

Unilateral Sanctions in International Relations: An Analysis on the European Union's Restrictive Measures

by

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Unilateral Sanctions in International Relations: An Analysis on the European Union's Restrictive Measures

Koç University

Graduate School of Social Sciences and Humanities

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To my grandparents,

ABSTRACT

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Since the 1950s, despite the occasional resort to armed force by states, use of non-military force has become prevalent in international affairs. Often, such use of force was done collectively, via United Nations (“UN”) sanctions—economic, diplomatic, or otherwise—under Chapter VII of the UN Charter. However, in the past few years, “sanctions” took a different turn. This thesis examines the European Union’s (“EU”) overreliance on restrictive measures as a central tool of its foreign policy, exploring the paradox of an organization grounded in liberal principles but increasingly employing realist strategies. As the EU has become more dependent on restrictive measures to safeguard its strategic interests—particularly in the absence of cohesive military power—significant questions arise about its position in the international arena, its commitment to international law, and the relationship between EU law and international legal norms. The analysis focuses on the legal and political dimensions of EU restrictive measures, conducting case studies of Turkey, Russia, and Zimbabwe to explore the motivations, justifications, and implications of such measures. It adopts a two-staged analysis. The first stage examines whether these restrictive measures comply with international law, assessing the correct terminology and legal classification. The second stage explores the interests and strategic considerations driving the EU's decisions to impose such measures. Overall, this interdisciplinary study concludes that EU restrictive measures function as a hybrid instrument, combining strategic self-interest with liberal rhetoric, reflecting the EU's evolving role as both a sui generis organization and a geopolitical force.

ÖZETÇE

Uluslararası İlişkilerde Tek Taraflı Yaptırımlar: Avrupa Birliği'nin Kısıtlayıcı Tedbirlerine İlişkin Bir Analiz

Özge Karsu

Uluslararası İlişkiler ve Siyaset Bilimi, Yüksek Lisans

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1950'lerden bu yana, devletlerin zaman zaman silahlı güce başvurmalarına rağmen, asker olmayan güç kullanımının uluslararası ilişkilerde giderek yaygınlaştığı gözlemlenmektedir. Bu tür güç kullanımı çoğunlukla, Birleşmiş Milletler ("BM") Şartı'nın VII. Bölümü uyarınca uygulanan ekonomik, diplomatik veya diğer türden BM yaptırımları yoluyla kolektif biçimde gerçekleştirilmektedir. Ancak son yıllarda "yaptırımlar" farklı bir yön kazanmıştır. Bu tez, Avrupa Birliği'nin ("AB") dış politikasının merkezinde yer alan kısıtlayıcı tedbirlere aşırı bağımlılığını incelemekte; liberal ilkelere dayalı bir örgütün giderek daha fazla realist stratejilere yönelmesiyle ortaya çıkan paradoksu tartışmaktadır. AB'nin askerî gücünün sınırlı olduğu koşullarda stratejik çıkarlarını korumak için kısıtlayıcı tedbirlere giderek daha sık başvurusu, AB'nin uluslararası toplumdaki konumu, uluslararası hukuka bağlılığı ve AB hukukunun uluslararası hukuk normlarıyla ilişkisi hakkında önemli sorular doğurmaktadır. Araştırma, AB'nin kısıtlayıcı tedbirlerinin hukuki ve siyasi boyutlarına ilişkin bir analiz sunmakta; Türkiye, Rusya ve Zimbabve örneklerini inceleyerek bu tedbirlerin arkasındaki motivasyonları, gerekçeleri ve sonuçları incelemektedir. Tez iki aşamalı bir analiz benimsemektedir. İlk aşama, bu tedbirlerin uluslararası hukukla uyumlu olup olmadığını incelemekte; doğru terminoloji ve hukuki sınıflandırmayı değerlendirmektedir. İkinci aşama ise AB'nin bu tür tedbirleri uygulama kararlarının arkasındaki çıkarları ve stratejik hesaplamaları ele almaktadır. Genel olarak bu disiplinlerarası çalışma, AB'nin kısıtlayıcı tedbirlerinin stratejik çıkar ile liberal söylemi birleştiren hibrit bir araç işlevi gördüğü ve AB'nin hem kendine has bir örgüt hem de jeopolitik bir aktör olarak rolünü yansıttığı sonucuna varmaktadır.

