15, Rosneft, GC 30 November 2016, Case T-89/14, Export Development Bank of Iran), and holders of public offices in third countries (Azarov, Yanukovych).”

52 A.G. Wathelet’s Opinion, EU:C:2016:381, para. 52. In: Sara Poli, “The Common Foreign Security Policy after Rosneft: Still Imperfect but Gradually Subject to the Rule of Law,” *Common Market Law Review* 54 (2017): 1799.

53 Cameron, *EU Sanctions: Law and Policy Issues Concerning Restrictive Measures*, 34.

54 See Cameron (2013:34): “Joined Cases C-354/04 P and C-355/04 P Gestoras Pro Amnistia and others and Segi and others v. Council of the European Union [2007] ECR I.1579.”

55 Ibid.

56 Poli, “The Common Foreign Security Policy after Rosneft: Still Imperfect but Gradually Subject to the Rule of Law,” 1800; Paul James Cardwell, “The Legalisation of European Union Foreign Policy and the Use of Sanctions,” *Cambridge Yearbook of European Legal Studies* 17 (2015).

57 Council Decision (CFSP) 2014/145 of 17 March 2014.

58 Council Regulation (EU) No 269/2014 of 17 March 2014, “Whereas” section, para. 6.

Sevastopol, in response to the illegal annexation of Crimea and Sevastopol⁵⁹ and restrictive measures in view of Russia's actions de-stabilizing the situation in Ukraine. The measures imposed by the Council in 2014 are largely still in place and have been renewed, amended and extended on a regular basis. In particular, the increase in tensions and eventual outbreak of the war in February 2022 led to the adoption of several decisions by the Council amending decision 2014/512/CFSP.⁶⁰ On 8 April 2022, a series of exemptions for humanitarian purposes were introduced.⁶¹

Judicial Review by the Court of Justice of the European Union

Case law by the CJEU provides insights into the EU's functioning in terms of norm affirmation through law and how the rule of law may enhance the legitimacy of the EU's CFSP. Given the exceptional judicial competence of the CJEU when it comes to restrictive measures, its role is decisive. On the one hand, two individual cases against natural persons are analyzed. *Rotenberg v. Council*⁶² constitutes one of the few exceptions when the General Court ruled to annul the sanctions against a targeted Russian.⁶³ In *Kiselev v. Council*, the applicant's claim was declined by the General Court because the Council would otherwise be "[...] unable to pursue its policy of exerting pressure on the Russian Government by addressing restrictive measures [...]".⁶⁴ On the other hand, several major Russian companies from the energy, defense and financial industries were sanctioned.⁶⁵ The contested acts were Council Decision (CFSP) 2014/512 and Council Regulation (EU) 833/2014. Their claims for annulment were all dismissed by the EU General Court. For instance, in *Gazprom Neft PAO v. Council*,⁶⁶ the Court underlined the non-punitive objectives of the measures imposed and established that there was a logical connection between sanctioning the Russian oil sector and the objective of the measures "[...] to increase the costs of [Russia's] actions to undermine Ukraine's territorial integrity, sovereignty and independence, and to promote a peaceful settlement of the crisis."

59 Council Decision (CFSP) 2014/386 of 23 June 2014 and Council Regulation (EU) No 692/2014 of 23 June 2014; Council Decision (CFSP) 2014/512 of 31 July 2014 and Council Regulation (EU) No 833/2014 of 31 July 2014.

60 See Council Decision (CFSP) 2022/264 of 23 February 2022, Council Decision (CFSP) 2022/327 of 25 February 2022, and Council Decision (CFSP) 2022/335 of 28 February 2022.

61 See Council Decision (CFSP) 2022/578 of 8 April 2022 amending Decision 2014/512/CFSP and Council Regulation (EU) 2022/576 of 8 April 2022 amending Regulation (EU) No 833/2014.

62 General Court, 30 November 2016, *Rotenberg v. Council*, T-720/14, ECLI:EU:T:2016:689.

63 Celia Challet, "Reflections on Judicial Review of EU Sanctions Following the Crisis in Ukraine by the Court of Justice of the European Union," *College of Europe's Research Papers in Law* 4 (2020): 4.

