Athens Journal of Law - Volume 11, Issue 4, October 2025 – Pages 445-460

The Legal Dynamics of Restrictive Measures Imposed by the Union against Russia

*By Gina Orga-Dumitriu**

From the sieges of ancient fortresses—such as Homer's legendary Troy or Caesar's campaign at Alesia, exemplifying the discipline the ancient Greeks termed Polykleitos—to the Ottoman blockade of Constantinople and, subsequently, Napoleon's continental blockade of British trade; from the sugar boycotts in the French Antilles and Gandhi's resistance to the salt tax, to contemporary embargoes imposed by the United States against communist Cuba or Iraq, the history of international sanctions illustrates a complex and heterogeneous field of debate. Within this field, ethical, legal, and geostrategic considerations intersect in distinctive ways, each asserting its own principles and delimiting its own permissible scope of action. Global developments in recent years reveal both the multipolar world we live in and the ability of law to serve as the "sweet weapon" of economic warfare, employed in response to hostile behavior, political crises, or armed aggression. The European sanctions against the Russian Federation were implemented following the annexation, in February 2014, of the Crimean Peninsula, and after the invasion of Ukraine on 24 February 2022, the material and personal scope of the restrictions grew considerably; no fewer than 18 "packages" of economic and individual sanctions (the latest on 18 July 2025) have been adopted to diminish the Kremlin's capacity to finance the war. The restrictions adopted (reminiscent of U.S. secondary sanctions) also broaden the debate regarding a form of extraterritoriality of European sanctions, despite the Union's traditional policy of denouncing the extraterritorial effects of sanctions imposed by third countries. Russia's serious breach of peremptory norms of general interest (through military aggression against the territorial integrity and independence of a sovereign state and through flagrant violations of human rights), however, legitimises this approach.

Keywords: *Common foreign and security policy; Economic sanctions; Freezing of funds; Leading businessperson; Restrictive measures*

Introduction

Inter arma silent leges—when arms speak, the law falls silent—declared Marcus Tullius Cicero in his *Pro Milone* oration, a seminal defence speech that has transmitted to posterity not merely the account of the fierce political rivalry between Titus Annius Milo and Publius Clodius, but also an incisive depiction of the violent convulsions that marked the Republic's waning years.

It was a time when "the Senate stood powerless before the unrestrained mob, before demagogues who spared no means, and before the mighty of the day who did as they pleased. These were the days foreshadowing the civil war between

*Dr. of Law; Associate Professor, Faculty of Law, 'Lucian Blaga' University of Sibiu, Romania. Email: ginadumitriu@yahoo.com

https://doi.org/10.30958/ajl.11-4-4 doi=10.30958/ajl.11-4-4

Caesar and Pompey [...].”[1]. Indeed, the chronicles of history attest to the unsettling succession of belligerent states, conquests, and invasions which, in various eras, imposed the rule of force to the detriment of the force of law. It was only in 1648 that the treaties which sealed the Peace of Westphalia, following the Thirty Years' War (1618–1648), introduced the guiding concepts of public international law, declaring war outside the law and establishing the principle of non-intervention in internal affairs as a corollary to the recognition of the inviolability of national sovereignty[2]. The theory of natural law and the foundations of international law, as theorised at the time by the scholar Hugo Grotius, brought the necessary paradigm shifts, foreshadowing the dawn of a legal order based on the sovereignty of nation-states. The establishment of the collective security system introduced by the Covenant of the League of Nations (1919) and the codification of the principle prohibiting the use of force through Article 2, paragraph (4) of the Charter of the United Nations (1945)[3] constituted the founding stages of the new international legal order based on the equality of states and the observance of the principles and norms of contemporary international law.

In domestic law, the binding nature of legal norms and the application of legal sanctions involve the coercive intervention of the state. The *international order* differs from the *domestic order* mainly in terms of the effectiveness of legal norms[4]. Most of these are norms established through international treaties, both bilateral and multilateral, or through customary practice, whose binding force derives from adherence to the principle *pacta sunt servanda*. Alongside treaty law and customary international law, however, there also exist peremptory international norms whose legal force does not stem from the will of states but from a source that transcends their authority - namely, natural law. Identified by the Latin term *jus cogens*, these peremptory norms, which "by virtue of the universal value they protect, exceed the consent of states"[5], were formally enshrined in Article 53 of the 1969 Vienna Convention on the Law of Treaties; thus, a peremptory norm of general international law was defined as ”a norm accepted and recognised by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”. The practice of international relations has revealed not only this difficult recognition of peremptory norms of international law but also the controversies concerning the effectiveness and limits of the sanctions established to restore the legal order violated through their transgression.

Russia's annexation of the Crimean Peninsula in 2014 and the ”special military operation” to invade Ukraine on 24 February 2022 were accompanied by a manipulative discourse in which, with great cynicism, the meanings of certain

---

[1]Cicero (1915) at 5.
[2]Hatem (2015) at 92.
[3]Two exceptions to the rule prohibiting the use of force or the threat of force are recognised: in the case of individual or collective self-defense against an armed attack until the Security Council has taken the measures necessary to maintain international peace and security (Article 51 of the UN Charter), and actions authorised by the UN Security Council under the conditions laid down in Chapter VII of the Charter.
[4]Stoica (2022).
[5]Maftei (2019) at 1-10.

concepts and institutions of international law were distorted, invoking the right to self-determination, alleged human rights violations, and the false necessity of ”denazifying” the regions governed by the regime in Kyiv[6]. European sanctions against the Russian Federation were implemented following the annexation of Crimea and the city of Sevastopol, but after the armed aggression of 24 February 2022, the material and personal scope of the restrictions increased considerably, with no fewer than 18 sanctions packages adopted between 23 February 2022 and 18 July 2025.