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I am also deeply grateful to the Deans of the College of Administrative Sciences and Economics and the Law School at Koç University, Professor Şuhnaz Yılmaz Özbağcı and Professor Bertil Emrah Oder. They have consistently supported my interdisciplinary interests and encouraged me to pursue a career in research—as a scholar, and as a woman in academia. Their encouragement, and openness to allow me pursue research across both faculties gave me the confidence and institutional support to pursue this work.

I would like to extend my sincere thanks to Professor Muna B. Ndulo—my supervisor's supervisor—and Professor Cristina Contartese, who both served on my thesis

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I also owe a debt of gratitude to the inspiring International Relations faculty, especially Professor Ziya Öniş, Professor Belgin San Akca, Professor Bahar Rumelili, Professor Şener Aktürk, Professor Boğaç Erozan, and Professor Merih Angın. Beyond these academic mentors, I have also been fortunate to receive support from many amazing people across different departments at Koç University. I would like to extend my thanks to Aylin Büyük Türot, Cansu Yamanlar, Vildan Ertuğrul, Tülay Anlaş Koçak, and Esra Özcan.

I owe special thanks to the Koç University Maritime Forum—its founding director, Retired Admiral Cem Gürdeniz, and its executive director, Professor Gülay—for supporting my thesis and other research by providing me with a space to study, a generous travel grant to attend several international conferences, and opportunities to contribute to their projects.

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ABBREVIATIONS

AL	Arab League
ARSIWA	Articles on State Responsibility
ASEAN	Association of Southeast Asian Nations
AU	African Union
CFPS	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
DARIO	Draft Articles on the Responsibility of International Organizations
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECtHR	European Court of Human Rights
EEZ	Exclusive Economic Zone
EU	European Union
GATT	General Agreement on Tariffs and Trade 1994
ICCPR	International Covenant on Civil and Political Rights
ICJ Statute	Statute of the International Court of Justice
ILC	International Law Commission
ILO	International Labor Organization
IO	International Organization
NGO	Non-governmental Organization
Optional Protocol 1	European Convention on Human Rights Optional Protocol 1
Optional Protocol 4	European Convention on Human Rights Optional Protocol 4
OAS	Organization of American States
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
TPAO	Turkish Petroleum Corporation
UN	United Nations
UN Charter	Charter of the United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council

VCLT	Vienna Convention on the Law of Treaties
WHO	World Health Organization
WTO	World Trade Organization



What becomes a “crisis” in the world and will involve the political energy and resources of the international system is determined in a thoroughly Western-dominated process.¹

Chapter 1:

INTRODUCING THE PROBLEM: THE PARADOX OF THE EU’S SANCTIONS(!)-CENTERED FOREIGN POLICY

The European Union (“EU”) was created with the Treaty on European Union (“TEU”) which was signed on 7 February 1992 and entered into force on 1 November 1993.² Under Chapter 2 of the TEU, the EU acts in the international system are governed by its Common Foreign and Security Policy (“CFSP”).³ The EU’s CFSP covers “*all areas of foreign policy and all questions relating to the Union's security*”.⁴ The Council of the European Union (“Council”) can adopt decisions to impose restrictive measures⁵ on non-member states under the CFSP.⁶ As of October 2025, the EU has a total of 49 restrictive measures regimes targeting 35 non-member states.⁷

What does it mean for the EU to place restrictive measures at the core of its foreign policy? Are these measures upholding normative values or strategic interests? What does this show about the EU’s position in the international arena? What is the role and significance of international law in monitoring the EU measures? Lacking a cohesive military capability or

¹ Martti Koskeniemi, ‘What is International Law For?’, in M. Evans (ed.) *International Law* (OUP 2003), 89, p.95-96.