64 General Court, 15 June 2017, *Kiselev v. Council*, T-262/15, ECLI:EU:T:2017:392, para. 113.

65 See *Rosneft* (case T-715/14), *Gazprom* (T-735/14 and T-799/14), *Sberbank* (T-732/14), *VTB Bank* (T-734/14), *Vnesheconombank* (T-737/14), *PSC Prominvestbank* (T-739/14), *Denizbank* (T-798/14), and *Almaz-Antey v. Council*.

66 General Court, 13 September 2018, *Gazprom Neft PAO v. Council*, T-735/14 and T-799/14, ECLI:EU:T:2018:548, para. 135.

Qualitative Content Analysis

Speech

Codes	Explanation	Year	Frequency	Example
Call for compliance	A statement that calls for compliance or change in behavior	2014	9	<i>Words must be translated into actions.</i>
		2022	18	<i>We urge Russia, as a party to the conflict, to reverse the recognition, uphold its commitments, abide by international law and return to the discussions within the Normandy format and the Trilateral Contact Group.</i>
Call for dialogue	A statement that calls for dialogue	2014	15	<i>The EU remains ready to engage in constructive dialogue with all parties.</i>
		2022	6	<i>Tensions and conflict should be resolved exclusively through dialogue and diplomacy.</i>
Signaling	A statement that signals measures in case of non-compliance	2014	13	<i>In the absence of de-escalating steps by Russia, the EU shall decide about consequences for bilateral relations between the EU and Russia.</i>
		2022	12	<i>So, summing up, the grave violations that Russia is committing will not go unanswered. They are not going unanswered.</i>
Naming and Shaming	A statement that names persons or entities and assigns responsibility for an unlawful act and its consequences	2014	–	
		2022	22	<i>Russia bears full responsibility for this act of aggression and all the destruction and loss of life it will cause.</i>
Solidarity	A statement that expresses solidarity with or support for Ukraine	2014	13	<i>EU stands by Ukraine.</i>
		2022	22	<i>Ministers reaffirmed their unity, resolve and the EU solidarity's with Ukraine.</i>
Symbolism	A statement that disapproves of or condemns certain actions	2014	18	<i>It is meant as a strong warning: illegal annexation of territory and deliberate destabilisation of a neighbouring sovereign country cannot be accepted in 21st century Europe.</i>
		2022	18	<i>The European Council condemns in the strongest possible terms the Russian Federation's unprovoked and unjustified military aggression against Ukraine.</i>

Table 1: Own depiction

Goals

Type of goal	Codes	Year	Frequency	Example
Normative/ Milieu	peace and/or security	2014	11	<i>We are firmly convinced that there needs to be a peaceful solution to this current crisis.</i>
Normative/ Milieu	promotion of democracy	2014	6	<i>The Council welcomed the holding of parliamentary elections on 26 October and called for the rapid formation of a new government.</i>
Normative/ Milieu	respect of international law	2022	8	<i>The European Union demands that Russia ceases its military action and withdraws all forces and military equipment from the entire territory of Ukraine immediately and unconditionally, and fully respects Ukraine's territorial integrity, sovereignty and independence within its internationally recognized borders.</i>
Possession	security of energy supply	2014	1	<i>The security of supply and transit of natural gas</i>

Table 2: Own depiction

Foreign Policy Means

Foreign policy means (FP means) are subdivided into four analytical categories, which differ in terms of whether they provide or withdraw something (positive/negative) and whether they inflict material costs (soft/hard). The positive/negative distinction hereby refers to an analytical frame in the sense of presence/absence rather than a normative one of good/bad.⁶⁷

positive	negative	
provision of material support e.g. delivery of military equipment to Ukraine	withdrawal of benefits, coercive effect, infliction of high material costs e.g. economic or individual sanctions against Russia	hard
provision of immaterial support e.g. symbolic speech, dialogue	withdrawal of immaterial benefits, moderate material costs e.g. suspension of bilateral talks with Russia	soft