European sanctions prove to be consubstantial with the evolution of international law, as they also constitute a legal laboratory in which the traditional limits of international law are tested[7]. This is why the study aims not only to provide a description of the main categories of restrictive measures imposed by the Union (2) and their analysis in the case law of the CJEU (3), but also to note the emergence of a trend toward the extraterritoriality of sanctions (4). The positioning of certain Member States toward the war in Ukraine, in the context of the rule of law crisis within the Union and the political articulation regarding the sanctions regime, raises the issue of adjusting the foundations of the EU's external actions (5). Given the EU's well-known position of denouncing the extraterritoriality of sanctions imposed by third countries, the conclusions (6) will highlight the differences between U.S. secondary sanctions (adopted for reasons specific to U.S. foreign policy) and the restrictive measures imposed by the Union against Russia in response to the violation of peremptory norms of general international law.

Restrictive Measures Adopted by the EU: Categories and Scope

Aligning itself with other states that have adopted sanctions against Russia - the United States, Canada, the United Kingdom, Switzerland, Australia, Japan, and South Korea - the European Union activated, following the invasion of Ukraine, a veritable ”war ecology”[8] aimed at reducing Russia's economic base and undermining the Kremlin's capacity to finance the war[9]. Called in the press the “Shock and Awe” operation[10], the European sanctions campaign was added to the measures instituted after the annexation of Crimea in February 2014, with their scope considerably expanded in terms of targeted areas. In fact, in 2022, litigation concerning restrictive measures literally exploded before the Court of Luxembourg. With 103 new cases, restrictive measures accounted for 11.4% of the total number of cases registered in 2022 (compared to 4.8% in 2021 and 3% in 2020)[11].

The legal framework within which the sanctions are adopted lies midway between two EU policies: the Common Foreign and Security Policy (CFSP) and its external relations[12]. This framework allowed the Council of the European Union to

[6]Ciucă (2024) at 7, 11.
[7]Bismuth (2023) at 8.
[8]Charbonnier (2022).
[9]Déclaration à la presse de la présidente von der Leyen au sujet de l'agression russe contre l'Ukraine, 24 February 2022.
[10]Larsen (2022).
[11]Court of Justice, *Statistics concerning the judicial activity of the General Court.*
[12]Brière (2023).

adopt CFSP Decision 2014/145/CFSP of 17 March 2014[13] and CFSP Decision 2014/512/CFSP of 31 July 2014[14], based on Article 29 TEU, followed by the adoption, under Article 215 TFEU, of Regulation (EU) No 269/2014[15] and Regulation (EU) No 833/2014 of 31 July 2014[16] (with their numerous subsequent amendments), which established calibrated and robust measures in response to actions threatening the territorial integrity, sovereignty, and independence of Ukraine. While regulations are adopted by the Council by qualified majority, Council decisions in the area of the Common Foreign and Security Policy must be adopted unanimously, effectively granting each Member State a veto right. This reflects the specific intergovernmental nature of the CFSP, in which the Court of Justice of the European Union (hereinafter CJEU) can exercise only limited judicial review under the conditions defined in Article 275 TFEU[17].

Without aiming for a detailed description of the restrictive measures, which in terms of content and effects involve many technical aspects (as shown in the Commission's Consolidated Explanatory Notes[18]), we note that they mainly concern:

i) **Economic sanctions**, including restrictions in the energy, financial, trade, and transport sectors;
ii) **Individual sanctions**, designed as temporary and reversible measures, such as travel bans and asset freezes targeting influential businesspeople operating in economic sectors that provide a substantial source of revenue for Kremlin policy.

Whether targeting the state or individuals/groups of individuals, these measures have the legal nature of autonomous sanctions adopted unilaterally by the Union in response to the illegal actions of the Russian Federation, which violate Article 2(4) of the UN Charter. The military aggression against Ukraine was condemned by the UN General Assembly through the Resolutions of 2 and 24 March 2022. It is true that the Union and other states that adopted similar sanctions are not directly harmed by Russia's illegal acts in the sense of Article 42 of the Articles on the Responsibility of States for Internationally Wrongful Acts (hereinafter ARSIWA). However, the principle prohibiting the use of force is a peremptory norm of international law, whose violation must be understood in close connection with the obligation of

[13]Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L 78, pp. 16–21.
[14]Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 229, 31.7.2014, pp. 13–17.
[15]Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L 78, 17.3.2014, pp. 6–15.
[16]Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 229, 31.7.2014, pp. 1–11.
[17]Brière (2023).
[18]Commission Consolidated FAQs on the implementation of Council Regulation no 833/2014 and Council Regulation no 269/2014.

member states to cooperate to put an end, by lawful means, to any serious breach of *jus cogens*.

At the doctrinal level, the discussion has focused less on the effectiveness of sanctions and more on clarifying the legal nature of European sanctions, it being understood that under international law, unilateral sanctions are classified into three categories: (1) retorsion measures, which are hostile but do not involve any illegal act under international law; (2) countermeasures, i.e., acts that are *prima facie* illegal but may be justified as a proportional response to a prior violation; and (3) illegal acts that engage the international responsibility of the sanctioning state[19].

Perhaps the most controversial aspect of countermeasures, as noted by the International Law Commission, is the right of states other than the injured state to resort to countermeasures in the public interest in response to serious breaches of obligations owed to the international community as a whole. Article 48 (1) (b) of the ARSIWA recognises that any state, other than the injured state, is entitled to invoke the responsibility of another state if the breached obligation is owed to the international community as a whole.

Moreover, Article 41 of the ARSIWA establishes the specific consequences of a serious breach of an obligation arising from a peremptory norm of international law: the obligation of states to cooperate to end the unlawful conduct, which implies collective action to halt illegal acts, as well as the prohibition of recognition and assistance, which materialises the obligation of states not to recognise the situation created by the breach of *jus cogens* and not to provide aid or assistance to maintain it.