² Treaty on European Union (signed on 7 February 1992, entered into force on 1 November 1993) 1757 UNTS 3 (“TEU”).

³ TEU, Article 23.

⁴ TEU, Article 24.

⁵ The EU restrictive measures are commonly known as “the EU sanctions”. The term EU sanctions will not be used in this thesis, unless it is included in a direct quotation. For a detailed explanation of the relevant concepts, see Section IV.

⁶ TEU, Article 29.

⁷ See EU Sanctions Map <<https://www.sanctionsmap.eu/#/main>> (“EU Sanctions Map”); European Commission, Directorate-General for Financial Stability, Financial Services and Capital Markets Union, “Consolidated list of persons, groups and entities subject to EU financial sanctions” (21 October 2024) <<http://data.europa.eu/88u/dataset/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions>>.

a similar means of power, the EU often resorts to restrictive measures as a means to safeguard its strategic interests. It resorts to the EU law as the legal basis, placing restrictive measures at the heart of its foreign policy and supporting their lawfulness. This presents two important intellectual questions. First, it goes back to the longstanding discussions concerning the relationship and hierarchy between the EU law and international law. Second, it presents an intellectual paradox for the EU's purported liberal order: an organization grounded in liberal principles ends up employing an illiberal tool by its overreliance on self-help measures.

The landmark example of this tension between EU law, international law, and the EU's position in the international arena is the *Kadi* case, where the European Court of Justice ("ECJ") ruled that the United Nations Security Council ("UNSC") resolutions must comply with the fundamental rights protected under the EU law.⁸ A decade after the *Kadi* case, the EU has been over-relying on restrictive measures, imposing them on individuals, entities, and third states outside the EU legal order.

A recent story illustrates how extensively the EU has come to rely on restrictive measures, even against fundamental rights. On 4 February 2024, Guy Verhofstadt, a member of the European Parliament, shared a post on Twitter (X) criticizing Tucker Carlson following his interview⁹ with the Russian President Vladimir Putin. He stated "*Tucker Carlson is surely on the path to being labelled a propagandist for the Russian regime. If he enables disinformation for Putin, the EU should explore a travel ban !*".¹⁰ Luis Garicano, a former member of the European Parliament, also agreed with Verhofstad by arguing "*He is no longer a newsman, but a propagandist for the most heinous regime on European soil and the one which is most dangerous to our peace and security*".¹¹ Urmas Paet, a member of the European Parliament, further stated "*So, for such propaganda for a criminal regime, you can end up on the list of sanctions. This concerns primarily travel ban to EU countries.*"¹²

⁸ See Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities, Judgment of the Court (Grand Chamber) of 3 September 2008.

⁹ 'Interview to Tucker Carlson' (President of Russia, 9 February 2024) <<http://en.kremlin.ru/events/president/news/73411>>.

¹⁰ Post from Guy Verhofstadt (X) <<https://twitter.com/guyverhofstadt/status/1754517903167173061>>.

¹¹ 'Exclusive: Tucker Carlson Could Face Sanctions Over Putin Interview' (Newsweek, 7 February 2024) <<https://www.newsweek.com/tucker-carlson-sanctions-eu-putin-interview-1867655>>.

¹² 'Exclusive: Tucker Carlson Could Face Sanctions Over Putin Interview' (Newsweek, 7 February 2024) <<https://www.newsweek.com/tucker-carlson-sanctions-eu-putin-interview-1867655>>; Post from Urmas Paet (X) <<https://twitter.com/Urmaspaet/status/1755208100003320115>>.

