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Western Sanctions against Russia and  
Russian Countermeasures:  
Implications and Perspectives.

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# Summary

The present master thesis is devoted to the analysis of the current state of trade relations between the European Union and the Russian Federation. Following Russia's actions in Crimea and eastern Ukraine, several sets of restrictive measures were imposed on Russia in the aim of condemning its political behaviour. But the outcomes were unexpected: the Russian Federation responded with its own countersanctions. As a result, both parties incurred economic losses. However, Western sanctions were not effective in political terms, as they did not force Russia to change its position on the Ukrainian crisis situation. The restrictive measures still remain in force.

This research aims at analysing the implications of the sanctions regime for both Russia and the EU and suggesting different scenarios for the future of economic relations between the parties.

# Abbreviations

BRICS – Brazil, Russia, India, China and South Africa

CIS – The Commonwealth of Independent States

DCFTA – Deep and Comprehensive Free Trade Agreement

EACU – Eurasian Customs Union

EaP – Eastern Partnership

EBRD – European Bank for Reconstruction and Development

EU – European Union

GATT – The General Agreement on Tariffs and Trade

GDP – Gross Domestic Product

IMF – International Monetary Fund

MFN – Most Favoured Nation

NATO – North Atlantic Treaty Organisation

NGO – Non-governmental Organisation

OECD – Organisation for Economic Co-operation and Development

SWIFT – Society for Worldwide Interbank Financial Telecommunication

TEU – Treaty on European Union

TFEU – Treaty on the Functioning of the European Union

U.S. – The United States of America

UN – United Nations

WTO – World Trade Organisation

# 1 Introduction

## 1.1 The purpose of the thesis and delimitations.

The vast majority of the countries in today`s globalised world are so intertwined that it appears to be extremely challenging if not impossible to imagine that one of the major countries could be isolated without consequences for the rest of the world. The economical and political interactions between the countries point to the fact that the intention of one or several countries to show their disapproval of the external policy of another country is likely to produce negative spillover effects not only to the target state but also to the sanction imposing countries themselves.

At the same time, for the past decades different types of sanctions have served as a common tool of “punishment” for various kinds of wrongdoings by one country or another that enables the punishing states to avoid military actions. However, are those sanctions really effective against Russia? Do they live up to the expectations of the countries imposing them bearing in mind the countersanctions introduced by Russia? What are the perspectives for trade relations between the EU and the Russian Federation? These are the research questions I am going to investigate in this master thesis.

The present thesis is devoted to trade relations between the EU and Russia in the present time period and the changes that the recent developments in the international relations have brought to the trade between the EU and Russia, namely the imposition of sanctions against Russia and Russian response to those measures. The trade between these two actors is significant in size: Russia is EU`s third largest trade partner whereas the EU is Russia`s largest trade partner, hence this topic appears as important for both parties involved.

In 2012 Russia finally became the member of the WTO after years of negotiations. The membership in the WTO has given Russia access to the markets of other WTO member states at the Most Favoured Nation principle conditions. At the same time WTO membership implies that Russia has to follow its commitments concerning further opening of trade regime and acceleration the country`s integration in the world economy that made the accession possible.

In 2014, after the events in Ukraine the EU, the U.S. and some other countries have introduced a series of economic sanctions against Russia. In response to those measures, Russia imposed its own sanctions against those countries. The immediate result of those

restrictive measures was the loss of revenue for both sides. The detailed effects of the sanction regime and its impact on the state of trade relations between the EU and Russia will be presented and analysed in the following chapters of the present thesis.

Given the fact that the scope of this master thesis is limited it is impossible to cover all the aspects of the abovementioned research field. For this reason the thesis will primarily be focused on the economic sanctions and anti-sanctions, although the other types of restrictions that are currently in force will also be briefly mentioned. The purpose of the present work is to identify the challenges in the present trade relations between the EU and the Russian Federation, to analyse the impact of the sanctions on these trade relations and their effectiveness as to their goal and to suggest possible ways of further development of the economic cooperation between Russia and the European Union. This thesis will not thoroughly cover trade relations between the U.S. and the Russian Federation, but due to the fact that the sanctions were initiated by the USA some references to that country may take place.

## **1.2 Methodology.**

In order to fulfill the purpose indicated in 1.1, I am going to examine the relevant provisions of GATT, the UN Charter, other relevant acts of the EU and Russia concerning the imposition and prolongation of economic sanctions and the so-called “anti-sanctions”. While reflecting on the suitable legislation and analysing the previous cases of sanctions imposition, I will strive to define the concept of sanctions in general and “smart sanctions” in particular.

Having presented the outcomes in different cases on the matter, supported by statistical data from various sources, I am going to elaborate on the efficiency of such a tool in regards to the achievement of its political and economic goal and present the consequences of the sanctions for both Russia and the different countries in the European Union.

During the research I will analyse the Union legislation in the field of trade, the relevant case law of the European Courts, but also scientific articles, databases, empirical data and textbooks in order to cover the topic of the current state of the economic EU-Russian relations in the context of the sanctions imposed and present potential outcomes and perspectives for development of the present situation.

## 2 The theoretical basis of sanctions.

### 2.1 The brief history of traditional comprehensive sanctions.

Throughout the history sanctions have been a common foreign policy instrument of most states. In his book on economic sanctions Kern Alexander states “ations have relied on economic sanctions not only to influence foreign policy and national security objectives but also to respond to domestic political needs and economic pressures”<sup>1</sup>. Economic sanctions have historically been imposed in order to reduce the economic strength of the target country. Those sanctions were always a part of a broader military programme and they were introduced because the economic might and the military potential of a state have a strong connection: the second one is not possible in an economically weak country, hence, if the financial potential of the target is undermined, it becomes a lot easier to perform military actions against the said state.

In addition to aiming at the economic strength, those sanctions were also targeting the political sector of the country by indicating the political message not only to the current target state, but also to its allies and/or neutral third parties. This political angle of economic sanctions was important because those sanctions “could be used to convey a message, for instance, that tensions were escalating between two countries and that alternative policies were needed to avert military conflict”<sup>2</sup>.

However, it was not until 1920’s that countries began to impose economic sanctions as separate measures not meant to serve as “subordinate instruments of military policy during times of war”<sup>3</sup>. In 1920’s the situation changed with the establishment of the League of Nations that in its Covenant<sup>4</sup> allowed the use of economic sanctions against states that committed acts of external aggression that threatened territorial integrity and existing political independence of the Members of the League<sup>5</sup>. In the event of such external aggression or in the event of threat or danger of such aggression the Council of the League was to advise upon

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<sup>1</sup> Alexander, Kern, *Economic Sanctions: Law and Public Policy* [Elektronisk resurs], Palgrave Macmillan Ltd., 2009, p. 8.

<sup>2</sup> *ibid.*, p. 12.

<sup>3</sup> *ibid.*, p. 8.

<sup>4</sup> The Covenant of the League of Nations (Including Amendments adopted to December, 1924), source: [http://avalon.law.yale.edu/20th\\_century/leagcov.asp](http://avalon.law.yale.edu/20th_century/leagcov.asp).

<sup>5</sup> *ibid.*, art. 10.

the means by which the obligation to respect and preserve the territorial integrity and existing political independence should be fulfilled.

The possibility to impose economic sanctions was introduced in Article 16 of the Covenant. Those economic sanctions had a very broad scope, as that Article stated that in case one of the member states of the League of Nations resorts to war against other members, they agreed to immediately “subject it <the target> to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not”<sup>6</sup>. In addition to that, the member of the League agreed to support each other in imposition of those financial and trade restrictions “in order to minimise the loss and inconvenience resulting from the above measures”<sup>7</sup>. So, the Members of the League agreed to apply economic sanctions automatically and mutually in case of military threat to one of them.

In the modern history of cross-border trade relations such measures as economic sanctions are not a rare and outstanding case. In fact, during 1990s sanctions regimes were imposed by the UN so many times that this period was called the “sanctions decade”<sup>8</sup>. However, the sanctions used in those days were conventional and they usually affected all the sectors of economy in the target country as well as the whole population of it. Such sanctions constituted burden for the society in general because they made no difference between the elites who were actually in charge of making decisions about the target state’s external policy and other people in the said country.

The reasoning behind those restrictive measures was that if the population of the target country suffers a lot from the economic damage caused by the sanctions, the politics of that country would be more eager to compromise with the sanctioning states and abide by the international rules. But in reality this “pain-gain’ formula<sup>9</sup> did not trigger the expected results leaving the sanction pain on the civil people and letting the political elites basically untouched. As Blanchard and Ripsman point out, “<i>it is questionable to assume, though,

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<sup>6</sup> *ibid.*, art. 16, para. 1.

<sup>7</sup> *ibid.*, art. 16, para. 3.

<sup>8</sup> Arne Tostensen and Beate Bull, *Are Smart Sanctions Feasible?*, *World Politics*, Vol. 54, No. 3 (Apr., 2002), pp. 373-403, <http://www.jstor.org/stable/25054192>.

<sup>9</sup> *ibid.*, p. 375.



that economic pain will always translate into political gain since there are a variety of techniques that policymakers can use to manage the political fallout resulting from economic distress”<sup>10</sup>. The assumption that the more pain the people suffer the greater political gain for the sanction imposers will be is based on the belief that the leaders of the target state have similar human rights and living standards as the punishing states.

However, this does not always seem to be the case, especially if the target is not a democracy and does not share the same humanitarian and social values as the democratic states imposing those restrictions. The policymakers in the target state may redistribute the economic suffering from their supporters to opposition or private enterprises and avoid being economically hurt; they may also use their internal power to suppress those expressing negative views on the country’s leadership in connection with sanctions, so that the opposition will not be able to bring political changes in that state and the aim of sanctions will not be fulfilled.

The burden put on the people of the target can even be used to make sanctions counterproductive: “damage inflicted on civilian populations may easily be exploited by the targeted government to argue that the sanctions regime is inhumane; in turn, this may lead to the sympathy for the targeted state and criticism against the management of the sanctions regime”<sup>11</sup>. Therefore, those sanctions did not serve their goal of condemning the target’s political behaviour, being too broad and comprehensive in their scope and constituting more of a punishment for the population than for the decision-makers. In fact, some scholars claim that such comprehensive sanctions are ineffective against non-democratic states: “The empirical findings suggest that the less democratic a country the more likely it is that economic sanctions will fail to change policies”<sup>12</sup>.

Apart from that, conventional sanctions have been criticised because of the negative spillover effects they can cause on other states. Therefore, some states can be reluctant to impose restrictive measures if those are likely to affect those states. Unsurprisingly, economic ties between the states decrease the likelihood of imposition of restrictive measures: “Sanctions necessarily entail losses for the sanctioning state as well as the target state; thus, a

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<sup>10</sup> Jean-Marc F. Blanchard & Norrin M. Ripsman (1999), *Asking the right question: When do economic sanctions work best?*, *Security Studies*, 9:1-2, p. 223, DOI: 10.1080/09636419908429400.

<sup>11</sup> Arne Tostensen and Beate Bull, *Are Smart Sanctions Feasible?*, *World Politics*, Vol. 54, No. 3 (Apr., 2002), p. 376, <http://www.jstor.org/stable/25054192>.

<sup>12</sup> Peter A. G. van Bergeijk, *"Economic Sanctions: Why Do They Succeed; Why Do They Fail?"* in van Genugten and de Groot (fh. 6), 106.

state motivated by welfare desires will prefer to sanction a state with whom it does not have much trade”<sup>13</sup>. So in the event that the target does have extensive trade with some of the states imposing sanctions, the chances of its unwillingness to implement those sanctions are high and so the pressure on the “misbehaving” state is reduced.

According to the study on 1990s sanctions’ effectiveness, only 31% of the international sanctions imposed were effective from the perspective of the national government issuing them<sup>14</sup>. Given all the criticism against comprehensive sanctions, by the end of the decade more and more countries began to show their dissatisfaction with this international policy tool. Since 1994 the UN has only imposed comprehensive sanctions 4 times<sup>15</sup>, and so the trend has moved from general sanctions to targeted ones and from states themselves as the main targets to private individuals, entities, NGOs and other non-state actors.

## **2.2 The modern alternative to outdated comprehensive measures: smart sanctions.**

As an alternative to outdated sanctions there were introduced the so-called “smart sanctions”<sup>16</sup>. The idea behind these new sanctions was that they would target a specific group of people, mostly those in power and responsible for the decisions that triggered the imposition of those restrictive measures; and/or they would be directed at a specific sector of the national economy of the state in question. Being more accurate in targeting their goal than the old comprehensive sanctions, smart sanctions are supposed to put political pressure specifically on those responsible for the internationally condemned actions.