Regardless of whether the sanctions imposed are classified as retorsion measures or authorised countermeasures, states that are not directly harmed by the breach of an international obligation may take action against the author of the breach when it concerns an *erga omnes* obligation, that is, an obligation that all states are bound to respect[20]. This is precisely the case with the prohibition of armed aggression, which Russia has violated.

Returning to the typology of ***sectoral sanctions***, their material scope covers various economic sectors, of which the following can be highlighted by way of example:

a) **Energy measures**, which range from setting price caps for Russian petroleum products (USD 60 per barrel) to reduce Russia's revenues, to prohibiting the export of certain refining technologies, as well as banning investments in the Russian energy sector through the provision of goods, technologies, or services to liquefied natural gas (LNG) projects under construction in Russia, such as the Arctic LNG 2 and Murmansk LNG terminals.

b) **Trade measures**, consisting of restrictions on imports or exports of certain goods, such as the ban on coal imports from Russia, which affects one quarter of Russia's total coal exports (resulting in an estimated revenue loss of EUR 8 billion per year), or restrictions on the export of goods that could contribute to strengthening Russia's industrial capabilities. The sanctions also include the prohibition of imports into the EU of all finished and semi-finished steel products, or the ban on purchasing, importing, or transferring, directly or indirectly, gold if it originates from Russia.

[19]Hofer & Ruys (2022) at 738.

[20]Regarding the controversial nature of countermeasures adopted by third states, see Sicilianos (2005) at 449.

Additionally, there is a prohibition on providing certain relevant services directly or indirectly to Russian government entities and legal persons (e.g., accounting, auditing, tax consulting, IT consulting, legal consulting, architecture and engineering consulting, business and management consulting, public relations, and advertising services).

c) **Financial and banking measures**[21], such as the exclusion of major Russian banks from the SWIFT financial messaging system, the prohibition on EU banks outside Russia from using the Russian Central Bank's financial messaging system (SPFS), the complete ban on transactions with certain Russian state-owned enterprises in various sectors that form part of the Kremlin's military-industrial complex, or the prohibition on European banks from accepting deposits above a certain threshold from Russian citizens or residents. Some sanctions have proven unprecedented, such as the freezing of the Russian Central Bank's foreign reserves, representing a value much higher (over €300 billion) than other frozen assets (€20 billion). There is also a prohibition on providing certain relevant services directly or indirectly to Russian government entities and legal persons (e.g., accounting, auditing, tax consulting, IT consulting, legal consulting, architecture and engineering consulting, business and management consulting, public relations, market research and opinion polling services, technical testing and analysis, and advertising services).

d) **Transport measures**, which include the prohibition for EU companies with at least 25% Russian ownership from transporting goods by road within the Union, the closure of EU airspace to all aircraft owned, registered, or controlled by Russia -including private planes of oligarchs - and the prohibition of Russian-flagged vessels from accessing EU ports (exceptions apply for medical, food, energy, and humanitarian purposes). Vessels on the sanctions list include ships involved in transporting military equipment, LNG, stolen Ukrainian grain, and those participating in the so-called "ghost fleet" that carries Russian oil while using deceptive maritime practices to evade the price cap imposed by the EU and its allies[22].

In the case of **individual sanctions**, the criteria for determining their personal scope are set out in Article 1(1)(a) and Article 2(1)(a) of Decision 2014/145, as well as in Article 2 of Regulation 269/2014. These provisions show that the restrictive measures in question apply particularly to "natural persons responsible for actions or policies that undermine or threaten the territorial integrity, sovereignty, and independence of Ukraine, who support or implement such actions or policies, or who obstruct the work of international organisations in Ukraine." All funds and economic resources belonging to persons listed under the sanctions are frozen.

Restrictive Measures in the Case Law of the CJEU

Over 1,900 individuals and entities are currently "on the blacklist" under the EU's sanctions regime against Russia – compared to just over 250 before the outbreak of the war. This constitutes the longest blacklist in the history of the European Union's sanctions[23]. The establishment of new criteria for inclusion on the list explains the

[21] Aniței & Gardikiotis (2015) at 13-23.
[22] Attias, Reboul, Peter & Nhari (2024).
[23] Finelli (2023) at 1513-1522.

growing number of individuals targeted by sanctions. On 25 February 2022, through Decision 2022/329/CFSP, the Council introduced the so-called "criterion (g)" aimed at Russian oligarchs, specifically those "businesspersons or legal entities, entities, or bodies of renown involved in economic sectors that provide a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilization of Ukraine, as well as individuals or legal entities, entities, or bodies associated with them." In interpreting the criterion, it was noted that the targeted sector itself must constitute "a substantial source of revenue for the Russian government"[24]; consequently, it is not the individual but the sector in which they operate that is identified as the primary source of funding. Unfortunately, the Council does not provide an exhaustive list of sectors affected by restrictive measures to be considered for the implementation of "criterion (g)." One might assume that the military, metallurgical, and energy sectors are targeted by the Union, given their obvious involvement in the dynamics of the war. However, the Tribunal appears to extend this understanding to other sectors, seemingly less directly connected to the war in Ukraine, such as the fertilizer industry[25], the agricultural sector (due to "significant exports generating cash flow"[26]), or the information and communications technology sector[27]. On 5 June 2023, through Decision 2023/1094/CFSP, the Council once again expanded this criterion to include both "rominent businesspersons" operating in Russia (who, due to "the systematic accumulation of wealth through the exploitation of natural and other public resources", are "in a relationship of interdependence with the Russian government") as well as "*other* businesspersons", provided they are involved "in any economic sectors that provide a substantial source of revenue to the Russian government"[28].