The reasoning behind the alleged or proposed travel ban against Carlson was making a propaganda of Putin and the Russian policies, a rationale that amounts to banning the free speech of a journalist.

Even though the EU did not take any measure against Carlson, it is still relevant to question why do politicians or policy makers over-rely on sanctions as a tool for policy making or enforcement. This requires a two-staged analysis, which is followed in this thesis. The first stage of analysis evaluates whether the EU's restrictive measures targeting non-member states comply with international law. This question goes beyond a mere legal analysis. It concludes whether the EU complies with its founding values which include the respect for rule of law and human rights.¹³ This constitutes the political puzzle behind the second stage analysis, namely, the reasons behind EU's decisions to impose restrictive measures. The second stage explores "What interests and strategic considerations drive the EU to impose unilateral restrictive measures on non-member states?". The theoretical significance of this analysis comes from two phenomena. First, the EU is an international organization, which aligns with the liberal perspective. Second, the EU includes the respect to the rule of law as its founding principles. This stage includes case studies on Turkey, Russia, and Zimbabwe, analyzing the interests and strategic considerations behind the restrictive measures.

Overall, the thesis conducts a legal assessment of the EU restrictive measures and evaluates their rationale from an interdisciplinary perspective. It is organized in six sections. Section II introduces the theoretical framework and literature review. Section III focuses on international organizations and the EU, including the CFSP and the EU law on restrictive measures. Section IV conducts the legal assessment, by introducing different legal concepts and classifying the EU restrictive measures under international law. Section V analyzes the cases of Turkey, Russia, and Zimbabwe, both from a legal and a political science perspective. Section VI presents concluding remarks.

¹³ TEU, Article 2.

International politics, like all politics, is a struggle for power.¹⁴

Chapter 2:

THEORETICAL FRAMEWORK & LITERATURE REVIEW

This section presents the theoretical framework and literature review guiding this thesis, situating the issue within the broader context of international relations theories. The research draws on three key strands: (1) the paradox of the EU as a liberal international organization employing realist approaches, (2) the extension of normative rules beyond the EU regime by targeting non-member states, and (3) existing scholarship on the EU restrictive measures.

2.1. The Paradox of the EU

The first theoretical framework of this thesis concerns the paradox of the EU—an international organization rooted in liberal principles, resorting to unilateral sanctions, a measure traditionally associated with realist approaches. This analysis will draw on the two prominent theories of international relations: liberalism and realism, in order to understand why the EU imposes sanctions on non-member states. It is important to note that these two theories will only be evaluated from the perspective of the use of unilateral measures by international organizations. The thesis does not aim to contribute to or critique these theories, nor does it seek to provide an explanation of them.

Liberal points of view to international relations focus on institutions, and collectively held rules.¹⁵ According to liberalism, international organizations like the EU play an important role in promoting cooperation and peace to the international arena. Liberalism puts an emphasis on the platforms to solve problems of collective security.¹⁶ The main idea is that there exists a “society of states” in which the relationship between states “facilitate and promote cooperation, coordination, and nonviolent modes of conflict resolution”.¹⁷ The EU,

¹⁴ Hans J. Morgenthau, *Politics Among Nations* (Alfred A. Knopf 1949), p.13.

¹⁵ John M. Owen, “Liberal Approaches” in Alexandra Gheciu and William C. Wohlforth (eds.) *The Oxford Handbook of International Security* (OUP, 2018).

¹⁶ Jon C. Pevehouse and Joshua S. Goldstein, *International Relations* (Pearson, 2011), p.86-87.