A. Tostensen and B. Bull in their article<sup>17</sup> identify two key differences between the old and the new sanction types. First of all, smart sanctions are more effective in aiming at the state’s decision-makers via travel bans, arm embargoes and restrictive measures against

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<sup>13</sup> David Lektzian and Mark Souva , *The Economic Peace between Democracies: Economic Sanctions and Domestic Institutions*, Journal of Peace Research, Vol. 40, No. 6 (Nov., 2003), p. 655, <http://www.jstor.org/stable/3648381>.

<sup>14</sup> The success of the sanctions was measured based on two criteria: 1) whether the sanctions imposed achieved their objective, at least to some extent; 2) have the sanctions imposed contributed to a positive outcome and if so, to what extent?. Source: Wallenstein, P, & Staibano, C 2005, *International Sanctions: Between Wars And Words*, pp. 7-8, London: Routledge, eBook Collection (EBSCOhost), EBSCOhost.

<sup>15</sup> *ibid.*, p. 47.

<sup>16</sup> Arne Tostensen and Beate Bull, *Are Smart Sanctions Feasible?*, World Politics, Vol. 54, No. 3 (Apr., 2002), p. 373, <http://www.jstor.org/stable/25054192>.

<sup>17</sup> *ibid.*, p. 373.

banking sector (financial sanctions). Arm embargoes may include total ban, restrictions on production, and supply and/or interdictions or quarantines of arms and/or arms-related materials or activities, such as hardware, military advice, and training<sup>18</sup>. They can have economic consequences for the target state (e.g. in the sense that military hardware prices can go up, but the main goal of these sanctions is “to prevent conflict or at least reduce the level of violence by denying protagonists the means to carry it out”<sup>19</sup>. From the EU perspective arm embargoes cover sales, supply, transport of the goods included in the EU common military list<sup>20</sup>, as well as technical support required for those goods. Sometimes goods of dual use may also be included in such an embargo.

Another type of smart sanctions – financial sanctions – are imposed in order to “diminish financial capacity of the sanctionee and key business interests to withstand external pressure”<sup>21</sup>. They aim at weakening the banking system of the target state so that this state experiences economic trouble that is likely to increase its willingness to change its external policies. But the results of financial sanctions can be contradicting with their aim as political elites may still remain reluctant to change their policies unless their own financial assets are severely affected (e.g. foreign assets are frozen, private bank loans are denied etc.) by such restrictive measures. Even if such targeted financial measures are implemented they are difficult to maintain, as they require tracing of private assets of the political elites and their family members. If the EU imposes asset freezes, it means that such funds as cheques, bank deposits, cash, shares, stock, as well as other tangible or intangible assets of the target persons, may not be sold or accessed. In addition to that, an asset freeze means that it is prohibited to provide resources to the targeted individuals or entities, so that European citizens and companies should not conduct any operations aimed at financing those entities or individuals.

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<sup>18</sup> Randy Rydell, "Monitoring United Nations Arms Embargoes" (Paper presented at the First Expert Seminar: Smart Sanctions - Randy Rydell, "Monitoring United Nations Arms Embargoes" (Paper presented at the First Expert Seminar: Smart Sanctions - The Next Step, Bonn, November 21-23,1999), 3; also available at <http://www.bicc.de>.

<sup>19</sup> Wallenstein, P, & Staibano, C 2005, *International Sanctions : Between Wars And Words*, p.11, London: Routledge, eBook Collection (EBSCOhost), EBSCOhost

<sup>20</sup> COMMON MILITARY LIST OF THE EUROPEAN UNION (adopted by the Council on 17 March 2014) (equipment covered by Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment) (2014/C 107/01).

<sup>21</sup> Arne Tostensen and Beate Bull, *Are Smart Sanctions Feasible?*, World Politics, Vol. 54, No. 3 (Apr., 2002), p. 385, <http://www.jstor.org/stable/25054192>

Finally, travel restrictions constitute the last type of smart sanctions. Their main target is political elites and their families, same as in case of targeted financial sanctions. The purpose of travel restrictions is to reduce the possibility of the elites to move freely around the world, maintain their foreign business and other contacts so that those elites are more eager to persuade political leaders to change their position on the questionable behaviour. Travel sanctions can take the following forms<sup>22</sup>:

- 1) Travel bans – mean that the designated persons are denied access to international passenger flights based on their participation in the condemned actions or support of the political regime that sanctions are aimed at eliminating. They have a symbolic meaning of non-appreciation of those persons' political behaviour;
- 2) Aviation sanctions – include a restriction or a ban of international flights from/to the target state; it may cover certain airlines or all international flights, passenger flights and/or cargo. This type of travel sanctions can also serve as prevention of arm embargo violations;
- 3) General transport sanctions – are put in force in relation to all means of transportation and cover restrictions or ban of all international traffic with the target country.

If travel bans are imposed by the EU, the targeted persons will be denied entry to the EU at its external borders. Should such persons need visas in order to enter the Union, they will be denied such visas. However, EU sanctions do not entail that an EU member should prohibit entry to its own nationals in case they are the target of travel bans. In such cases an EU state is obliged to admit its own citizens.

The second difference between the two sanction types is that as smart sanctions are not imposed to punish all the people of the country, they protect some sensitive social groups from collateral damage by excluding certain types of goods (e.g. medicines, baby food etc.) from the sanctions list. However, such humanitarian exemptions may constitute a weak point in the sanctions regime as they provide for specific conditions for some embargoed items and so create opportunities for weakening of the restrictive character of the measures.

The smart sanctions have also received critical comments due to various problems concerning their implementation. Some of the examples are potential possibilities to circumvent travel bans, the difficulties in keeping track of private persons' flights, assets in foreign banks and so on. It has been argued that in order to fulfill their humanitarian goal and

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<sup>22</sup> *ibid.*, p. 390.

put the pressure only on those affecting political decisions in the target state smart sanctions require serious operational challenges<sup>23</sup>. Nevertheless, these new sanctions are still used quite frequently, the latest example being the case of Russia in 2014- 2015 that will be discussed in detail in the upcoming chapters.

### **2.3 The notion and the classification of sanctions.**

Given that the present thesis is devoted to sanctions, it seems logical to define the notion of sanctions. A. Tostensen and B. Bull define international sanctions as “the temporary abrogation of normal state-to-state relations to pressure target states into changing specified policies or modifying behaviour in suggested directions”<sup>24</sup>. Sometimes sanctions are defined as a type of boycott – “<b>oycott in political sciences is a protest activity in the form of refraining to do something such as election boycott and sanction is a penalty aimed to make the sanctioned country to obey the rule like sanctions against Iran”<sup>25</sup>. S. Oxenstierna and P. Olsson describe sanctions as “the foreign policy instrument commonly used by the 21<sup>st</sup> – century West to signal disapproval of countries breaking international law”<sup>26</sup>. More specifically, they state that economic sanctions should be defined as “government-sponsored disruptions of economic relations by one or several senders in order to achieve a change in the policy behaviour of the target”<sup>27</sup>.

Another way to define sanctions is by addressing them as “a form of negative conditionality (opposed to positive conditionality), where the one imposing is motivating the target state with threats or punishment to change its economic, political or military actions”<sup>28</sup>. Here sanctions are defined through their compulsory element, namely, specific conditions or demands that have to be met by the target state in order to put an end on those sanctions. Usually sanctions are described as international measures that can be placed in between negotiations and military actions, being “less glamorous than diplomacy and less decisive

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<sup>23</sup> *ibid.*, p. 402.

<sup>24</sup> *ibid.*, p. 374.

<sup>25</sup> Sajjad Bagheri, Hamid Reza Akbarpour, *Reinvestigation of the West's sanctions against Russia in the crisis of Ukraine and Russia's reaction*, 1st International Conference on Applied Economics and Business, ICAEB 2015, *Procedia Economics and Finance* 36 (2016) 89 – 95.

<sup>26</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 9.

<sup>27</sup> *ibid.*, p. 22.

<sup>28</sup> Viljar Veebel, Raul Markus, *LESSONS FROM THE EU-RUSSIA SANCTIONS 2014-2015*, *Baltic Journal of Law & Politics* 8:1 (2015): 165-194 <http://www.degruyter.com/view/j/bjlp> DOI: 10.1515/bjlp-2015-0015.

than war”<sup>29</sup>. In that sense international sanctions of various types constitute a last resort peaceful tool that enables sanctioners to avoid military intervention of the target state.

The UN Charter lays foundation for imposition of restrictive measures in its Chapter VII (Articles 39-42). Those articles provide the UN with an opportunity to use those measures to preserve or restore international stability. More specifically, Article 39 allows the Security Council to investigate whether there is any threat to the peace, breach of the peace, or act of aggression and to decide on the so-called provisional measures that have to be taken in order to restore the peace. Article 40 enables the Security Council to call upon the parties concerned to make them abide by the rules contained in the provisional measures before those are issued so as to give the parties a chance to correct their behaviour at the preliminary stage without being officially charged with provisional measures.

According to Article 41 of the UN Charter, “The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations”<sup>30</sup>. Finally, Article 42 empowers the Security Council to use, as a measure of last resort, in case its peaceful restrictive measures have proven to be ineffective, to use military force against the non-complying state. In such cases the Security Council may decide to use actions including “demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations”<sup>31</sup>.

Hence, from the UN side, international sanctions provide a tool for completing its main goal of maintaining peace and security in the event of occurring threats to peace, security and justice by affecting the target state’s economy, communications, or diplomacy. The powers given to the Security Council by the abovementioned articles in the UN Charter have been used in a wide range of international instability situations and “this mandate has gradually been broadened to permit the institution of measures to deal with massive human

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<sup>29</sup> Milica Delevic, “Economic sanctions as a foreign policy tool: The case of Yugoslavia,” *The International Journal of Peace Studies* Vol. 3, No. 1, 1998.

<sup>30</sup> The Charter of the United Nations, Chapter VII, art. 41. Source: <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>.

<sup>31</sup> *ibid.*, art. 42.

rights violations, breaches of international humanitarian law, transgressions of democratic rule, and acts of aggression where military forces have crossed national borders”<sup>32</sup>.

The main functions of international sanctions are in theory presented as follows: changing the behaviour of the target (a tool for coercion), limiting its behaviour (a constraining effect), or sending the target a message (a signaling effect)<sup>33</sup>. As a tool for coercion, sanctions aim at modifying target’s political intentions by imposing economic pain on that country, following the “more pain, more gain” logic. Such sanctions are primarily economic and they presuppose that the target is aware of the behaviour that triggered the imposition of those restrictive measures and is capable of changing that behaviour voluntarily in order to stop economic suffering.

Constraining sanctions are used in order to make it difficult or impossible for the target state to perform certain actions or to fulfill certain political goals. This type of sanctions, in contrast to the previous type, does not require actions from the target’s side that will lead to lifting of those restrictive measures. The reasoning behind restrictive sanctions is that the target has to be prevented from continuing with its practices in the first place and deprived of the opportunity to commit further violations, and not at merely punishing it for the actions that have already been performed. In such a case potential violations appear to be more damaging, so that putting an end to those is top priority for the sanctioning countries.

Signaling sanctions, in their turn, aim at giving a clear message on the fact that the target state’s actions and policies are not supported by the sanctioners and that if the target does not change those actions and policies, it will have to face the consequences. The signal does not necessarily have to address only the target: it “could be targeted to the international community, countries, populations, non-state entities or individuals”<sup>34</sup>. The damage of this sanctions type is primarily immaterial and come in form of reputational costs for the target state, however, material damage may follow indirectly, in the form of losing foreign investors who no longer find it trustworthy to conduct business in the target state. Signaling sanctions may also indicate the beginning of a “communication war”, giving the “shaming

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<sup>32</sup> Arne Tostensen and Beate Bull, *Are Smart Sanctions Feasible?*, World Politics, Vol. 54, No. 3 (Apr., 2002), p. 375, <http://www.jstor.org/stable/25054192>.

<sup>33</sup> Francesco Giumelli and Paul Ivan, “The effectiveness of EU sanctions,” *EPC Issue Paper* No. 76 (2013): 9.

<sup>34</sup> Viljar Veebel, Raul Markus, *LESSONS FROM THE EU-RUSSIA SANCTIONS 2014-2015*, *Baltic Journal of Law & Politics* 8:1 (2015): 165-194 <http://www.degruyter.com/view/j/bjlp> DOI: 10.1515/bjlp-2015-0015.

and stigmatizing”<sup>35</sup> message to the international community.

Hence, sanctions can be defined as restrictive measures imposed in order to achieve the abovementioned effects. As a side note, the modern targeted, or smart, sanctions are believed to be effective only if they are imposed in form of constraining or signaling sanctions: “targeted sanctions may make sense if the aim of the sanctions is avoidance of future violation, since smart sanctions would rather work as a signalling or constraining tool than the tool for coercion”<sup>36</sup>.