Table 3: Own depiction

Effects of EU Sanctions on Russia’s Behavior in 2014 and 2022

The Council criticized Russia’s practical non-compliance despite the commitments it had made. It states for instance that “[o]ur call has been, in practice, left unheeded. Arms and fighters continue flowing into Ukraine from the Russian Federation.”⁶⁸ Overall, the EU arguably lacks a clear strategy for assessing the effectiveness of the sanctions it imposes.⁶⁹ Domestically, the measures imposed in 2014 nevertheless had several unintended effects. First, they contributed to an increased popularity of Putin, illustrated by the high approval ratings among Russian constituencies since March 2014, which have been above 80 percent over the following four years.⁷⁰ Second, sanctions were ineffective in weakening the Russian elite because they found ways to successfully “reallocate resources”.⁷¹ Third, between 2014 and 2015 military expenditure in Russia

67 The basic idea of this distinction is drawn from Jonna Nyman, “What Is the Value of Security? Contextualising the Negative/Positive Debate,” *Review of International Studies* 1 (2016): 29.

68 Statement by the President of the European Council, 29 July 2014.

69 Andreas Beyer and Benno Zogg, “Time to Ease Sanctions on Russia,” *CSS Policy Perspectives* 6, no. 4 (2018): 1.

70 Levada Center, “Putin’s approval rating,” last accessed 16 April 2023, <https://www.levada.ru/en/>.

71 Richard Connolly et al., “The Impact of EU Economic Sanctions on Russia,” in *On target?*, ed. Iana Dreyer and José Luengo-Cabrera (Paris: European Union Institute for Security Studies, 2015).

grew from 4.1 percent to 4.9 percent of GDP.⁷² In a similar vein, Russian oil production was at a post-Soviet record high in 2014.⁷³ However, in terms of finance, Russian companies indeed came under pressure because of the ban on the access to EU capital markets.⁷⁴ As a consequence, they started to rely more on Russian banks and the state. Moreover, the duration of sanctions against the Russian Federation which were adopted earlier were linked to the full implementation of the Minsk agreements.⁷⁵ Afterwards, they were extended and prolonged numerous times,⁷⁶ suggesting that the objectives were not met. Moreover, countermeasures by Russia against the EU in the form of import bans on different food products were imposed, indicating that despite the agreements, Russia decided not to comply.⁷⁷

In 2022 the situation deteriorated drastically despite the measures that were already in place before 24 February. Moreover, Russia imposed countermeasures against EU nationals and parliamentarians in the form of an entry ban into Russian territory.⁷⁸ The vast majority of the Russian population is feeling the intensified negative effect of the war, in particular low-income strata.⁷⁹

72 World Bank. “Military expenditure (% of GDP) – Russian Federation,” last accessed 16 April 2023, https://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS?end=2020&locations=RU&most_recent_year_desc=true&start=1992&view=chart.

73 Vladimir Soldatkin, “Russia Oil Output Hits Post-Soviet High, Small Firms Help,” *Reuters*, 2 January 2015.

74 Connolly et al., “The Impact of EU Economic Sanctions on Russia,” 34.

75 European Council Conclusions, 20 March 2015, <https://www.consilium.europa.eu/media/21888/european-council-conclusions-19-20-march-2015-en.pdf>.

76 Note: For an overview of the extensions and amendments after 2014, see: <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/history-restrictive-measures-against-russia-over-ukraine/>.

77 Connolly et al., “The Impact of EU Economic Sanctions on Russia,” 38.

78 European External Action Service, “Russia: Statement by the High Representative on the retaliatory sanctions against EU nationals,” 1 April 2022, https://www.eeas.europa.eu/eeas/russia-statement-high-representative-retaliatory-sanctions-against-eu-nationals_en.

79 Evgeny Gontmakher, “Russia under Sanctions,” *Geopolitical Intelligence Services*, 31 May 2022, <https://www.gisreportsonline.com/r/russia-sanctions/>.