The legality of individual sanctions has been the subject of controversy in the case law of the CJEU, with some rulings being surprising regarding the category of persons associated with Russian oligarchs. Under an action brought pursuant to Article 263 TFEU, Ms. Violetta Prigozhina, mother of Mr. Yevgeniy Viktorovich Prigozhin, requested the annulment of Council Decision 2022/265/CFSP of 23 February 2022, which amended Decision 2014/145/CFSP, challenging her inclusion on the list of persons subject to restrictive measures on the grounds of insufficient reasoning, lack of factual basis, and manifest error of assessment, invoking, *inter alia*, abuse of power and violation of fundamental rights[29], namely her right to property. In fact, the applicant was included on the list of targeted persons justified by the fact that she owns Concord Management and Consulting, which belongs to the Concord Group founded and owned until 2019 by her son, as well as being the owner of other companies linked to him.

In the Court's view, the association criterion applies to any entity that has a link, regardless of its nature, with an entity that provides support to the government in question, provided there is a significant risk that this link could be exploited by the

[24]Case T-270/22 *Pumpyanskiy v Council*, ECLI:EU:T:2023:490, para. 66-67 (2023).
[25]Case T-282/22 *Mazepin v Council*, ECLI:EU:T:2023:701, para. 74-75 (2023).
[26]Case T-283/22 *Moshkovich v Council*, ECLI:EU:T:2023:849, para. 109 (2023).
[27]Case T-335/22 *Khudaverdyan v Council*, ECLI:EU:T:2023:500, para. 102 (2023).
[28]See paragraph 4 of the Recitals of Decision 2023/1094/CFSP amending Decision 2014/145/CFSP, OJ L 146, 6.6.2023, pp. 20–21.
[29]Șandru (2023) at 86.

latter to circumvent the sanctions imposed on it[30].Thus, when the funds of an entity are frozen, there is a significant risk that it may exert pressure on the entities it owns or controls to circumvent the effect of the measures targeting it. Accordingly, freezing the funds of these entities is necessary and proportionate to ensure the effectiveness of the adopted measures and to guarantee that these measures are not circumvented[31]. The fact that the applicant no longer owned the company since 2017 appeared sufficient to conclude that the association link through the companies was not established and, therefore, relied exclusively on the family relationship. In the absence of a determination by the Council that the applicant still held shares in these companies at the time the contested decision was adopted, the General Court of the EU upheld the action and removed the applicant from the sanctions list. In a rather liberal and permissive approach, it was held that the association between the applicant and her son was not established through economic or capital links or through the existence of common interests binding them at the time of adoption of the contested acts, so it must be concluded that the inclusion of the applicant's name on the relevant lists was in fact based solely on the family relationship between the applicant and her son[32]. A similar approach was followed in the ruling in favor of Nikita Mazepin[33], the son of an influential Russian businessman who financed the Kyiv regime. Equally notable were the decisions to remove Russian billionaires Mikhail Fridman and Petr Aven[34], executive directors of Alfa Group - one of the most powerful conglomerates in Russia with operations in banking, gas, and oil - from the sanctions list, which were regarded as a worrisome precedent and seen as a failure of the sanctions policy[35].

Among the sectoral measures in the energy domain, Regulation (EU) No 833/2014 prohibits not only the provision of goods, technologies, or services for liquefied natural gas (LNG) projects under construction in Russia, but also the provision of legal services to the Russian government or legal entities established in Russia. In the *Jemerak* case, by the judgment of 5 September 2024, the Court of Justice of the European Union was called upon to determine whether the notarization of a sales contract in which the seller is a legal entity established in Russia constitutes a "legal advisory service" and whether it violates the prohibition set out in Article 5n(2)(b) of Regulation No 833/2014. According to the cited provision, "*the provision, directly or indirectly, of architectural and engineering services, legal advisory services, and IT consultancy services is prohibited for: (a) the Russian government or (b) legal entities, bodies, or organisations established in Russia*."

The dispute arose following a notary's refusal to notarise a contract under which two German citizens wished to purchase an apartment located in Berlin and owned by a Moscow-based company (Visit-Moscow Ltd.) By activating the preliminary

---

[30]Case T-577/12 *NIOC and Others v Council*, EU:T:2015:596, para. 114 (2015).
[31]Case T-212/22 *Prigozhina v Council*, ECLI: ECLI:EU:T:2023:104, para 103 (2023) and the judgments cited.
[32]*Prigozhina v Council,* para. 94.
[33]Case T-743/22TUE *Mazepin v Council*, ECLI: ECLI:EU:T:2024:180 (2024).
[34]Case T-301/22 *Aven v Council*, ECLI:EU:T:2024:214 (2024) and case T-304/22 *Fridman v Council,* ECLI:EU:T:2024:215 (2024).
[35]Seibt (2024).

ruling procedure and exercising its interpretative function under Article 267 TFEU[36], the Court had the opportunity to clarify whether the notarization of contracts and the completion of other formalities corresponding to this operation fall within the category of legal advisory services prohibited by the Regulation.

Regarding the notarisation activity, the Court ruled that this does not constitute a ”legal advisory service” within the meaning of Article 5n(2)(b) of Regulation No 833/2014, since the notary acts as an independent public officer and not as a service provider. In performing its functions, the notary is not a representative of either party, but an independent and impartial advisor to all parties[37]. The scope of the prohibition does not extend to acts of contract performance (such as holding the proceeds from the sale in an escrow account, removing encumbrances on the property, or registering property rights) nor to translation services provided by an interpreter during notarization, as the translator merely facilitates communication between the parties without providing legal opinions or actual legal advisory services[38]. The ruling is illustrative of the Court's concern to maintain a balance between enforcing restrictive measures and protecting the fundamental property rights of the individuals involved. This decision provides a clear framework allowing notaries to perform their duties without fear of violating sanctions and reaffirms the importance of their role in ensuring the proper functioning of justice, even in challenging contexts[39].