Economic sanctions could be defined as “the lack of trade and economic exchange of different countries with a country in order to punish due to political and military reasons”<sup>37</sup>. Another notion of economic sanctions, given by J. Galtung, points out that such sanctions are “actions initiated by one or more international actors against one or more others in order to punish the receivers by depriving them of some value and/or to make the receivers comply with certain norms the senders deem important”<sup>38</sup>.

A. Kern claims that the basis purpose of economic sanctions has in its essence remained the same through the years of their use as tool of foreign policy. Namely, he indicates that the main goal of economic sanctions has always had to do with “restricting foreign trade and finance or withholding economic benefits such as state aid from targeted states or other targeted non-state actors to accomplish broader security or foreign policy objectives”<sup>39</sup>. Having in mind this goal, we can define economic sanctions as a foreign policy instrument aimed at fulfilling it.

He also notes that even though the basic aim of economic sanctions is always the same, they may have various case-specific objectives, such as: “*behaviour modification* of the target, *retribution* or *punishment*, or as a *signal* to the target or to other third country states”<sup>40</sup>

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<sup>35</sup> *ibid.*, p. 171.

<sup>36</sup> Daniel.W. Drezner, “How Smart are Smart Sanctions,” *International Studies Review* Vol. 5, No. 1 (2003).

<sup>37</sup> Sajjad Bagheri, Hamid Reza Akbarpour, *Reinvestigation of the West's sanctions against Russia in the crisis of Ukraine and Russia's reaction*, 1st International Conference on Applied Economics and Business, ICAEB 2015, *Procedia Economics and Finance* 36 (2016) 89 – 95.

<sup>38</sup> Haddadi, M. 2003, *International sanctions: a tool of national policy or international executive enforcement, private law*, Issue 3, Pages 125-126.

<sup>39</sup> Alexander, Kern, *Economic Sanctions: Law and Public Policy* [Elektronisk resurs], Palgrave Macmillan Ltd., 2009, p. 10.

<sup>40</sup> *ibid.*, p. 10.



that can be applied individually or as a combination, which goes in line with the three types of sanctions' effects described above. According to A. Kern the concept of economic sanctions cannot be narrowed to embrace only the goal of punishment, because in that case most of the modern sanctions will be excluded from such a definition as they imply not only purely punitive measures that cannot be lifted or reversed, but also financial sanctions (such as asset freezes), or export controls that can be lifted on the condition that the target state changes its political behaviour that triggered those restrictive measures.

On the basis of these concepts of definitions it is possible to derive the notion of economic sanctions that are the primary focus in the present thesis. Namely, economic sanctions can be defined as temporary restrictive peaceful measures having economic impact imposed by a state or a group of states against another state (target) as a whole and/or against selected private parties and political elites in order to force the latter to abide by the international rules or make political changes in the target state and/or stop violation of international law and human rights.

Having described the concept of sanctions, I find it relevant for further analysis to introduce the classification of sanctions. As has previously been stated, historically sanctions can be conventional, or comprehensive, and smart, or targeted/selected, sanctions.

In terms of the sector affected targeted sanctions can be divided into financial sanctions, travel restrictions and arm embargoes, which, in their turn, may take various forms as described in paragraph 2.1.

Apart from those classifications, international sanctions may be mandatory – imposed by the UN Security Council decision, and voluntary – imposed by decision of states themselves. If sanctions are imposed by one country against another one, they are called unilateral; on the contrary, if a group of states imposes sanctions against one state, those sanctions are multilateral<sup>41</sup>.

Sanctions can also take positive and negative forms. Positive sanctions usually involve a promise of a benefit for the target state in case that state fulfills the requirements of the sanctioner. Such a benefit can mean that a state promises to grant broader access to its internal market for the target or to increase its aid to the target in return for political reforms in the latter country. Negative sanctions, on the contrary, involve measures harmful and damaging for the target state not complying with the conditions presented by the sanctioning state.

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<sup>41</sup> Arne Tostensen and Beate Bull, *Are Smart Sanctions Feasible?*, World Politics, Vol. 54, No. 3 (Apr., 2002), p. 374, <http://www.jstor.org/stable/25054192>.

Negative sanctions can come as mere threats to impose those economically harmful measures against the target or as actually implemented measures imposing costs or withholding benefits of the target country. Nowadays there is an upward trend in using rewards, or positive sanctions, in pursuing the goal of political change in the target state. However, A. Kern suggests that the combination of the two sanctions types appears to be the most beneficial sanction policy strategy: “<a>n optimal economic sanctions policy should rely on a combination of both positive and negative sanctions, while recognising that the right mix will vary depending on the circumstances of each case ”<sup>42</sup>.

## **2.4 Theoretical basis for effective sanctions.**

Regardless of what particular type or combination of types of sanctions is imposed in a certain case, those sanctions aim is not to merely damage the target state but to make it correct its political behaviour in a particular way. Sanctions need to have a specific goal apart from economic or other kind of pain to the target in order to be successful. So what does it take to make sanctions work?

First of all, how can successful sanctions be defined? J. Hovi, R. Huseby and D. F. Sprinz suggest that “sanctions are successful if – and to the extent that – they extract political concessions from the target country”<sup>43</sup>. In other words, successful economic sanctions are those that actually force political changes in the country that is condemned for political misbehaviour. At the same time they admit that there is another way of defining sanctions’ success, namely, by stating that sanctions work when non-compliance with them impossible for the target state.

Some researches identify two stages at which the sanctions may work<sup>44</sup>:

- 1) The threatening stage, when sanctioners announce that they are likely to impose certain restrictions against another state (their potential target) whose political actions they condemn and hope that this threat will be sufficient for the potential target to change its policy. This stage goes in line with Article 40 in the UN Charter;

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<sup>42</sup> Alexander, Kern, *Economic Sanctions: Law and Public Policy* [Elektronisk resurs], Palgrave Macmillan Ltd., 2009, p. 11.

<sup>43</sup> Jon Hovi, Robert Huseby and Detlef F. Sprinz, *When Do (Imposed) Economic Sanctions Work?*, *World Politics*, Vol. 57, No. 4 (Jul., 2005), p. 483, Cambridge University Press , <http://www.jstor.org/stable/40060115>.

<sup>44</sup> *ibid.*, p. 479.

- 2) The implementation stage, when the threats did not succeed and sanctioners actually impose restrictive measures against their target.

Those researches are quite skeptical about sanctions and claim that they mostly tend to be effective at the stage a threat to impose those measures. Such a threat can be enough for motivating a potential target to change its political approach. Given the data provided in 2.1, only about 1/3 of all implemented sanctions were effective in terms of achieving their goal. One of the possible reasons why the majority of sanctions tend to fail is that sanctions usually result in harm to population even if they were imposed against political elites. Elites usually find ways to pass on the sanctions burden to the population of the target state, therefore diminishing the effectiveness of those restrictions. Finding alternative trade partners (import substitution) for the target state can outweigh unilateral economic sanctions' effect as well.

Another reason why sanctions do not work as often as they are supposed to is that they induce costs not only for the target state, but also for other neighbour countries<sup>45</sup>. The skeptics also claim that although the sanction pressure is meant to force the people in the target state to distrust their political leaders, they can have a reversed effect, namely growth of patriotism, nationalism support of the current political regime in the target state.

The proponents of sanctions, on the other hand, claim that sanctions can work not only as threats, but also after their actual implementation. However, in order for them to be successful, a number of prerequisites have to be fulfilled. J. Hovi, R. Huseby and D. F. Sprinz point out to the study<sup>46</sup> that identifies the following conditions for effective implemented sanctions:

- 1) Limited goals of the sanctions sender;
- 2) The imposed economic burden is likely to worsen the situation in the state that already experiences economic trouble;
- 3) The sanctioner and the target had good trade relations prior to the situation that lead to the implementation of economic sanctions;
- 4) The sanctions have been successfully implemented in one step without additional measures enabling them to come in force;
- 5) The sanctions costs are not high for the sanctioning state;
- 6) On the contrary, sanctions are significantly costly for the target state;
- 7) The sanctions do not constitute a part of a broader military plan or covert action;

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<sup>45</sup> *ibid.*, p. 481.

<sup>46</sup> Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policy* (Washington, D.C.: Institute for International Economics, 1985), 81-91.

8) The implementation of the sanction does not require many states.

S. Oxenstierna and P. Olsson identify a bit different set of factors that affect the success of economic sanctions, based on the empirical data set research conducted by G. Hufbauer, J. Schott, K. Elliott and B. Oegg in 2007 and on another empirical data set research conducted by C. Morgan, N. Bapat and V. Krustev in 2009. So, according to S. Oxenstierna and P. Olsson, the effectiveness of economic sanctions imposed against a certain target, depends on such criteria as sanction costs, trade dependency, duration of sanctions, sanction costs for the sender, involvement of multiple senders, involvement of international institutions, position of third-party countries, political regime in the target state (authoritarian regimes tend to be less sensitive towards economic sanctions than democracies), state capacity and the importance of the conflict<sup>47</sup>.

Another view expressed by Blanchard and Ripsman is that the focus should be moved away from economic pain to political suffering of the target state in order to make economic sanctions work: “the efficacy of economic sanctions should depend not on the economic pain they promise, but on the corresponding political costs that the target state faces if it refuses to comply with the sender's wishes as well as the political costs it will incur if it accedes to the sanctioning state's demands”<sup>48</sup>.

So, in contrast to the abovementioned conditions for successful sanctions, Blanchard and Ripsman suggest that high political costs for the target state should be regarded as the main criteria for sanctions success. They explain this priority shift by pointing out that economic sanctions are imposed to make the target change its policy; therefore, politics should be placed in the focus, as if political costs are not high for the target, it would have little motivation to comply with sanctioners' conditions.

On the other hand, they state that high political costs for the target do not necessarily lead to sanctions' success, “since the countervailing costs of complying with the sanctioners' demands also may be intolerable to the leadership of a state”<sup>49</sup>. Political costs are affected by various factors, such as the actual political sanctions imposed by the sanctioners, the extent to which threats to impose such sanctions are serious from an international perspective, political support from third parties, internal stability of the target state, the existence and the strength

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<sup>47</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, pp. 24-27.

<sup>48</sup> Jean-Marc F. Blanchard & Norrin M. Ripsman (1999), *Asking the right question: When do economic sanctions work best?*, *Security Studies*, 9:1-2, p. 224, DOI: 10.1080/09636419908429400.

<sup>49</sup> *ibid.*, p. 224.

of political opposition in the target state, the possibility of political elites in the target state to redirect economic costs to non-governmental actors in opposition to it<sup>50</sup>.

They conclude that the effectiveness of sanctions depends on the relationship of political costs for the target state and its compliance or non-compliance with those sanctions. If the political costs of non-compliance are high, then the target government would be inclined to follow the sanctions' conditions; if not, it will be reluctant to do so. However, if compliance with economic sanctions implies more political costs for the target than non-compliance, it is unlikely that the sanctionee will change its political views.

Given the empirical outcomes of sanctions and the relatively small number of cases when they were successful, it does not come as a surprise that many scholars consider sanctions to be an ineffective tool of foreign policy<sup>51</sup>. Then why are they still frequently imposed? J. Hovi, R. Huseby and D. F. Sprinz point out that economic sanctions remain a useful tool in light of domestic and symbolic dimensions: "sanctions might be imposed or sustained primarily to satisfy a domestic interest group or simply to demonstrate that the government cares and "is doing something"."<sup>52</sup>.

In order to reflect on the conditions for effective sanctions they analyse four different types of sanctions threat situations where the threats to impose sanctions have failed to trigger political change in the target state. First, the threat may have failed due to its irrelevance, in which case the target state cannot comply with the sanctions' conditions because of its incapability to do so. In this situation sanction will fail to be effective both as threats and having been imposed in reality.

Another situation suggests that a threat does not work because the target state does not consider it valid and credible. This is an "empty threat" situation, which actually means that those sanctions were not meant to be imposed in reality and, therefore, were not meant to actually work, at least as restrictive measures and not mere threats.

Thirdly, sanctions' threats can fail because they are not sufficiently potent for the target state in the sense that the target believes that the consequences of non-compliance with

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<sup>50</sup> *ibid.*, p. 225.

<sup>51</sup> Jon Hovi, Robert Huseby and Detlef F. Sprinz, *When Do (Imposed) Economic Sanctions Work?*, *World Politics*, Vol. 57, No. 4 (Jul., 2005), p. 482, Cambridge University Press, <http://www.jstor.org/stable/40060115>

<sup>52</sup> *ibid.*, p. 482.

those economic sanctions will be less damaging than the costs of compliance. In this situation, even though the target state regard potential sanctions as credible, it still is not inclined to change its policy in the event that those restrictive measures are imposed in reality. So, such sanctions are not likely to produce the desired political outcome.