Discussion and Conclusion

The internal legal standards and accountability mechanisms presented in the legal analysis suggest that EU sanctions are not arbitrary but rather justified by law. They are deployed in pursuit of normative goals deriving from international law, which increases their legitimacy. Despite the trend towards a legalization of the CFSP, it is still largely a politicized field. In the present case, the CJEU is consequentially influenced by the external political circumstances, illustrating the interlinkages between law and politics.

EU actions are guided by the norms codified in Art. 21 TEU. It officially condemned Russia's actions, assigned responsibility and called for compliance while showing solidarity with Ukraine. Such official statements are to be considered as more than mere lip service, given that they contain significant political and symbolic weight and demonstrate the EU's normative standpoint. Moreover, the Council started to impose sanctions as early as March 2014, followed by macro-financial packages to Ukraine in April. This accounts for the material dimension of the solidarity and suggests consistency of official communication and policy action. The analysis found that the EU's approach includes both individual targeted sanctions as well as economic sanctions. In 2014, EU sanctions were generally not as comprehensive and directed towards certain sectors and areas. They were imposed due to the involvement in and active support of actions that threaten international law principles with the aim to enforce the EU's non-recognition policy, to signal consequences and to promote a change in Russia's behavior. With the escalation of the conflict in 2022, ever more and far-reaching measures have been imposed that affect the Russian economy more broadly. Under these conditions, the official EU rhetoric has become more aggressive, focusing on a punitive and retaliatory tone, indicating that the reactions of the EU have been decisively influenced by the developments on the ground. Interestingly, unlike economic sanctions on trade and finance, wider restrictions on the Russian energy sector, namely on coal and other solid fossil fuels, were introduced only on 8 April 2022. The EU's interest in securing the delivery of gas from Russia through Ukraine classifies as a possession goal. These factors suggest that the EU's generally high dependency on Russia in these sectors did influence its policy decisions, indicating a priority of possession goals over milieu goals. Consequently, one could criticize that norms did not constitute the most important basis upon which the EU decides, constituting a double standard. However, two points are worth considering. First, as illustrated by the case law, the EU did sanction major individual Russian energy companies in 2014, whereas it refrained from imposing measures against the whole energy sector at that time. It was only after Russia's military aggression in February 2022 that the EU decided to significantly expand the measures, suggesting that the EU's reactions have been adjusted in proportion to the violations. Second, given the EU's overall energy dependency on Russia and the concomitant vested interests, it might

also be surprising that the Union gained the necessary consensus among the Member States and imposed sanctions on this sector at all. The fact that it did so, even if gradually, supports the view that normative guiding principles influence its actions. When assessing the normative *power*, the unintended effects on Russia's domestic politics and economy, Russian countermeasures, as well as the repeated extensions and amendments of EU sanctions, may indicate their overall ineffectiveness. The present case challenges the conceptualization of the EU's normative power as 'soft' and emphasizes the necessity to account for the international context as a critical factor influencing the EU's opportunity structure as well as its actions. CFSP-sanctions constitute hard norm enforcement methods which may readily be deployed in order to safeguard the normative principles and objectives codified in the TEU. The present analysis of the EU's sanctions policy vis-à-vis Russia in the context of the Ukraine crisis provides an added value to the research on sanctions and on the NPE framework. However, the normative objectives the policy was supposed to accomplish, namely to bring about a change in behavior in the target and bring about peace, could not be realized. Moreover, even though a double standard seems unlikely, the fact that certain sectors were sanctioned before others and the references to security of energy supplies suggest some tensions with respect to the EU's foreign policy objectives. Considering Russia's military aggression and violation of international law as an expression of broader geopolitical power shifts and increased assertiveness of authoritarian regimes, it remains to be seen to what extent the EU will be able to safeguard international norms in the future and what the implications for its normative actorness are. Chances are it will become increasingly difficult for the EU to rely solely on soft methods to influence other international actors. Nevertheless, it will remain crucial for the EU to uphold in its actions the very ideals to which it commits itself and which it aims to promote externally.

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