The confiscation of frozen assets to compensate victims of human rights violations[40], to finance the reconstruction of Ukraine, or for humanitarian measures in favor of refugees has been discussed since the first freezing measures were adopted. Since adding an automatic confiscation system to the asset-freezing mechanism was considered vulnerable under EU jurisdiction[41], Directive No. 1226/2024 was adopted, criminalising the violation of restrictive measures[42].

Debate on the Extraterritoriality of European Sanctions

While the Court of Justice of the European Union exercises its judicial review, focusing mainly on the proportionality of measures, authoritative scholarly voices[43] have increasingly raised the issue of the emergence of a form of extraterritoriality of EU sanctions. Indeed, the territorial scope of restrictive measures represents a veritable ”Achilles' heel,” despite the provisions of Article 13 of Regulation (EU) No. 833/2014, which, *de lege lata*, proclaims the principle of territoriality. Thus, the sanctions apply to:

[36]For developments see Șandru, Banu & Călin (2013) at 36.
[37]CJEU, 5 September 2024, *Jemerak*, C-109/23, ECLI:EU:C:2024:681, para. 25.
[38]*Jemerak*, para. 61-62.
[39]Topalu (2024).
[40]Chernohorenko (2023) at 1067-1075.
[41]Bismuth (2023) at 13.
[42]Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673, OJ L, 2024/1226, 29.4.2024.
[43]Bismuth (2023) at 10.

a) the territory of the Union;
b) on board any aircraft or vessel under the jurisdiction of a Member State;
c) any natural person, whether on the territory of the Union or outside it, who is a national of a Member State;
d) any legal person, entity, or body on the territory of the Union or outside it that is incorporated or constituted in accordance with the law of a Member State;
e) any legal person, entity, or body in connection with any activity carried out wholly or partially on the territory of the Union.

Moreover, the legislative policy of the Union has traditionally been focused on countering the constraints arising from the extraterritorial application of sanctions imposed by third countries, the most well-known example being U.S. secondary sanctions. In response to the extraterritorial U.S. sanctions regarding Cuba (Helms-Burton Act), Iran, Syria, and Libya (Amato-Kennedy Act[44]), the EU legislator adopted in 1996 the so-called European Blocking Regulation (or "blocking statute")[45], with the primary objective of protecting the established legal order as well as the interests of the Union and of natural and legal persons exercising their rights in accordance with the founding Treaties and, currently, with the Treaty on the Functioning of the European Union (hereinafter TFEU).

The philosophy of Regulation (EC) No 2271/96 is built on the paradigm of neutralising the extraterritorial effects of foreign sanctions, the principle being that EU operators do not comply with the targeted extraterritorial legislation nor with judicial decisions based on it. Since Article 5(1) of the European Blocking Regulation[46] does not recognise the applicability of foreign extraterritorial law to EU operators, compliance with foreign extraterritorial sanctions is effectively prohibited, except where EU operators have obtained authorization from the European Commission to comply with the targeted extraterritorial legislation. Such an exemption is allowed if non-compliance with foreign law would seriously harm the interests of the operators or of the EU (Article 5(2) of the Regulation). Following the reactivation in 2018 of the U.S. economic sanctions against Iran, the European Union amended the 1996 Blocking Regulation (originally adopted to counter the extraterritorial effects of restrictive measures imposed by the U.S. against Cuba, Libya, and Iran) through Commission Delegated Regulation (EU) 2018/1100[47], which entered into force on 7 August 2018. At a theoretical level, the updated blocking statute nullifies the effect

[44]For a comparative overview of the economic sanctions imposed on Iran, Iraq, and Cuba see Cuynet (2022) at 171-189.
[45]Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, OJ L 309, 29.11.1996, pp. 1–6 (hereinafter referred to as the 'blocking statute' or the 'EU Blocking Regulation).
[46]Pursuant to the aforementioned text a"No person referred to in Article 11 shall comply, whether directly or through a subsidiary or other intermediary person, actively or by deliberate omission, with any requirement or prohibition, including requests of foreign courts, based on or resulting, directly or indirectly, from the laws specified in the Annex or from actions based thereon or resulting therefrom".
[47]Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 protecting against the effects of extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom C/2018/3572 OJ L 199I, 7.8.2018, pp. 1–6.

in the EU of any foreign decision, including judicial or arbitral rulings based on the relevant extraterritorial legislation or acts adopted under it (Article 4)[48]. In practice, U.S. restrictive measures against Iran coexist with the EU law prohibition against complying with secondary sanctions imposed by the United States.

Furthermore, the Council Guidelines on sanctions also emphasise that „EU restrictive measures should only apply in situations where there are links to the EU" and that the EU "will refrain from adopting legislative instruments that, through their extraterritorial application, would violate international law."[49]

However, the wording of Article 2(1) of Regulation (EU) No 833/2014 seems to constitute a backdoor through which the extraterritorial effects of sanctions are "sneaked in," since it prohibits "the sale, supply, transfer, or export, *directly or indirectly*, of dual-use products and technologies, whether or not originating in the Union, to any natural or legal person, entity, or body in Russia or for use in Russia, if such products are or may be intended, in whole or in part, for military use or a military end-user." In other words, operations carried out through companies in third countries could fall within the scope of the cited text, meaning that they could be subject to the sanctions. On a broader perspective that transcends the immediate and practical effects and invites deeper reflection on the legitimacy of extraterritorial sanctions from the perspective of the economic analysis of law, it has been argued that we are witnessing the transformation of an economic privilege (market power) into a legal privilege (the capacity to impose rules of conduct extraterritorially)[50].