Finally, sanctions threat may fail if the target state thinks that the imposition of economic sanctions is inevitable regardless of the target's response to those threats. In that case they failure can be explained by the fact that there is no sufficient reason to believe that those economic sanctions will be lifted if the target complies with the conditions imposed on it. In other words, despite the fact that the threats are regarded as credible by the target and that the economic sanctions are actually imposed, the target state is not changing its political attitude as it has does not expect that the measures imposed against it will be upheld in any case.

In the same article J. Hovi, R. Huseby and D. F. Sprinz conclude that there are two possible outcomes if sanctions threats fail to work: either the threat was empty and those sanctions were never planned to be imposed; or given the non-compliance with threats' conditions, sanctioners have to resort to actual implementation of the measures they have promised to apply against the target; but the target still does not comply due to various reasons described above.

It should be noted, though, that the situations described above, are based on the assumption that both the sanctioners and the target have perfect information about the situation. However, this is never the case in reality, therefore, those situations are hypothetical. Moreover, they presuppose rational behaviour from both sides of a sanctioning situation, which is also not guaranteed in reality. This leads to the conclusion that it seems challenging, if not impossible, to give a valid universal answer to the question of the elements of sanctions' effectiveness. The situation should be assessed on a case-by-case basis, taking into consideration political and economic reasoning behind the actions of the target and the sanctioner, as well as the factual background of the issue in question between those countries.

# **3 Sanctions against Russia: factual background to the conflict in Ukraine, measures imposed and Russian countermeasures.**

## **3.1 The political background to the Russian-Ukrainian conflict.**

As has been stated in the beginning of Chapter 2, sanctions are a common foreign policy tool in modern international relations. The present chapter is devoted to the presentation of the conflict in Ukraine and Russian actions in relation to that conflict that lead to the imposition of economic sanctions on the Russian Federation by a number of states<sup>53</sup>. For the purpose of the present study only the sanctions imposed by the EU will be in focus of this thesis.

The situation that triggered the imposition of anti-Russian sanctions started during the EaP summit in Vilnius in late 2013. The Ukrainian political crisis started with the negotiations on the agreement on Ukraine's accession to EU, that were suspended by Victor Yanukovich, the president of Ukraine at that time. At that time Russia announced its plans to form the Eurasian Customs Union (EACU) by 2015. That agreement has already been signed by Kazakhstan and Belarus, and Russia suggested that Armenia, Ukraine and Moldova could join as well. However, it would be challenging to combine the membership in such a customs union with the European DCFTA, because the idea behind a customs union is that its members agree on common tariffs against non-members of the Union and that would contradict the Deep and Comprehensive Free Trade Agreement with the EU.

Yanukovich was a pro-Russian president, and this does not come as a surprise given the fact that Ukraine and Russia have had strong economic, political and cultural ties throughout the history. He chose to wait with signing the Deep and Comprehensive Free Trade Agreement with the EU (DCFTA-EU) for a year. Instead, he signed a bail-out loan

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<sup>53</sup> The present thesis is not devoted to giving any political perspective or insight, to assessing the political actions of the parties to the Ukrainian conflict, or to attempting to condemn or defend those actions in any way; however, the brief presentations of the happenings is vital for understanding the background of the sanctions' regime that this work is about and for providing subsequent analysis of the current situation from the legal and economic points of view.

agreement with Russia. As M. Molchanov puts it, Yanukovych got in “between the two poles of gravity that had an almost equal value for the country: the Russian pole, where more than 60% of all the country’s trade would normally go, and the European pole, which promised development, modernization and a potentially affluent future”<sup>54</sup>. This symbolic choice of Russia over the EU as a strategic partner “had fateful consequences”<sup>55</sup> as it triggered massive actions of protest among Ukrainian people, better known as “Euromaidan”. Those protests resulted in dismissal of the Ukrainian president, who fled to Russia on 21<sup>st</sup> February 2014. The next day Ukrainian parliament elected a new, provisional government and a new president.

The new Ukrainian government and president, Petro Poroshenko, being remarkably pro-Western, signed the DCFTA-EU agreement and began to reverse their policy from being Russia-oriented to EU-oriented. However, this new political orientation has been beneficial for the people in Ukraine. Russian-speaking regions have been put under pressure to use the Ukrainian language: “one of the first laws of the new government restricted Russian language rights in the predominantly Russian areas”<sup>56</sup>. The Russian language was also being replaced by Ukrainian in schools and media as Ukrainian nationalism was growing in the country.

In this context pro-Russian demonstrations were held in Crimea, where a lot of Russian-speaking people reside. A pro-Russian local government was introduced with use of Russian military forces and on March 16<sup>th</sup> there was held a referendum on whether the Crimean peninsula should become part of the Russian Federation. The referendum had two options to choose between: “Do you support the reunification of Crimea with Russia with all the rights of a federal subject of the Russian Federation?” and “Do you support the restoration of the Constitution of the Republic of Crimea in 1992 and the status of the Crimea as a part of Ukraine?”<sup>57</sup>. Although such a referendum was not in line with Ukrainian constitution, the majority of the Crimean population voted for joining Russia: the voting results showed that

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<sup>54</sup> Mikhail A. Molchanov (2016), *Choosing Europe over Russia: what has Ukraine gained?*, European Politics and Society, 17:4, 522-537, p. 522, DOI: 10.1080/23745118.2016.1154236.

<sup>55</sup> Thorvaldur Gylfason, Inmaculada Martinez-Zarzoso and Per Magnus Wijkman , *Free Trade Agreements, Institutions and the Exports of Eastern Partnership Countries*, JCMS 2015 Volume 53. Number 6. p. 1215, DOI: 10.1111/jcms.12275.

<sup>56</sup> Mikhail A. Molchanov (2016), *Choosing Europe over Russia: what has Ukraine gained?*, European Politics and Society, 17:4, 522-537, p. 523, DOI: 10.1080/23745118.2016.1154236.

<sup>57</sup> The State Council of the Republic of Crimea, 2014, March 6.



96.77% of the Crimean voters and 95.5% of the voters in Sevastopol chose to join the Russian Federation<sup>58</sup>.

The Autonomous Republic of Crimea and the city of Sevastopol subsequently were integrated into the Russian Federation as Russian president Vladimir Putin signed documents admitting Crimea and the city of Sevastopol into Russia on 21<sup>st</sup> March 2014<sup>59</sup>. Since then, war has broken out and been going on in eastern Ukraine, namely in Donetsk and Luhansk regions. The transition period of integrating Crimea and Sevastopol into the Russian Federation was over in 2015, when Russia's President signed a Decree optimising the structure of federal bodies of executive power<sup>60</sup> that finalised the admission of the peninsula into Russia by means of additional legal and economic measures from the Russian Federation's side.

The transfer of Crimea to Russia was explicitly condemned by the international community. The UN claimed that the events in Crimea should be regarded as "annexation" on the peninsula by the Russian Federation. The UN General Assembly even held a voting on the Crimea referendum, and only 11 countries supported the referendum results, whereas 100 countries refused to recognise the outcome of the Crimean voting. As a consequence of those events, the first wave of Western sanctions against Russia was put in place by the European Council in March 2014. Those sanctions were primarily targeted at individuals and entities taking part in the absorption of Crimea and included travel bans and asset freezes. Those restrictions were originally meant to expire on 15<sup>th</sup> March 2015, but they have been extended several times and are now valid until 15<sup>th</sup> September 2017.

On 27<sup>th</sup> March 2014, the General Assembly of the UN adopted Resolution 68/262<sup>61</sup> on Ukraine's territorial integrity. In that Resolution the UN stressed that the referendum held in the Autonomous Republic of Crimea and in the city of Sevastopol on 16<sup>th</sup> March 2014 was

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<sup>58</sup> The State Council of the Republic of Crimea, 2014, March 17; Crimea Online Obscuresque Referendum, 2014, March 17).

<sup>59</sup> Federal Constitutional Law of the Russian Federation of March 21, 2014 No. 6-FKZ "On acceptance to the Russian Federation of the Republic of Crimea and education as a part of the Russian Federation new subjects - the Republic of Crimea and the federal city of Sevastopol".

<sup>60</sup> Presidential Decree of 15 July 2015 No. 368 "On closure of the Ministry of the Russian Federation for the Crimea and the State Commission for Socio-Economic Development of the Republic of Crimea and Sevastopol. President of Russia".

<sup>61</sup> Resolution 68/262 adopted by the General Assembly on 27 March 2014 [*without reference to a Main Committee (A/68/L.39 and Add.1)*] 68/262. Territorial integrity of Ukraine.

not authorised by Ukraine and it encouraged the international community not to acknowledge the results of that referendum. Thereafter sanctions prohibiting trade with Crimea were introduced by Council Regulation 692/2014<sup>62</sup> and extended by Council Regulation 825/2014<sup>63</sup> in response to the absence of de-escalatory steps by Russia. Those sanctions were originally imposed until 23<sup>rd</sup> June 2015, but are still valid through 23<sup>rd</sup> June 2017. In December 2014 another set of sanctions against Crimea was imposed by Council Regulation 1351/2014<sup>64</sup>, introducing tourism services restrictions and investment ban.

Since the first wave of sanctions against the Russian Federation did not produce substantial results in forcing Russia to abandon the Crimean peninsula and change its policies in eastern Ukraine, the EU imposed another set of restrictive measures. In July 2014 the new wave of anti-Russian sanctions was introduced following the escalation of military action in eastern Ukraine with presence of both Russia's and NATO's military forces in the region, "including deploying troops and holding military exercises"<sup>65</sup> and the tragic event of 17<sup>th</sup> July 2014 when the Malaysia Airlines flight MH-17 was shot down over the separatist-controlled area; these sanctions, imposed on 31<sup>st</sup> July 2014, are economic in their nature and they are targeted at specific sectors of Russian economy (smart sanctions)<sup>66</sup>. Smart sanctions, introduced by Council Regulation 833/2014<sup>67</sup>, affect Russia's banking sector, restricting the ability of major state-owned banks to raise credit on European capital markets.

On 8<sup>th</sup> September 2014 the economic sanctions were broadened by Council Regulation 960/2014<sup>68</sup>, cutting the duration of maturity period for permitted credits to five major Russian banks from 90 to 30 days and extending this restriction to include three major state-owned defence companies. In addition the EU imposed arm embargoes and sanctions prohibiting export of oil exploration equipment.

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<sup>62</sup> Council Regulation (EU) No 692/2014 of 23 June 2014 concerning restrictions on the import into the Union of goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol.

<sup>63</sup> Council Regulation (EU) No 825/2014 of 30 July 2014 amending Regulation (EU) No 692/2014 concerning restrictions on the import into the Union of goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol.

<sup>64</sup> Council Regulation (EU) No 1351/2014 of 18 December 2014 amending Regulation (EU) No 692/2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol.

<sup>65</sup> Wan Wang, Impact of Western Sanctions on Russia in the Ukraine Crisis, *Journal of Politics and Law*, Vol. 8, No. 2; 2015, p. 2, doi: 10.5539/jpl.v8n2p1.

<sup>66</sup> According to S. Oxenstierna and P. Olsson, targeted sanctions can be defined as those focused on specific individuals or sectors, as opposed to broad or comprehensive sanctions.

<sup>67</sup> Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

<sup>68</sup> Council Regulation (EU) No 960/2014 of 8 September 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

Russian gas sector was not targeted by European economic sanctions due to the fact that many EU countries are highly dependent on Russian gas deliveries and it does not appear to be easy to divert to alternative gas suppliers in the short or medium run. However, major Russian gas companies, such as Gazprom, Novatek, Lukoil and Surgutneftegaz, are listed in the U.S. economic sanctions against the Russian Federation. The sanctions on dual-use goods were extended by Council Regulation 1351/2014<sup>69</sup>. The economic sanctions were meant to expire on 15<sup>th</sup> July 2015, but they have been extended as well as the previous sanction types and now remain in force until 31<sup>st</sup> July 2017.

### **3.2 The EU's sanctions against the Russian Federation.**

According to Article 21(3) TEU, “the Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect”<sup>70</sup>. Plus, in accordance with Article 5 TEU, the scope of the actions of the Union are guided by the principle of conferral: “Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States”<sup>71</sup>. Since these principles guide EU's external policy actions, they are also applicable in the case of imposition of restrictive measures. The abovementioned TEU provisions should be read and applied in conjunction with TFEU provisions on Restrictive Measures that can be found in Title IV. More precisely, Article 215 TFEU states that:

“(1) Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union (TEU), provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European

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<sup>69</sup> Council Regulation (EU) No 1351/2014 of 18 December 2014 amending Regulation (EU) No 692/2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol.

<sup>70</sup> Article 21(3), TEU, Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union of 30 March 2010, OJ 2010 C 83/01.

<sup>71</sup> *ibid.*, Article 5(2).

Parliament thereof.

(2) Where a decision adopted in accordance with Chapter 2 of Title V of the TEU so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.