¹⁷ David Kinsella, Bruce Russett, and Harvey Starr, *World Politics: The Menu for Choice* (Wadsworth Cengage Learning 2013), p.22 (“Kinsella, Russett and Starr, 2013”). See also Immanuel Kant, *Perpetual Peace: A*

as a normative power,¹⁸ embodies these principles through its commitment to multilateralism, rule of law, and human rights.¹⁹

Realists, on the other hand, assume that states are the primary actors in international relations and they act “self-interested, even selfish, and seek to dominate others”.²⁰ Accordingly, they cannot be dependent on cooperation, but rather act in a constant state of war.²¹ Realists argue that cooperation between states is fragile and largely dependent on temporary alignments of interests, rather than shared values or institutional frameworks.²² Even in the case that they cooperate, they will terminate the cooperation when it does not serve the national interests.²³ Realists put a great emphasis on the anarchic nature of the world in which states exist in a “self-help” system with a zero-sum game.²⁴ In the realist view, states operate in this self-help system where they must rely on their own capabilities in order to secure their interests. From a realist perspective, self-help measures, including non-military unilateral measures, serve as a means to coerce or influence other states for national or collective interests.²⁵ More specifically, those measures can be employed with the aim of influencing the target state, punishing its policies, and demonstrating a symbolic opposition to those policies.²⁶ The EU’s increasing reliance on such measures, the target being the non-member states, and the involvement of EU strategic interests positions the EU measures closer to a realist approach.

Philosophical Sketch (1795); John R. Oneal and Bruce Russett, *Triangulating Peace: Democracy, Interdependence, and International Organizations* (W.W. Norton & Company 2000); Robert O. Keohane, “Reciprocity in International Relations” (1986) 40 *International Organizations* 1; George W. Downs and David M. Roache, *Optimal Imperfection?: Domestic Uncertainty and Institutions in International Relations* (Princeton University Press, 1997).

¹⁸ Ian Manners, *Normative Power Europe: A Contradiction in Terms?* (2002) 20 *JCMS* 235.

¹⁹ TEU, Article 2.

²⁰ Stephen M. Walt, “International Relations: One World, Many Theories” (1998) *Foreign Policy* No.110, 29; Kinsella, Russett and Starr, 2013”).

²¹ John J. Mearsheimer, “Back to the Future: Instability in Europe after the Cold War” (1990) 15 *International Security* 5.

²² Daniel W. Drezner, “Global Economic Sanctions” (2024) *Annual Review of Political Science*, 9 (“Drezner 2024”).

²³ Kinsella, Russett and Starr, 2013, p.22.

²⁴ Kinsella, Russett and Starr, 2013, p.23.

²⁵ Nicholas Mulder, *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press 2022); Richard Nephew, *The Art of Sanctions: A View from the Field* (Columbia University Press 2017).

²⁶ Barry E. Carter, *International Economic Sanctions: Improving the Haphazard U.S. Legal Regime* (1987) 75 *California Law Review* 1159, 1170. See also Iryna Bogdanova, *Unilateral Sanctions in International Law and the Enforcement of Human Rights* (Bril 2022), p. 45 et. seq.

Contrary to the view of some scholars that the EU is facing “a shift from an optimistic to a sceptical form of liberal ‘actorness’ while the basic liberal ideals are, however, kept intact”,²⁷ the EU's overreliance on unilateral measures suggests a more foundational and critical shift. This thesis seeks to argue that the EU has shifted its approach in international politics by increasingly and extensively relying on unilateral measures targeting non-member states.

2.2. *Imposing Rules Beyond the Regime*

The second theoretical framework of this thesis concerns the application of some rules beyond the regime. Regime theory defines “international regime” as “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of IR”.²⁸ Other alternative definitions include “sets of governing arrangements that include network rules, norms, and procedures that regularize behavior and control its effects”;²⁹ and “general interpretative principles which require or authorize prescribed classes of persons or groups to behave in prescribed ways”³⁰. This thesis will not evaluate whether the EU itself constitutes a regime; instead, it accepts that the EU is governed by a set of rules that are binding on its member states. However, the EU attempts to expand its power beyond its borders, seeking to influence and shape the behaviour of non-

²⁷ Christine Nissen and Jakob Dreyer, "From optimist to sceptical liberalism: reformatting European Union foreign policy amid crises" (2024) 100 *International Affairs*, 675, 676.