Restrictive Measures – An Opportunity to Rethink the Foundations of the EU's External Action?

The rule-of-law crisis, closely linked to the autocratic and illiberal regimes in Hungary and Poland established in 2010 and 2015, was further exacerbated by the European Union's response to Russia's military aggression against Ukraine. Prime Minister Orbán used his influence in the Council to attempt to remove Russian oligarchs from the EU sanctions list, threatened to veto sanctions in the nuclear energy sector, and while several other Member States stopped importing fossil fuels from Russia, Hungary opted instead to sign a new energy cooperation agreement with the Kremlin to increase its dependence on Russian gas, oil, and nuclear fuel[51]. By contrast, Poland supported the provision of weapons and even additional economic sanctions against the regime in Kyiv. Deviations from the values enshrined in Article 2 TEU risk being encouraged by the worrying "chess game" referred to by Pavone as a "Faustian bargain": ceding to Orbán's pressure by unfreezing €10 billion in EU funds in exchange for his abstention at the vote on opening accession negotiations for Ukraine[52].

---

[48]Orga-Dumitriu (2023) at 55-69.
[49]Conseil de l'Union européenne, Lignes directrices relatives aux sanctions, 5664/18, 4 mai 2018, n° 51.
[50]Bismuth (2020) at 113.
[51]Lobina (2023) at 1147.
[52]Pavone (2023).

These developments highlight the need for an adaptation or even a reconfiguration of the European Union's external actions. In a broader context, the subject of restrictive measures adopted within the CFSP framework also provides an opportunity to adjust the epistemological foundations of the EU's external action. "We Europeans have this extraordinary chance. We live […] in this part of the world where political freedom, economic prosperity, and social cohesion represent the best, the very best combination of all three. But the rest of the world is not like that. Our struggle is to try to explain that democracy, freedom, political liberty are not something that can be substituted by economic prosperity or social cohesion. Both must go together. Otherwise, our model will perish, it will not be able to survive in this world. We are too much Kantian and not enough Hobbesian […]"[53] – stated, in a critical speech delivered on 10 October 2022, the EU High Representative for Foreign Affairs and Security Policy, J.B. Fontelles.

Doctrine here notes the philosophical distinction drawn in Robert Kagan's famous *Of Paradise and Power*, which, in the specific context of the 2003 invasion of Iraq, observed the contrast between the EU's reliance on multilateralism and international cooperation, and the United States' firm unilateral exercise of power[54]. Regarding modern international relations theory, Kagan's "Hobbesians" can be considered "realists," while the "Kantians" might resemble "liberal internationalists" or "idealists." While Kant and Hobbes represent contrasting viewpoints on the use of power and cooperation in international relations, Machiavelli's ideas introduce a pragmatic dimension emphasising the practical pursuit of state interests, often through a combination of coercive and diplomatic means[55].

The strengthening of restrictive measures adopted by the European Union and the sustained increase in sanction packages raise the issue of their interaction with the legal regimes applicable to foreign investments, which pursue diametrically opposed objectives. Recent trends show that foreign investment regimes, broadly defined as including both domestic investment admission frameworks and international investment agreements[56], offer advantages that can be interpreted as undermining the effectiveness of European sanctions. The practice of "golden passports" and the possibility that investment treaties could be used to challenge the legality of restrictive measures are two examples[57].

Indeed, individuals currently targeted by sanctions have been able to obtain residence permits or the nationality of an EU member state in exchange for their investments. While some EU member states have abolished such programs under political pressure, Malta has chosen to maintain them. In addition to requirements regarding length of residence, foreign investors can request naturalization for exceptional services through direct investments when they meet the following conditions:

[53]EEAS, EU Ambassadors Annual Conference 2022: Opening speech by High Representative Josep Borrell (10 October 2022).
[54]van de Riet & Klaver (2023) at 1523-1537.
[55]Ibid, at 1524.
[56]Ungureanu (2021) at 239; Popa Tache (2022) at 276.
[57]Ruggeri Abonnat (2023) at 791-801.

- to contribute either EUR 600,000 or EUR 750,000 to the Maltese government (of which EUR 10,000 must be paid as a non-refundable deposit upon submission of the residence applications), or
- to acquire residential real estate in Malta with a minimum value of EUR 700,000 or to rent residential real estate in Malta for a period of at least five years, with a minimum annual rent of €16,000;
- to donate at least EUR 10,000 to a philanthropic, cultural, sports, scientific, or artistic organisation or association.

Although on 2 March 2022 measures were taken to suspend the citizenship-by-investment program for Russian and Belarusian nationals, the Republic of Malta continued to apply it to other nationals, including from third countries, which prompted the European Commission to initiate an *infringement* procedure. The Court, sitting in the Grand Chamber, held that such a program amounts to the commercialization of the granting of the status of a member state national and, by extension, the status of a European Union citizen, which is incompatible with the concept of this fundamental status as established by the Treaties. The ”sale” of EU citizenship is not only contrary to the principle of sincere cooperation but also risks undermining the mutual trust that underpins this requirement of recognition. The granting of the citizenship of a member state is based on a special relationship of solidarity and loyalty, which justifies the conferral of rights deriving in particular from the status of an EU citizen[58]. However, the transactional procedure and predetermined payments established for acquiring citizenship, exploiting the rights inherent to EU citizenship to promote this procedure, are alien to the considerations of loyalty and solidarity mentioned.

Economic sanctions also strain the international commitments assumed by member states towards Russia in the field of investments. Therefore, it is not excluded that the arbitration remedies provided by these treaties (including protection against infringements of property rights) could be used to challenge the legality and effect of restrictive measures in order to obtain compensation. Indeed, to neutralise this risk, Germany and the United Kingdom have recently exercised their right to deny any Russian investor the benefit of investment protections under the Energy Charter Treaty[59].