(3) The acts referred to in this Article shall include necessary provisions on legal safeguards.”<sup>72</sup>

The provision of Chapter 5 in Title II TFEU that the abovementioned article refers to is Article 29 TEU that indicates that the Council is to adopt decisions “which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the Union positions”<sup>73</sup>. The sanction measures, imposed from the EU’s side, were introduced by the Council in accordance with the provisions cited above.

According to the Factsheet on EU Restrictive Measures<sup>74</sup>, European sanctions constitute one of the EU's tools to promote the objectives of the Common Foreign and Security Policy (CFSP): peace, democracy and the respect for the rule of law, human rights and international law. Those sanctions have been introduced not a merely punitive measures, but as a part of a comprehensive political approach of the EU that intends to bring political changes to the target country, namely, the Russian Federation. At the same time, targeted sanctions strive to minimise the damaging effect of those restrictive measures on the Russian population and focus on the individuals and entities that are involved in the Russian-Ukrainian conflict.

The restrictive measures that the European Union introduced in connection with Russia’s “illegal annexation of Crimea and deliberate destabilisation of a neighbouring sovereign country”<sup>75</sup>, include a wide range of following tools:

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<sup>72</sup> Consolidated version of the Treaty on the Functioning of the European Union, Title IV, Article 215, OJ C 326, 26.10.2012, p. 47–390.

<sup>73</sup> Article 29, Chapter 2, TEU, Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union of 30 March 2010, OJ 2010 C 83/01.

<sup>74</sup> Source: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/135804.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/135804.pdf).

<sup>75</sup> Source: [https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis\\_en](https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis_en).

- 1) Restrictive measures against individuals and entities involved in the process of Crimea's transfer to the Russian Federation and Russian actions in eastern Ukraine. The two People's Republics, Donetsk and Luhansk, are also on the sanctions' list. Such measures include travel bans and foreign asset freezes applied in total to 150 persons and 37 entities, that were "responsible for action against Ukraine's territorial integrity, persons providing support to or benefitting Russian decision-makers and 13 entities in Crimea and Sevastopol that were confiscated or that have benefitted from a transfer of ownership contrary to Ukrainian law"<sup>76</sup>.
- 2) Diplomatic measures. Russia was excluded from the G8 summit and the new G7 summit was held in Brussels instead of Sochi in June 2014. Also negotiations on Russia joining the OECD and the International Energy Agency were suspended. The EU-Russia summit was cancelled, and the EU members decided to stop holding bilateral summits on a regular basis. Bilateral EU-Russian negotiations on visa regimes and on the New Agreement between the two parties were suspended as well.
- 3) Restrictions on Crimea and Sevastopol. These restrictions include suspension of economic relations with the disputed region, as the EU does not accept that Crimea has become part of the Russian Federation. They include a ban on import of goods from Crimea unless those have Ukrainian certificates; a prohibition to invest in the region for Europeans and EU-based companies, including the possibility to buy real estate or companies in Crimea and invest in certain sectors of the region's economy; a ban on providing tourism services in Crimea and Sevastopol; an export ban in regards to goods and technology for transport, telecommunications and energy sector, as well as the exploration of oil, gas and mineral resources; a prohibition to provide technical assistance of various kinds in the abovementioned fields<sup>77</sup>.

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<sup>76</sup> *ibid.*; see also List of persons and entities subject to sanctions at [http://www.consilium.europa.eu/en/press/press-releases/2017/03/pdf/20170313-list-of-designated-persons-and-entities\\_pdf/](http://www.consilium.europa.eu/en/press/press-releases/2017/03/pdf/20170313-list-of-designated-persons-and-entities_pdf/).

<sup>77</sup> Based on COUNCIL REGULATION (EU) No 692/2014 of 23 June 2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol (OJ L 183, 24.6.2014, p. 9).

- 4) Targeted sector specific measures (economic sanctions). Those measures are imposed in relation to certain sectors of Russian economy. They include financial sanctions prohibiting European citizens and entities from buying or selling new bonds, equity or other similar financial instruments with maturity period exceeding 30 days, issued by five major state-owned Russian banks (Sberbank, Vneshekonombank (VEB), VTB Bank, Gazprombank and Rosselkhozbank), three major Russian energy companies (Rosneft, Gazprom Neft, Transneft), three major Russian defence companies (Oboronprom, United Aircraft Corporation and Uralvagonzavod)<sup>78</sup>, subsidiaries of the abovementioned companies outside the EU, as well as other entities acting on their behalf or at their direction. Assistance in relation to issue of such financial instruments by European nationals and companies is prohibited, as well as providing loans with maturity period exceeding 30 days. European smart sanctions also include arm embargo covering all imports and exports of arms and related materials, plus imports and exports of all kinds of dual use goods that are on the EU list of dual use goods<sup>79</sup>. Certain energy sector equipment related to oil exploration and production in waters deeper than 150 meters, or in the offshore area north to the Arctic Circle, or to projects that potentially can lead to oil production from shale formations' resources by way of hydraulic fracturing cannot be exported to Russia; the rest of such equipment requires prior authorisation from the exporting Member State<sup>80</sup>. Another restriction touches upon the provision of services related to drilling, well testing, logging and completion services, as well as supply of specialised floating vessels.
- 5) Measures concerning economic cooperation. The implementation of EU-Russian bilateral and regional cooperation programmes has been suspended.

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<sup>78</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 21.

<sup>79</sup> COMMISSION DELEGATED REGULATION (EU) .../... of 12.10.2015 amending Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items.

<sup>80</sup> Source: [https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis\\_en](https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis_en).

However, the projects that deal exclusively with cross-border cooperation and civil society remain untouched.

It should be noted, however, that the imposition of sanctions was an equally logical and easy decision for all the Member States in the EU. Many of them have had good trade relations with Russia and therefore were reluctant to lose their big trade partner. Basically, the EU Member States were split in two groups based on their attitude towards anti-Russian sanctions: advocates for a tough stand in response to Russia's actions and those striving for a more friendly approach.

The first group included such countries as Denmark, Sweden, the United Kingdom, the Czech Republic, Poland, Estonia, Lithuania and Latvia. Those countries, being traditionally regarded as "Russia-aware"<sup>81</sup> states, were initially in favour of imposing hard restrictive measures, such as economic sanctions and trade restrictions, in order to put an end to the escalation of the Ukrainian-Russian conflict.

The other group comprising such states as Germany, France, Spain, Italy, Portugal, Greece, Cyprus, Bulgaria, Malta, Hungary, Luxembourg and Austria favoured the "business as usual" approach towards Russia. These countries have various intentions to be against strict anti-Russian policy due to their economic ties with the Russian Federation, their reluctance to bear the economic costs of those sanctions that would be inevitable given the fact that the degree of trade interdependency between the European Union and the Russian Federation is very high and their dependence on Russian energy resources. For example, Hungary and Bulgaria are reliant on Russian gas supplies; their approach can be explained by the desire to protect national interests. Hungarian Prime Minister, Viktor Orban, pointed out that "the sanctions have, in fact, harmed the West more than they have hurt Russia. In politics, this is called shooting oneself in the foot"<sup>82</sup>.

Hence, the EU countries had to compromise between the economic interests of the Member States and the political values of the Union in order to create a common approach on the imposition of restrictive measures against Russia, since the burden of those sanctions would not be equally distributed among the EU Member States.

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<sup>81</sup> Maria Shagina, *EU SANCTIONS POLICY TOWARDS POST-SOVIET CONFLICTS: CASES OF CRIMEA, EASTERN UKRAINE, SOUTH OSSETIA AND ABKHAZIA*, *Revista UNISCI / UNISCI Journal*, No 43 (Enero/January 2017), p. 81.

<sup>82</sup> Vauhini Vara, "Hurt Putin hurt yourself," *The New Yorker* (August 19, 2014) // <http://www.newyorker.com/business/currency/hurt-putin-hurt>.

As Francesco Giumelli puts it, “the sanctions on Russia have created winners and losers, and those most vocal about them are often those with the most to lose”<sup>83</sup>. Two major EU economic powers, Germany and France, shared this view on further relations with Russia because they both had ongoing projects and investments in the Russian Federation. The U.K. was reluctant to impose financial sanctions that would have an adverse effect on the City of London that is a major investment centre.

France, that suggested financial sanctions, was in its turn against imposition of an arm embargo, as it had a € 1.5 billion worth contract for delivery of two military ships Mistral<sup>84</sup>. Such a stand can be understood if we look at the empirical data on trade relations between those EU countries and the Russian Federation. Germany’s business with Russia was worth €75 billion in 2013 alone, Dutch-Russian trade corresponded to €37 billion, followed by Italy (€30 billion) and Poland (€26 billion)<sup>85</sup>. In these circumstances it is not surprising that those countries tried to preserve good business relations with Russia in spite of the pressure put on them from other EU Member States that were willing to stick to the harsh approach to avoid the escalation of the conflict in Ukraine.

However, after the crash of the Malaysian airplane those countries agreed to take a tougher political line in regards to the situation. France resold the abovementioned military ships to Lithuania. Germany changed its position to a harsher approach as well despite the resistance of those doing business with Russia. At the same time the internal sanctions disputes in the EU weakened the sanctions’ regime by, for example, not targeting Russian gas industry in contrast to the U.S. sanctions: “the diverging opinions from the EU’s core members, especially from Germany as a leading country in solving the crises, wavers the Union’s credibility”<sup>86</sup>.

### **3.3 Russian countermeasures in response to Western sanctions.**

Already in March 2014 Russia responded to the restrictive measures from the West by

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<sup>83</sup> Francesco Giumelli, “Who pays for the sanctions on Russia?” *www.ecfr.eu* (September 5, 2014) // [http://www.ecfr.eu/article/commentary\\_who\\_pays\\_for\\_the\\_sanctions\\_on\\_russia372](http://www.ecfr.eu/article/commentary_who_pays_for_the_sanctions_on_russia372).

<sup>84</sup> Maria Shagina, *EU SANCTIONS POLICY TOWARDS POST-SOVIET CONFLICTS: CASES OF CRIMEA, EASTERN UKRAINE, SOUTH OSSETIA AND ABKHAZIA*, *Revista UNISCI / UNISCI Journal*, No 43 (Enero/January 2017), p. 82.

<sup>85</sup> Francesco Giumelli, “Who pays for the sanctions on Russia?” *www.ecfr.eu* (September 5, 2014) // [http://www.ecfr.eu/article/commentary\\_who\\_pays\\_for\\_the\\_sanctions\\_on\\_russia372](http://www.ecfr.eu/article/commentary_who_pays_for_the_sanctions_on_russia372).

<sup>86</sup> *ibid.*, p. 83.



imposing its own countersanctions. Initially those retaliatory measures included only sanctions against European political elites. Also, Russia raised the natural gas prices for Ukraine, so that the pressure on the latter country would increase and the exports of natural gas to such countries, as Poland, Slovenia and Romania would be reduced<sup>87</sup>.

Despite the fact that the EU sanctions were meant to have a constraining and signaling effect instead of a punishment, in fact those sanctions do have punitive effect in the first place, because they do not contain precise mechanisms and conditions for lifting the sanctions: “Council decisions from March and April 2014 <...> stated the policy tools, expected impact, validity of decision and the option to revise it, but did not consist clear criteria to be fulfilled to end the sanctions”<sup>88</sup>. The same applies to sanctions against individuals – no clear criteria on the end of the application of those measures are provided. Therefore, Russia’s reaction to those measures could be seen as reasonable in the light of this.

At a later stage, beginning from 6<sup>th</sup> August 2014, a food import embargo on meat, fish, cheese, fruit and vegetables, and dairy products was added to the previous individual countersanctions. These measures were introduced as a response to the sector-specific sanctions from the EU. The food embargo affected quite a large segment of EU-Russian trade relations, as prior to its implementation the agricultural food exports from the EU to the Russian Federation corresponded to €11,864 million, or 10% of the total EU agricultural food exports worldwide<sup>89</sup>. Moreover, in the time period when this measure was imposed, Russia was EU’s third largest trade partner, after the U.S. and China, with total trade volumes exceeding €326 billion in 2013. So, the countersanctions had a major impact on the cross-border trade between the EU and the Russian Federation.

According to the Presidential Decree as of 6<sup>th</sup> August 2014 No. 560<sup>90</sup> and Government

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<sup>87</sup> Wan Wang, Impact of Western Sanctions on Russia in the Ukraine Crisis, *Journal of Politics and Law*, Vol. 8, No. 2; 2015, pp. 2-3, doi: 10.5539/jpl.v8n2p1.

<sup>88</sup> Viljar Veebel, Raul Markus, *LESSONS FROM THE EU-RUSSIA SANCTIONS 2014-2015*, *Baltic Journal of Law & Politics* 8:1 (2015): 165-194, p. 175, <http://www.degruyter.com/view/j/bjlp> DOI: 10.1515/bjlp-2015-0015.