²⁸ Stephen D. Krasner, "Structural Causes and Regime Consequences: Regimes as Intervening Variables" (1982) 36 *International Organization* 185; Stephen D. Krasner, "Regimes and the limits of realism: regimes as autonomous variables" (1982) 36 *International Organization* 497.

Krasner states that formulating regimes as intervening variables raises two questions: “(1) What is the relationship between basic causal factors such as power, interest, values, and regimes? (2) What is the relationship between regimes and regime related outcomes and behavior?”. Traditionally, there are three points of view regarding the significance of regimes. The first approach, grotian perspective (Puchala and Young), sees regimes as a pervasive characteristic of the international system. The second approach, modified structural perspective (Stein and Keohane), accepts basic analytic assumptions of structural realist approaches and argues that regimes can have an impact under certain conditions. The third approach, mainly represented by Strange, argues that regime is a misleading concept that obscures basic economic power relationships.

See D. J. Puchala, "International Regimes: Lessons From Inductive Analysis" (1982) 36 *International Organization* 245; Oran R. Young, "Regime Dynamics: The Rise and Fall of International Regimes" (1982) 36 *International Organization* 277; Arthur A. Stein, "Coordination and Collaboration: Regimes in an Anarchic World" (1982) 36 *International Organization* 299; Robert Owen Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Little, Brown, 1977); Susan Strange, "Cave! Hic Dragones: A Critique of Regime Analysis" (1982) 36 *International Organization* 479.

²⁹ Robert Owen Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Little, Brown, 1977).

³⁰ Hedley Bull, *The anarchical society: a study of order in World politics* (Columbia University Press 2012).

member states by its restrictive measures. Such measures raise questions concerning the dynamics between regional regimes and the international order. This thesis engages with the regime theory to evaluate how the EU broadens the scope of its power, targeting the non-member states through its restrictive measures.

2.3. EU Restrictive Measures

The current literature on the EU restrictive measures can be examined under two categories: first, works focusing on the EU restrictive measures regime and second, works that provide a comparison of EU measures with other measures/sanctions regimes. These include an analysis of the restrictive measures practice, but lack a broader assessment concerning the powers of the EU as an international organization to impose measures on non-member states, as well as the rationale behind these decisions. The first group of scholarship includes in-depth analysis concerning the mechanisms, effectiveness, justifications and consequences of the EU restrictive measures. Portela evaluates the EU as a sanctioning actor in international relations with a focus on the restrictive measure practice of the EU between 1987-2003.³¹ Giumelli further focuses on the question of “how EU sanctions work?”³² His research evaluates the EU as a regional sanctioner actor and analyzes the sanctions narrative of the EU. Eriksson³³ and Portela³⁴ separately examines the EU's implementation of targeted sanctions and their effectiveness. The second group of scholarship mostly focuses on the comparison and connection between the UN sanctions and the EU restrictive measures. Charron and Portela's research³⁵ focus on the comparison of these UN sanctions and EU restrictive measures regime in the African region, Anthony³⁶ makes the comparison of those sanctions regimes from a broader perspective and Guimelli³⁷ focuses on the EU and UN

³¹ Clara Portela, “Where and why does the EU impose sanctions?” *Politique européenne*, No. 17, A la recherche de la politique étrangère européenne (automne 2005), p 83-111.

³² Francesco Giumelli, *How EU sanctions work: A new narrative* (2013) European Union Institute for Security Studies.

³³ Mikael Eriksson “EU Sanctions: Three cases of targeted sanctions” in P. Wallenstein and C. Staibano (eds.) *International Sanctions: Between Words and Wars in the Global System* (2005).

³⁴ Clara Portela, “The EU's Use of Targeted Sanctions. Evaluating Effectiveness” (2014), CEPS Working Documents N°. 391.