[58]CJEU, 29 April 2025, *Commission v Malta (Citoyenneté par investissement)*, C-181/23, ECLI: EU:C:2025:283, para. 100-101 (2025).
[59]Ruggeri Abonnat (2023) at 793.

Conclusions

The invasion of Ukraine has led to an increase in the role of the Commission in adopting, implementing, and communicating sanctions. Before Brexit, the United Kingdom orchestrated many unilateral sanctions regimes. The withdrawal of the UK has allowed the Commission to increase its influence and assert itself[60]. There is a tendency to compare the restrictive measures imposed by the Union against Russia with the U.S. secondary sanctions against Cuba, Libya, Syria, and Iran. Although the dilemmas generated by the extraterritorial nature of sanctions are not fully resolved, the distinction between the two categories of sanctions remains. While U.S. sanctions were adopted for specific reasons of U.S. foreign policy, the EU sanctions against Russia represent a legitimate response to the violation of peremptory norms of general international law. Jus cogens rules obligate states not to provide aid or assistance in maintaining a situation created by a serious breach of a peremptory norm of general international law. This duty of non-assistance, however, cannot be interpreted as imposing on states an obligation to adopt restrictive measures aimed at not supporting, even indirectly, the military effort at the origin of such a violation.

As Vegetius famously said, *Si vis pacem, para bellum*, although he never personally knew the thousand Greek intellectuals sent to Rome by Paulus Aemilius[61], bearers of Hellenistic civilization to which the world remains indebted today.

*Grecia capta ferum victorem cepit...*Do the territories where peace is now being negotiated still hold such power?

References

Aniței, N.-C. & C.-A. Gardikiotis (2015). 'Money laundering: National and European Regulations' in *Jurnalul de Studii Juridice* 10(1–2):13–23. https://lumenpublishing.com/journals/index.php/jls/article/view/247

Attias, O., Reboul, A., Peter, S. & N. Nhari (2024). *Sanctions | Adoptions par l'UE du 14ème train de sanctions économiques et individuelles contre la Russie.*

August Debouzy. https://www.august-debouzy.com/fr/blog/2104-sanctions-adoptions-par-lue-du-14eme-train-de-sanctions-economiques-et-individuelles-contre-la-russie

Bismuth, R. (2023). Les nouvelles frontières des sanctions européennes et les zones grises du droit international. *Revue Européenne du Droit* no 5 (1): 8-14. https://geopolitique.eu/articles/les-nouvelles-frontieres-des-sanctions-europeennes-et-les-zones-grises-du-droit-international/

Bismuth, R. (2020). Au-delà de l'extraterritorialité, une compétence économique. In *Extraterritorialités et droit international*. Paris: Pedone.

Brière, C. (2023). *Sanctions européennes à l'égard de la Russie et contrôle du Tribunal de l'Union européenne: Explication de l'arrêt Prigozhina du 8 mars 2023*. https://www.justice-en-ligne.be/Sanctions-europeennes-a-l-egard-de

Charbonnier, P. (2022). *La naissance de l'écologie de guerre*. Le Grand Continent. https://legrandcontinent.eu/fr/2022/03/18/la-naissance-de-lecologie-de-guerre/

[60]Portela (2023) at 1125-1130.

[61]Montanelli (1996) at 305.

Chernohorenko, I. (2023). Seizing Russian assets to compensate for human rights violations in Ukraine: Navigating the legal labyrinth. *European Papers, 8*(3):1067–1075. https://doi.org/10.15166/2499-8249/702

Cicero, M.T. (1915). *Cuvântarea de apărare pentru Titus Annius Milo (Pro Milone)*, traducere din latinește de Vasile Grecu [*In English: The Defense Speech for Titus Annius Milo (Pro Milone)*, translated from Latin by Vasile Grecu]. București: Ed. Librăriei ”Universala”.

Ciucă, A. (2024). Dreptul internațional ... à la russe în cheie orwelliană. În *Mozaic de drept internațional și drepturile omului* [*In English: International Law ... à la Russe in an Orwellian Key. In Mosaic of International Law and Human Rights*]. (pp. 7, 11). București: Universul Juridic.

Commission Consolidated FAQs on the implementation of Council Regulation no 833/2014 and Council Regulation no 269/2014. https://finance.ec.europa.eu/system/files/2024-01/faqssanctions-russia-consolidated_en.pdf

Conseil de l'Union européenne, Lignes directrices relatives aux sanctions, 5664/18, 4 mai 2018, n° 51. https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/fr/pdf

Court of Justice, *Statistics concerning the judicial activity of the General Court,* curia.europa.eu.

Cuynet, J. (2022). *L'Iran sous sanctions* (pp. 171–189). Paris: L'Harmattan.

Déclaration à la presse de la présidente von der Leyen au sujet de l'agression russe contre l'Ukraine, (24.2.2022). https://france.representation.ec.europa.eu/informations/declaration-la-presse-de-la-presidente-von-der-leyen-au-sujet-de-lagression-russe-contre-lukraine-2022-02-24_fr

Finelli, F. (2023). Who are the Russian oligarchs? Recent developments in the case law of the European Court of Justice. *European Papers,* 8(3):1513–1522. https://doi.org/10.15166/2499-8249/727

Hatem, E. (2015). Origine et évolution des sanctions internationales. In *Les sanctions internationales: entre légalité et réalité* (p. 92). Éditions L'Harmattan.

Hofer, A., & Ruys, T. (2022). Les sanctions des tiers contre la Russie: les "mesures restrictives" de l'Union européenne sous l'angle du droit international. *Journal des tribunaux*, 738.