<sup>89</sup> Tatia Dolidze, *EU Sanctions Policy towards Russia: The Sanctioner-Sanctionee’s Game of Thrones*, CEPS Working Document, No. 402 / January 2015. Source: <https://www.ceps.eu>.

<sup>90</sup> Presidential Decree of 6 August 2014 No. 560 "On applying of certain special economic measures in order to ensure safety of the Russian Federation".

Resolution of 7 August 2014 No. 778<sup>91</sup>, Russia imposed the agri-food ban in order to protect its national security in compliance with Federal Laws “On special economic measures”<sup>92</sup> and “On safety”<sup>93</sup>. Article 1.2 of the Federal Law “On special economic measures” states that “<s>pecial economic measures are applied in cases of emergence of set of the circumstances requiring immediate reaction to international and illegal act or unfriendly action of the foreign state or its bodies and officials, posing threats to interests and safety of the Russian Federation and (or) the violating rights and freedoms of her citizens, and also according to resolutions of the Security Council of the United Nations”<sup>94</sup>. The same Federal Law indicates that those special economic measures can take such forms as (1) suspension, in whole or in part, of economic, technical, and military cooperation programs; (2) prohibition or limitations on financial transactions; (3) prohibition or limitations on international economic transactions; (4) revocation or suspension of international trade agreements to which the RF is a party; (5) modifications of export or import tariffs; (6) prohibitions or restrictions on access to RF seaports and RF airspace; (7) restrictions on tourism activities; and (8) suspension of the RF’s participation in international scientific and technological programs and projects, etc.<sup>95</sup>. Such economic measures are temporary in their nature; however, their duration is determined by the President of the Russian Federation.

In the present case it is obvious that the imposition of sanctions against the Russian Federation was regarded as such an emergency case requiring immediate reaction. The Presidential Decree No. 560 prohibits or limits import of agricultural goods, food and raw materials originating in the countries that imposed sanctions against the Russian Federation, or, as the Decree puts it, “whose country of origin had either adopted the decision on introduction of economic sanctions in respect of Russian legal and (or) physical entities, or joined same”. This restrictive measure was originally put in place for one year, but it is still valid, for the time being until 31<sup>st</sup> December 2017.

A number of other restrictive measures was discussed in Russia as well, for example,

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<sup>91</sup> Government Resolution of 7 August 2014 No. 778 "On measures concerning implementation of the Presidential Decree as of 6 August 2014 No. 560 "On applying of certain special economic measures in order to ensure safety of the Russian Federation".

<sup>92</sup> Federal Law of the Russian Federation of December 30, 2006 No. 281-FZ “On special economic measures”.

<sup>93</sup> Federal Law of the Russian Federation of December 8, 2010 No. 390-FZ “On Safety” (In edition of the Federal Law of the Russian Federation from 10/5/2015 No. 285-FZ).

<sup>94</sup> Translation source: <http://cis-legislation.com/document.fwx?rgn=14609>.

<sup>95</sup> Neuwirth & Alexandr Svetlicinii (2016) *The current EU/US–Russia conflict over Ukraine and the WTO: a preliminary note on (trade) restrictive measures*, *Post-Soviet Affairs*, 32:3, 237-271, p. 245-246, DOI: 10.1080/1060586X.2015.1039330.

the confiscation of foreign assets in Russia, advance prepayment of Russian gas supply, a ban on textile and automobile imports and the non-return of some Western equipment<sup>96</sup>. Another threat included a ban for aircrafts of the sanction-participating states to fly over Russian airspace. But those measures were never actually imposed on the sanctioners. However, Ukraine Airlines connecting flights were banned from flying through Russian airspace.

In May 2014 Russia and China agreed on the construction of the new “Power of Siberia” gas pipeline from eastern Siberia to China. Moreover, Russia will supply 38 bcm of natural gas to China for 30 years starting from 2018, which corresponds to 23% of Russia’s annual natural gas exports to Europe<sup>97</sup>. In November 2014, during Russian President’s visit to Beijing, the parties signed a new memorandum of understanding concerning the export of Russian natural gas to China via the Russian Republic of Altai. This Altai pipeline “would allow Russia to optimise sales from Gazprom’s vast west Siberian resource base and to provide an arbitrage opportunity for switching sales between Europe and Asia”<sup>98</sup>.

On 1<sup>st</sup> December 2014, during his visit to Turkey, Russian President Vladimir Putin noted that the Russian Federation would give up the construction of the “South Stream” gas pipeline transporting gas to Europe via Black Sea and instead turn to Turkey in order to invest in the construction of another natural gas pipeline that would transport gas to Southern Europe via Turkey<sup>99</sup>. This pipeline construction was meant to increase the Russian-Turkish cooperation on natural gas, showing that Russia is serious in its intentions to develop its gas exports to new customers and find new routes to already existing ones. In other words, Russia shows its readiness and eagerness to substitute its European clients with new possibilities in other parts of the world and to perform trade reorientation with perspectives for other kinds of cooperation with those new partners in other sectors of economy, such as defence sector, since Russia lost its access to defence and dual-use technologies from Western countries and it is no longer cooperating with Ukraine on arms matters. However, it remains uncertain whether trade reorientation will be successful and whether it will be possible for the Russian Federation to manage the construction of the abovementioned natural gas pipelines in

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<sup>96</sup> Tatiana Romanova (2016), *Sanctions and the Future of EU–Russian Economic Relations*, *Europe-Asia Studies*, 68:4, 774-796, p. 774-775, DOI: 10.1080/09668136.2016.1159664.

<sup>97</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 47.

<sup>98</sup> *ibid.*, p. 47.

<sup>99</sup> Wan Wang, *Impact of Western Sanctions on Russia in the Ukraine Crisis*, *Journal of Politics and Law*, Vol. 8, No. 2; 2015, p. 3, doi: 10.5539/jpl.v8n2p1.

cooperation with China and Turkey timewise.

Apart from food embargo, in 2015 Russia several times denied entry for different European Union officials, and in May Russian blacklist including 89 EU individuals was released to the EU countries' governments<sup>100</sup>, but according to the Dutch Foreign Ministry the letter with that list said it was not supposed to be made public, neither did it contain any criteria or conditions on the basis of which those EU officials were banned from entering the Russian Federation<sup>101</sup>. It has therefore been debated whether Russian countermeasures can be qualified as sanctions from theoretical point of view, "as not including independent conditions and description of expected policy change from the EU side (except lifting the sanctions)"<sup>102</sup>.

However, following the same reasoning, EU sanctions could also be questioned on the same grounds as they, in the updated version, only indicate the quite vague condition for their ending: "The EU remains ready to reverse its decisions and reengage with Russia when it starts contributing actively and without ambiguities to finding a solution to the Ukrainian crisis"<sup>103</sup>. The question of the sanctions' legitimacy remains the topic for heated discussions and it will be analysed in the following paragraph.

### **3.4 The sanctions legitimacy debate.**

Apart from being questioned from theoretical perception, anti-Russian sanctions and Russian countermeasures have also been discussed in the WTO context. The Russian Federation joined the WTO in 2012, after twelve years of negotiations. Joining the WTO accession was an important step, as it finalised the WTO accession of the BRICS countries. In addition to that Russia's membership in the WTO means that the country has been granted access to the markets of other WTO member states at the Most Favoured Nation principle conditions.

At the same time WTO membership implies that Russia has to follow its commitments concerning further opening of trade regime and acceleration the country's integration in the world economy that made the accession possible. It was hoped that Russia's membership

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<sup>100</sup> The whole list can be found here: <http://www.euronews.com/2015/06/02/the-complete-blacklist-of-european-officials-barred-from-entering-russia-putin>.

<sup>101</sup> Source: <https://www.yahoo.com/news/russia-issues-blacklist-bars-eu-politicians-dutch-pm-164848974.html>.

<sup>102</sup> Viljar Veebel, Raul Markus, *LESSONS FROM THE EU-RUSSIA SANCTIONS 2014-2015*, *Baltic Journal of Law & Politics* 8:1 (2015): 165-194, p. 177, <http://www.degruyter.com/view/j/bjlp> DOI: 10.1515/bjlp-2015-0015.

<sup>103</sup> Source: [https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis\\_en](https://europa.eu/newsroom/highlights/special-coverage/eu-sanctions-against-russia-over-ukraine-crisis_en).

would be beneficial both for the state itself and for the EU as its main trade partner, because the EU would be able to benefit “from Russia’s integration into the global, rules-based system of trade relations”<sup>104</sup>. However, the recent developments in the trade relations between the European Union and the Russian Federation have proved those hopes to be wrong.

The current sanctioning situation raises legal concerns at two different levels: domestic and international. At the domestic level, anti-Russian sanctions are questionable from the perspective of coherence between political and economic actions of the European Union. At the same time, on the Russian Federation’s side, the countermeasures give grounds for concerns on whether they were introduced solely in order to protect and promote the competitiveness of domestic industries<sup>105</sup>.

At the international level, sanctions are questionable from compliance with the principles of international trade as well as from the WTO rules and principles perspective, namely, whether the sanctions imposed by the parties to the conflict comply with the principles of trade liberalisation pursued by the WTO. The legitimacy debate concerning the anti-Russian sanctions is based on the fact that those sanctions can be disputed from the WTO law position. The trade restrictions imposed by the EU and other Western countries prohibit imports from Russia. Since both the EU Member States and the Russian Federation are members of the WTO, and as no such restrictions are put in place in regards to other WTO member, the anti-Russian sanctions can be seen as a violation of Article I of GATT that proclaims the application of general Most Favoured Nation treatment.

Namely, Paragraph 1 in Article I states that “With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III,\* any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for

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<sup>104</sup> European Commn., *EU welcomes 3 new members to the WTO*, Press Release (Dec. 15, 2011).

<sup>105</sup> Neuwirth & Alexandr Svetlicinii (2016) *The current EU/US–Russia conflict over Ukraine and the WTO: a preliminary note on (trade) restrictive measures*, *Post-Soviet Affairs*, 32:3, 237-271, p. 238, DOI: 10.1080/1060586X.2015.1039330.

the territories of all other contracting parties”<sup>106</sup>. A textual interpretation of this GATT provision implies that the unequal treatment of Russian goods can be defined as a violation of the MFN principle.

Moreover, Paragraph 4 in Article III of GATT provides that “The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use”. Given that export of arms and materials related to arms from Russia has been prohibited as well, this Article has also been violated in the current sanctioning situation. Therefore, it can be argued that the anti-Russian sanctions have “*prima facie* violated the obligations under the GATT”<sup>107</sup> and so Russia can possibly challenge those sanctions in front of the World Trade Law dispute settlement forum.

On the other hand, the sanctions imposing nations can possibly rely on another GATT provision, namely, on Article XXI, indicating that “nothing in this Agreement shall be construed

- (a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests (i) relating to fissionable materials or the materials from which they are derived; (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security”.

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<sup>106</sup> General Agreement on Tariffs and Trade 1994 and 1947, Article I.

<sup>107</sup> Rishika Lekhadia, *Can the West Justify its Sanctions against Russia under the World Trade Law?*, 7 Indian J. Int'l Econ. L. 151 2015, p. 159.

This Article provides the so-called “security exception” that parties to the GATT Agreement may resort to in case they need justification for imposition of restrictive measures against another WTO member state. In other words, if sanctioners need to prove that their sanctions against the Russian Federation are legitimate, they have to claim that they were imposed in order to protect their national security interests. However, since the launching of the WTO dispute settlement body the security exception has never been used as a defense in a case concerning imposition of economic sanctions against a WTO member.

Article XXI security defence consists of two parts: procedural and substantive. The procedural aspect lies in the Decision Concerning Article XXI of the General Agreement<sup>108</sup> the key aspect of which is that “contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI”<sup>109</sup>. Since in the present sanctioning case the sanctioners have made public their decisions concerning implementation of restrictive measures against the Russian Federation, the procedural requirement of Article XXI GATT seems to be fulfilled by the sanction imposing parties.

The substantive aspect of Article XXI covers several material requirements that have to be complied with in order to invoke the security defence. First of all, sanctioners have to prove that their restrictive measures were taken in the time of war or other emergency situation in international relations, as stated in paragraph b) (iii) of the same Article. As for this aspect, Russia on its part could argue that the democratic procedure was followed in Crimea, and that the people of the peninsula made their decision on joining the Russian Federation freely and voluntarily. The inclusion of Crimea into Russia was also ratified by the Russian Parliament as a bilateral pact between the two nations, therefore “no other nation has any *locus standi* to interfere in their bilateral affairs”<sup>110</sup>. On the other side, sanctioners could claim that Russia’s actions constitute a violation of the basic principles of international law, namely the principle of territorial integrity declared in the United Nations General Assembly “Friendly Relations Declaration”<sup>111</sup>. They could also claim “a valid secession requires full

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<sup>108</sup> Decision Concerning Article XXI of the General Agreement, Decision of 30 November 1982 (n51).

<sup>109</sup> *ibid.*, para. 1.

<sup>110</sup> Rishika Lekhadia, *Can the West Justify its Sanctions against Russia under the World Trade Law?*, 7 Indian J. Int’l Econ. L. 151 2015, p. 168.

<sup>111</sup> UN Doc. A/RES/2625 (XXV), Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 24 October 1970.

consent of the concerned government”<sup>112</sup> and Russia should have waited until the Ukrainian part restored a valid government in Crimea before holding a referendum.

The second condition of the substantial aspect of Article XXI GATT is that there has to be a threat to the sanctioning country’s essential security interests. In that regard Russia could claim that there is no reason to believe that the transfer of Crimea to the Russian Federation implies any direct or potential security threat to Western countries. On their side, the sanctions imposing countries could reply with the globalisation argument saying that in the modern world it seems impossible to think that there will be no spill-over effects to other countries as a result of the secession of Crimea.

The last requirement of Article XXI concerns the necessity of the measures imposed in order to achieve the goal of protecting the sanctioner’s security interests. The term “necessary” has not been interpreted in relation to Article XXI GATT, and the determination of “essential security interests” is left to the concerned states<sup>113</sup>. Hence, it is up to the sanctions imposing countries to determine what measures are deemed necessary to protect their essential security interests. They could argue that without those measures their sanctions against Russian would constitute a mere empty threat and, therefore, they would not work.

To sum up, both parties seem to have valid arguments should the validity of trade restrictions imposed on the Russian Federation be contested in front of the World Trade Law dispute settlement forum. But since such a claim has not been raised, the outcome is difficult to predict. However, the political influence of the Un that strongly condemns Russian actions in Crimea and eastern Ukraine has a great impact on the assessment of the situation and it does not appear to be possible to separate the economic part of the dispute on the application of the MFN principle from the political accusations on Russia’s recent foreign policy in Ukraine and Crimea.

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<sup>112</sup> Rishika Lekhadia, *Can the West Justify its Sanctions against Russia under the World Trade Law?*, 7 Indian J. Int’l Econ. L. 151 2015, p. 169.

<sup>113</sup> *ibid.*, p. 173 and *United States - Trade Measures affecting Nicaragua*, Report of the Panel (unadopted) (L/60533) 13 October 1986.



## 4 The sanctions regime outcomes and consequences.

### 4.1 The outcomes of the EU sanctions against Russia.

Having described the measures imposed by Western countries as a reaction to Russia's actions in Crimean and eastern Ukraine, it is logical to follow the consequences of various types of those sanctions. The present chapter is devoted to the analysis of the outcomes of the sanctions regime, both for the target state (Russia) and for the sanctioning state in the context of Russian countermeasures. The final part of the chapter will provide the author's attempt to reflect on potential developments of the trade relations between the Russian Federation and the European Union and the future of the sanctions regime that is still in force.

As for the original sanctions set, including restrictive measures against selected individuals, those sanctions did not have the effect they were aiming at: growth of pressure on the political elites in charge of Russia's external policy and change of Russia's political behaviour. The individual sanctions have caused the so-called "rally around the flag effect": "rather than shake the public's support for the government, the sanctions have helped the government to mobilize its citizens"<sup>114</sup>. The sanctions have caused a growing patriotism and nationalism among Russians, and many individuals among political elites that have been directly targeted by the EU sanctions regard it as a sign of their belonging and contribution to the Crimea process: "individuals who have been publicly targeted by asset freezes and travel restrictions in the sanctions targeting individuals proudly declare their appearance on Western sanctions lists as a sign of their patriotic solidarity with the fatherland and the political leadership"<sup>115</sup>.

Moreover, according to the Levada Center public opinion survey, the popularity rating of the President of Russia, Vladimir Putin, have only risen since the introduction of the sanctions regime. The support for the Russian President shows an upward trend with figures growing from 63.5% in 2013 up to 81.5% in 2014, and for the time being 82% of the

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<sup>114</sup> Wan Wang, Impact of Western Sanctions on Russia in the Ukraine Crisis, *Journal of Politics and Law*, Vol. 8, No. 2; 2015, p. 4, doi: 10.5539/jpl.v8n2p1.

<sup>115</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 49.

respondents support Putin's actions and policy<sup>116</sup>. Another survey shows that the unity of the population in Russia has also been growing drastically: the percentage of people believing that Russia is a superpower has grown from only 14% in March 2014 up to 68% in November 2014<sup>117</sup>. In that light it can be claimed that the sanctions (both individual and economic) have failed to create a signal for the domestic population in Russia that the regime needs to undergo changes.

In contrast, the imposition of sanctions has made the vast majority of the Russian population believe that the idea behind Western restrictive measures is to weaken Russia's economy and destabilise the country. Another public opinion survey conducted by Levada in December 2014 has shown that only 12% of respondents associate the Western sanctions with the fact that the Crimea has joined the Russian Federation and that the international community condemned Russia's actions in Crimea and eastern Ukraine. The same survey showed that almost 70% saw sanctions as the result of the West's hostile attitudes and wish to exert pressure on Russia<sup>118</sup>.

As for other implications of the economic sanctions against the Russian Federation, the situation does not appear as positive for Russia. As Tatia Dolidze puts it, "The main strength of the EU's latest set of sanctions against Russia is its wide-ranging sectoral nature as compared to the individually-targeted ones of before, which were still restricting but were also restricted"<sup>119</sup>. Those sanctions have had various negative effects on Russian economy.

To start with, the economic sanctions have targeted Russia's oil sector given the fact that Russia's economy is to a great extent resource-dependent. The sanctions' effect was additionally strengthened by the drop in oil prices, a combination of which lead to a significant weakening of the Russian national currency, ruble. In 2014 the ruble-dollar and ruble-euro exchange rate fell by nearly 50%. However, the ruble has managed to partially recover since then. The ruble depreciation lead to capital outflow from Russia, amounting to nearly \$ 130 billion only in 2014.

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<sup>116</sup> Levada Center's "Approval of Governmental Bodies" survey. Source: <http://www.levada.ru/indikatory/odobrenie-organov-vlasti/>.

<sup>117</sup> Levada Center. (2014, December 11). *68% of Russian consider Russia as a great power* Retrieved from <http://www.levada.ru/11-12-2014/68-rossiyan-schitayut-rossiyu-velikoi-derzhavoi>.

<sup>118</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 48.

<sup>119</sup> Tatia Dolidze, *EU Sanctions Policy towards Russia: The Sanctioner-Sanctionee's Game of Thrones*, CEPS Working Document, No. 402 / January 2015. Source: <https://www.ceps.eu>.

Another implication of the EU sanctions concerns the EU's financial restrictions. The European restriction on Russia's access to international financial markets has done damage to the credit conditions, which in its turn has negative effects on investment and consumption<sup>120</sup>. As financial restrictions affected five major state-owned banks in Russia, the consequences were negative for Russia's economy in general. In October 2014 the international credit rating agency Moody lowered Russia's sovereign credit rating from Baal to Baa2<sup>121</sup>. All of those factors could not have left the country's GDP unaffected: Russia's GDP growth was very insignificant if not equal to zero in 2014 when the Western sanctions were imposed, "being merely 0.2 % according to the estimate by the International Monetary Fund (IMF), 0.5 % according to the Organisation for Economic Co-operation and Development (OECD) and 0 according to the European Bank for Reconstruction and Development (EBRD)"<sup>122</sup>.

However, Russian Government took a number of measures to mitigate the effects of financial sanctions. It had to cut public spending in order to support the banking sector that was deprived of European credits and investments. The governmental anti-crisis programme included such measures as bail-outs of company debts (for companies that were targeted by the sanctions, such as Rosneft), amnesty on repatriated capital (that subsequently turned into "simplification of the declaration of assets" in order to avoid money laundering) and introduction of a national payment system. The national payment system was a response to threats to exclude Russia from the SWIFT international bank communication system. The system called "Mir" (that could be translated both as "world" and "peace") was launched in April 2015 and now the issuance of plastic cards has been put in place in accordance with the Federal Law "On national payment system"<sup>123</sup>.

As for the sanctions targeting Russian energy and defence sectors, their effects have yet to be seen. For now it is clear that it will be difficult for the Russian Federation to substitute the high-tech equipment for oil and gas exploration and also space equipment and aircrafts. The ban EU export of advanced technology equipment in energy sector adversely affects new exploration projects on the Arctic shelf with perspectives of limiting research and exploration of oil and gas. However, the exact consequences of this ban have to be seen in the

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<sup>120</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 51.

<sup>121</sup> Wan Wang, *Impact of Western Sanctions on Russia in the Ukraine Crisis*, Journal of Politics and Law, Vol. 8, No. 2; 2015, p. 4, doi: 10.5539/jpl.v8n2p1.

<sup>122</sup> *ibid.*, p. 4.

<sup>123</sup> Federal Law of the Russian Federation of June 27, 2011 No. 161-FZ "On national payment system" (edition of May 01, 2017).

long run. The defense sector is less dependent on Western technology than energy sector, yet with some exceptions. For example, 65-79% of Russia's equipment in rockets and space industry and all of Russia's unmanned vehicles come from abroad<sup>124</sup>. Another example concerns the cancellation of Russian-French agreement on delivery of French Mistral ships that has affected Russia's military capability at sea due to the fact that the Russian Federation is incapable of constructing such helicopter carriers by itself<sup>125</sup>.

## 4.2 Implications of Russian countermeasures on the EU.

The Russian anti-sanctions have mostly hurt the agricultural sector of EU Member States. Although Russian ban affects all the sanction imposing countries, the EU is the actor that has been most affected by the food embargo, with the exception of poultry from the U.S. and fish and crustaceans from Norway, because prior to the embargo the EU was Russia's first trade partner<sup>126</sup>. In 2014, the EU share in the export of the banned food products to the Russian Federation constituted 29% of fruit and vegetables, 24% of cattle meat, 58% of pork and poultry meat and 81% of dairy imports<sup>127</sup>.

But, as has been stated before, the impact of those countermeasures has been unequally distributed between the European countries. Although the analysis concerning the EU as a whole showed that Russian food embargo amounted to less than 0.5% of the GDP in most EU countries<sup>128</sup>, some of them have suffered significantly more. More specifically, the Baltic countries are among the most affected EU Member States. Since 2010 Lithuania's exports to the Russian Federation have accounted to about 10% of the countries GDP, followed by Estonia and Latvia with a bit lower shares, however, still higher than those of other EU countries. The most affected product groups include dairy products from Latvia and Estonia and fruit and vegetables from Lithuania.

Other countries that were targeted by the food embargo include Poland, Greece, Belgium, the Netherlands and Spain in the fruit and vegetables sector. The embargo resulted

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<sup>124</sup> Oxenstierna, Susanne & Olsson, Per, *The economic sanctions against Russia: impact and prospects of success*, Försvarsanalys, Totalförsvarets forskningsinstitut (FOI), Stockholm, 2015, p. 54.

<sup>125</sup> *ibid.*, p. 54.

<sup>126</sup> Pierre Boulanger, Hasan Dudu, Emanuele Ferrari and George Philippidis, *Russian Roulette at the Trade Table: A Specific Factors CGE Analysis of an Agri-food Import Ban*, *Journal of Agricultural Economics*, Vol. 67, No. 2, 2016, 272–291 doi: 10.1111/1477-9552.12156.

<sup>127</sup> *ibid.*, p. 277.

<sup>128</sup> Kaspar Oja, *No milk for the bear: the impact on the Baltic states of Russia's counter-sanctions*, *Baltic Journal of Economics*, 2015, Vol. 15, No. 1, 38–49, <http://dx.doi.org/10.1080/1406099X.2015.1072385>.

in the price drop, that for the two main fruit and vegetables suppliers, Lithuania and Poland, constituted approximately 10%, whereas for the Union as whole it was only 1.9% for fruit and 0.3% for vegetables<sup>129</sup>.

In order to protect the affected EU members the European Commission had to enforce emergency measures, especially for the fruit and vegetable sector. Those measures concerned market withdrawals (free distribution) and compensation for non-harvesting and green harvesting for the abovementioned food sector; in the dairy product sector the emergency measures included private storage aid and public intervention for butter and skimmed-milk powder. Milk produces from such countries as Finland, Estonia, Latvia and Lithuania were granted exceptional aid and additional funds were raised for the promotion of European and foreign markets<sup>130</sup>.