Larsen, P. T. (2022). *Sanctions shock-and-awe reverberates beyond Russia*. https://www.reuters.com/markets/asia/sanctions-shock-and-awe-reverberates-beyond-russia-2022-02-27/

Lobina, B. (2023). Between a rock and a hard place: The impact of rule of law backsliding on the EU's response to the Russo-Ukrainian war. *European Papers,* 8(3):1147. https://doi.org/10.15166/2499-8249/708

Maftei, T. M. (2019). Scurtă analiză istorică a reglementării juridice a conceptului de normă *jus cogens* în dreptul internaţional. Integrarea lui *jus cogens* în Convenţia de la Viena din 1969 [*In English: A Brief Historical Analysis of the Legal Regulation of the Concept of Jus Cogens in International Law: The Integration of Jus Cogens into the 1969 Vienna Convention]. Universul Juridic Premium, 7.*

Montanelli, I. (1996). *Istoria grecilor [In English: History of the Greeks].* București: Ed. Artemis.

Orga-Dumitriu, G. (2023). Libertatea de a desfășura o activitate comercială între Scila și Caribda: *Bank Melli Iran* [*In English: The Freedom to Conduct Commercial Activity Between Scylla and Charybdis - Bank Melli Iran]. Revista Română de Drept Comercial, 2,* 55-69.

Pavone, T. (2023). *The EU's Faustian bargain: The EU betrays Ukraine and the rule of law – and we will live to regret it.* VerfBlog. https://verfassungsblog.de/the-eus-faustian-bargain/ https://doi.org/10.59704/acbf0cb95d482c4f

Popa Tache, C. E. (2022). The EU–China road to the Comprehensive Agreement on Investment. *Juridical Tribune,* 12(4):476–494.

Portela, C. (2023). Sanctions and the geopolitical commission: The war over Ukraine and the transformation of EU governance. *European Papers,* 8(3):1125–1130. https://doi.org/10.15166/2499-8249/706.

van de Riet, J., & Klaver, F. (2023). The EU and Russian aggression: Perspectives from Kant, Hobbes, and Machiavelli. *European Papers,* 8(3):1523–1537. https://doi.org/10.15166/2499-8249/728.

Ruggeri Abonnat, E. (2023). Admission et protection des investissements étrangers à l'ère des sanctions européennes contre la Russie visant à protéger l'intégrité territoriale de l'Ukraine. *European Papers,* 8(2):791–801. https://doi.org/10.15166/2499-8249/688

Sicilianos, L. A. (2005). La codification des contre-mesures par la Commission de Droit International. *Revue belge de droit international,* 1–2, 449.

Seibt, S. (2024, April 11). *Guerre en Ukraine : quand la justice européenne donne raison à deux milliardaires russes.* France 24. https://www.france24.com/fr/europe/20240411-guerre-en-ukraine-quand-la-justice-europ%C3%A9enne-donne-raison-%C3%A0-deux-milliardaires-russes

Stoica, V. (2022). *Jus cogens.* Juridice. https://www.juridice.ro/essentials/5843/jus-cogens

Șandru, D. M. (2023). Publicitatea politică: Transparență și garanții pentru protecția drepturilor fundamentale [Political advertising: Transparency and safeguards for the protection of fundamental rights]. *Revista Română de Drept European, 4*, 86.

Șandru, M., Banu, M. & D. Călin (2013). *Procedura trimiterii preliminare* [*In English: The preliminary rulingprocedure*]. București: CH Beck.

Topalu, V. (2024). Autentificarea unui contract de vânzare în care vânzătorul este opersoană juridică stabilită în Rusia încalcă interdicția prevăzută la articolul 5n alineatul (2) litera (b) din Regulamentul nr. 833/2014 ? [*In English: Does the Authentication of a Sale Contract in Which the Seller Is a Legal Entity Established in Russia Violate the Prohibition Laid Down in Article 5n(2)(b) of Regulation No. 833/2014?*] *Notar de București.* https://notardebucuresti.ro/2024/10/01/autentificarea-unui-contract-de-vanzare-in-care-vanzatorul-este-o-persoana-juridica-stabilita-in-rusia-incalca-interdictia-prevazuta-la-articolul-5n-alineatul-2-litera-b-din-regulamentul-nr-833-2/

Ungureanu, C.T. (2021). Drept internațional privat european în raporturi de comerț internațional [*In English:* European Private International Law in the Context of International Commercial Relations]. București: Hamangiu.

Judgments of the General court of the Eueopean Union

Case T-270/22, Pumpyanskiy v. Council (ECLI:EU:T:2023:490), para. 66–67 (6.9.2023).

Case T-282/22, Mazepin v. Council (ECLI:EU:T:2023:701), para. 74–75 (8.11.2023).

Case T-283/22, Moshkovich v. Council (ECLI:EU:T:2023:849), para. 109 (20.12.2023).

Case T-335/22, Khudaverdyan v. Council (ECLI:EU:T:2023:500), para. 102 (6.9.2023).

Case T-577/12, NIOC et al. v. Council (ECLI:EU:T:2015:596), para. 114 (4.9.2015).

Case T-212/22, Prigozhina v. Council (ECLI:EU:T:2023:104), para. 103 et seq (8.3.2023).

Case T-743/22, Mazepin v. Council (ECLI:EU:T:2024:180) (20/3/2024).

Case T-301/22, Aven v. Council (ECLI:EU:T:2024:214) (10.4.2024).

Case T-304/22, Fridman v. Council (ECLI:EU:T:2024:215) (10.4.2024).

Court of Justice of the European Union, 5 September 2024. *Case C-109/23, Jemerak* (ECLI:EU:C:2024:681), para. 25 .

Court of Justice of the European Union, 29 April 2025. *Case C-181/23, Commission v. Malta (Citizenship by Investment)* (ECLI:EU:C:2025:283), para. 100–101.