It should be noted, however, that the food embargo has had implications for Russia itself as well. Namely, between 2014 and mid-2016 the imports of milk and dairy products have fallen significantly<sup>131</sup>. The same trend can be seen in the meat imports as well. Although the food embargo's goal was to create opportunities for domestic agriculture food producers by means of import substitution, this aim was fulfilled only to some extent. As for the meat industry, the domestic producers have managed to increase their pork and poultry production, whereas Russian dairy product industry has not increased its production capacity at all<sup>132</sup>. On the other hand, Russian Government had to take additional measures in order to prevent the circumventions of the ban: for example, many food items were illegally imported via Belarus and other CIS countries.

Another effect of the food embargo is the switch of trade partners with the aim to substitute the import of food stuffs that Russia could not manage to produce in great quantities. The milk and dairy products are now imported from Belarus instead of Lithuania; fish is imported from the Faroe Islands instead of Norway and so on.

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<sup>129</sup> Pierre Boulanger, Hasan Dudu, Emanuele Ferrari and George Philippidis, *Russian Roulette at the Trade Table: A Specific Factors CGE Analysis of an Agri-food Import Ban*, *Journal of Agricultural Economics*, Vol. 67, No. 2, 2016, 272–291 doi: 10.1111/1477-9552.12156.

<sup>130</sup> *ibid.*, p. 273-274.

<sup>131</sup> Natalia Shagaida and Vasiliy Uzun. 2015. "Agriculture and Food: Does Import Substitution take place?", *Gaidar Institute for Economic Policy*. p. 2.

<sup>132</sup> Susanne Wengle, *The Domestic Effects of the Russian Food Embargo*, *Demokratizatsiya*. Summer2016, Vol. 24 Issue 3, p281-289. 9p.

### 4.3 Have the EU sanctions accomplished their goal?

Having analysed the various implications of the anti-Russian sanctions and Russian countermeasures, I consider it logical to proceed to the question of whether the measures imposed against the target have had success in the present case.

As can be seen from the previous paragraphs in the present chapter, the economic effects of the sanctions and countersanctions cannot be disregarded. The European restrictive measures have undoubtedly contributed to the weakening and destabilisation of Russia's economy, whereas Russia's food embargo has also had its negative implications on the economic state of particular EU members.

Though the EU has pointed out that economic suffering for Russia was not the ultimate goal of the restrictive measures and that the sanctions were not imposed against the population of the Russian Federation, we cannot deny the indirect economic pain they have caused to ordinary people in Russia. As Russian Government was forced to introduce anti-crisis measures in order to support the financial sector in the country, it had to cut funds on financing health care, infrastructure, and government salaries, which has created economic hardship for ordinary Russians<sup>133</sup>.

However, it was the drop in oil prices and the general state of Russia's economy that triggered the economic suffering of the country in the first place. Emma Ashford points out that the economic implications of the trade restrictions with Russia are a matter of luck: "In fact <...> Western policymakers got lucky: the sanctions coincided with the collapse of global oil prices, worsening, but not causing, Russia's economic decline"<sup>134</sup>.

As for the political consequences, sanctions do not seem to have worked well. On the international arena they have managed to partially fulfill their signaling function, as Russia's actions were condemned on the UN level. At the same time, the signal of disapproval has not reached all the parts of the world as Russia managed to get support from other countries, such as BRICS, and avoid diplomatic isolation. On the internal level, the European sanctions have failed to fulfill their symbolic agenda. The status quo has not been restored in Crimea, which remains a part of the Russian Federation, and there are no reasonable expectations for its return to Ukraine.

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<sup>133</sup> Emma Ashford, *Not-So-Smart Sanctions: The Failure of Western Restrictions against Russia*, Foreign Affairs, January-February 2016, v. 95, iss. 1, pp. 114-23.

<sup>134</sup> *ibid.*, p. 114.

The theoretical function of individual sanctions did not work in the present circumstances. Not only did not Russian elites pressure the decision-makers to change their political attitude, they did vice versa by proudly supporting the President Putin's political agenda. In addition, the political actors targeted by asset freezes and travel restrictions were supported by the political leadership in Russia: "from March to December 2014, companies linked to the Putin cronies Arkady Rotenberg and Gennady Timchenko received 12 percent more in government contracts than they had during the entire previous year"<sup>135</sup>.

In addition to that the signaling effect of the Western sanctions has been weakened "by the fact that the opinions of the EU member states' on the issue have diverged considerably"<sup>136</sup>, which points out to the fact that although the EU does have a Common Foreign Policy and Security agenda, various members of the Union may have and do have different economic interests and priorities in trade, that cannot be ignored.

In other words, the economic effect of the anti-Russian sanctions has failed to trigger political behaviour changes: "although the economic sanctions are considered a successful pressure tool in the economic field they remain controversial as concerning the foreign policy"<sup>137</sup> as, for example, in the case of sanctions against Iran, that have induced sufficient degree of economic suffering but have not been successful in terms of affecting the foreign policy choices of the target country. In the same manner, the economic sanctions against the Russian Federation are unlikely to force Russian leadership to abandon their external policy intentions and position.

#### **4.4 Possible scenarios for the future of EU-Russian trade relations.**

The debate on the lawfulness of Russia's actions in Crimea and eastern Ukraine as well as on the legitimacy of the restrictive measures and countersanctions can be never-ending. But the Ukrainian crisis is now a reality that the parties involved have to deal with. In that regard, what are the possible options of moving forward that can apply in practice in the EU-Russian future trade relations?

Pernille Rieker and Kristian Lundby Gjerde point out that "throughout the crisis, both

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<sup>135</sup> *ibid.*, p. 117.

<sup>136</sup> Viljar Veebel, Raul Markus, *LESSONS FROM THE EU-RUSSIA SANCTIONS 2014-2015*, *Baltic Journal of Law & Politics* 8:1 (2015): 165-194 <http://www.degruyter.com/view/j/bjlp> DOI: 10.1515/bjlp-2015-0015.

<sup>137</sup> ANDREEA – EMANUELA DRĂGOI, NAPOLEON POP, *Scenario Analysis for the Perspectives of the EU-Russian Federation Relationship*, *Global Economic Observer*. 2016, Vol. 4 Issue 2, p66-73. 8p.

the EU and Russia seem to have expected the other side to admit the fundamental misguidedness of its earlier ways”<sup>138</sup>. However, the actions of the opposite party never lived up to those expectations, as both Russia and the EU have proceeded with their approaches throughout the crisis situation. It is obvious that the EU and Russia have different views on the situation and no party is willing to give in on its position. How could they possibly continue trade cooperation in the present circumstances?

A. Dragoi and N. Pop identify four possible options for the development of EU-Russian relations, two of them being optimistic and the other two pessimistic, which are as follows:

- 1) Pragmatic Cooperation. This is the first optimistic scenario. In this case the economic relations between the EU and the Russian Federation will continue; however their scope will be limited to the essential economic minimum, only in the spheres where the parties are able to come to terms with each other. Such a scenario presupposes gradual improvement of economic relation and potential lifting of the restrictive measures;
- 2) The Common House. The second, and the most optimistic scenario. According to it, the parties will not only improve their economic ties, but also manage to find political compromise and common values, such as fight against international terrorism or other cross-border challenges in the modern globalised world. This scenario requires changes in the political lines of both Russia and the EU.
- 3) Broken Cooperation. This is the first pessimistic option, presupposing the new “Cold War” situation. In this scenario the dramatic political differences of the parties make economic relations impossible. In the present case an outcome of this kind would be detrimental for both the Russian Federation and the EU, as they still remain important trade partners for each other.
- 4) The Cold Peace. This is the other pessimistic scenario, which in essence describes the present relationship between the EU and Russia. In this case the parties cannot reach compromise on political matters, but continue the necessary economic cooperation. This situation implies that the economic sanctions and countersanctions

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<sup>138</sup> Pernille Rieker & Kristian Lundby Gjerde (2016) *The EU, Russia and the potential for dialogue – different readings of the crisis in Ukraine*, *European Security*, 25:3, 304-325, DOI: 10.1080/09662839.2016.1186013.



are still in force and the parties bear their consequences.<sup>139</sup>

In light of the possible development scenarios described above, it appears that the two most drastic options, the Common House and Broken Cooperation, are the least realistic outcomes in the present circumstances. The first one is too optimistic and politically costly for both parties and, thus, is highly unlikely to happen. The second one might be more realistic should the parties enhance their restrictive policies against each other. At the same time it does not bring any benefits to any of the parties to the conflict and in today's situation does not appear as a desirable outcome.

The other two options, Pragmatic Cooperation and the Cold Peace, seem to describe more realistic scenarios. In essence, the key difference between those two options is whether economic restrictions and Russia's countersanctions are going to be maintained or lifted. For the time being, the Cold Peace situation appears to continue, but in my view, the sanctions regime cannot last forever, bearing in mind the economic costs of those restrictions. So, eventually the sphere of the sanctions regime influence is likely to be reduced and at some point the restrictive measures will be mutually eliminated. However, such an improvement is only possible if both parties manage to proceed with the dialogue and find an appropriate political solution to the current situation.

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<sup>139</sup> ANDREEA – EMANUELA DRĂGOI, NAPOLEON POP, *Scenario Analysis for the Perspectives of the EU-Russian Federation Relationship*, Global Economic Observer. 2016, Vol. 4 Issue 2, p66-73. 8p.

## 5 Conclusion.

In conclusion I would like to point out that the Ukrainian crisis has highlighted the interdependency of various countries in today's globalised world. Having described and analysed the chronological developments of the crisis and its implications in form EU sanctions and Russian countermeasures, and having provided the review of the effects that those restrictive measures have had on both parties to the conflict, I have fulfilled the aim of the present research.

In the course of this master thesis both theoretical and practical aspects of the sanctions were touched upon with help from scientific articles, books, EU acts, WTO and Russian legislation, as well as empirical data from various sources. More specifically, Chapter 2 was devoted to theoretical issues on sanctions, among which I presented the brief historical development of restrictive measures starting from conventional, or comprehensive sanctions, and following their evolution until present days. Afterwards, in the subsequent section of Chapter 2 I highlighted different approaches to the definition of the notion of sanctions and economic sanctions. In the same chapter I outlined various classifications of sanctions, as well as different theoretical conceptions on the effectiveness of economic restrictive measures.

In Chapter 3 the factual background to the Ukrainian crisis was given and after that the different kinds of sanctions that the EU imposed as a reaction to Russian actions in Crimea and eastern Ukraine were discussed. Having presented the Western restrictive measures against the Russian Federation, I proceeded to analysing the corresponding countermeasures from the Russian side. In the final section of Chapter 3 the main concerns regarding the legitimacy of anti-Russian sanctions and countersanctions were presented.

Finally, Chapter 4 covered the actual effects of the sanctions imposed by the EU and by the restrictive measures imposed in response by the Russian Federation. On the basis of the implications on both sides, and in accordance with the theoretical effects of sanctions (tool for coercion, constraining effect and sending a signal) the actual results of the European restrictive measures were compared to their goals. The effects of Russian food embargo were presented in the subsequent section of Chapter 4. The last section in the same Chapter provides potential ways of moving on for the parties to the current sanctioning situation, presenting both optimistic and pessimistic scenarios for future EU-Russian trade relations.

Having reflected on the abovementioned issues regarding sanctions against the Russian Federation, I came to the conclusion that those sanctions have not been successful in terms of

achieving their political aims. The situation regarding the secession of Crimea to Russia has not changed because of the restrictive measures introduced by the EU and other countries. Neither have individual sanctions in form of travel bans and asset freezes worked they way they were intended to. However, the economic measures have had a significant impact on the Russian Federation. Those sanctions have succeeded in inducing economic pain on the target state, but that did not lead to the expected changes in political behaviour from Russia's side.

On the other side, the EU had to face economic consequences of their own trade restrictions as well as Russia's agricultural products embargo. The reluctance of certain Member States to participate in the anti-Russian sanctions and the economic pain caused by the embargo show that the political decisions of EU members are influenced by their own economic interests in the first place. The lack of unity on what restrictions have to be imposed mitigated the effect of the sanctions.

Other reasons for the not so successful results of anti-Russian sanctions include the support that Russia got from some Asian countries, the mitigation of the individual sanctions' impact by target's political elites, the "rally around the flag" effect in the Russian Federation and import substitution.

Coming back to the research questions posed in the introduction part of the present thesis, I should conclude that the goal of the present research has been fulfilled, namely, the effects and consequences of anti-Russian restrictive economic measures and Russian countersanctions have been outlined and analysed. Moreover, some suggestions on the future development of EU-Russian economic relations have been suggested and critically assessed in the final section of Chapter 4.

This master thesis provides an additional proof to the fact that the globalisation and interdependence of the countries in the modern world make it nearly impossible to exclude one of the states (especially a big and economically significant one) from the international arena even though that country is said to have broken international law norms. This, in its turn, points to the fact that economics, politics and law have become increasingly interrelated and it does not seem possible to analyse one aspect of the problem without touching upon other components.

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