³⁵ Andrea Charron and Clara Portela, “The UN, regional sanctions and Africa” (2016) 91 *International Affairs* 1369.

³⁶ Ian Anthony, “Sanctions applied by the European Union and the United Nations” (2002) *SIPRI Yearbook*.

³⁷ Francesco Giumelli, “Coercing, Constraining and Signaling: Explaining UN and EU Sanctions after the Cold War” (2011) Colchester, ECPR Press.

sanctions regime after the cold war. Another significant area of comparison is between the EU and US measures regimes. These include Falke³⁸ and Borzyskowski and Portela³⁹.

The most important shortcoming of these works is the presumption of the lawfulness of the EU restrictive measures. Indeed, most of these studies refer to the EU restrictive measures as “sanctions”, overlooking the legal perspective. One might argue that analysis in international relations, political science, or comparative politics do not necessarily require a legal assessment. However, when the object of study is a legal concept—such as sanctions or restrictive measures—a legal assessment becomes necessary to evaluate the process and functioning of the concept. For a comprehensive understanding of the lawfulness and rationale of the EU restrictive measures regime, it is required to adopt an interdisciplinary perspective combining international relations and international law. The rules of the international system are defined and governed by international law. This includes the determinations of actors in the international arena and their legal capability to engage in relations. Under the rules of international law, different actors have different rights and obligations towards others. It is critical to analyze the extent of these rights with respect to different actors in the international system. Otherwise, without an interdisciplinary understanding, the research will either disregard the rules of the game or the politics of it. The main purpose of this thesis is to adopt this interdisciplinary approach to evaluate the restrictive measures from a broader perspective of actors in international relations.

³⁸ Andreas Falke, “The EU-US Conflict over Sanctions Policy: Confronting the Hegemon” (2010) 5 *European Foreign Affairs Review* 139.

³⁹ Inken von Borzyskowski and Clara Portela, “Piling on: the rise of sanctions cooperation between regional organizations, the United States, and the EU” (2016) KFG Working Paper Series, Vol.70.

International organizations belong to all their members ~~and to none~~. They belong to some more than others.⁴⁰

Chapter 3:

INTERNATIONAL ORGANIZATIONS AND THE EU EXCEPTIONALISM

3.1. Terminology on International Organizations

The use of the term “international organization” goes back to 1871 when Scottish jurist James Lorimer emphasized this wording in his article titled “*Proposition d'un Congres International base sur le Principe de facto*”.⁴¹ Yet, until recently, the term “intergovernmental organization” was preferred by many authorities in international law.⁴² The International Law Commission (“ILC”)⁴³ was using the term intergovernmental organization without providing a comprehensive definition.⁴⁴ Similarly, the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character defined the term international organization as “an intergovernmental organization”.⁴⁵ The same definition is also adopted by the Vienna

⁴⁰ Kerem Gülay, “Halkaların Efendisi: Uluslararası Örgütler Hukuku Bakışıyla Uluslararası Olimpiyat Komitesi” in Mehmet Polat Kalafatoğlu (eds.) *Olimpiyat Oyunları ve Hukuk* (On İki Levha Yayıncılık 2020), p.119. The quote was translated from Turkish by the author. The original reads: “[U]luslararası örgütler bütün üyelerine aittir ve hiçbirine ait değildir.” Bazılarına daha çok aittir.”

⁴¹ Pitman B. Potter, “The Origin of the Term International Organization” (1945) 39 AJIL 803, 805; Niels Blokker, *International Institutional Law* (Martinus Nijhoff Publishers, 2003) (“Blokker, 2003”) p.29.

⁴² Blokker, 2003, p.29.

⁴³ The ILC was established by the United Nations General Assembly, by the Resolution 174 (II) of 21 November 1947 as per Article 13(1)(a) of the UN Charter. The object of the ILC is to promote progressive development of international law and its codification. It is governed by the Statute of the International Law Commission annexed to Resolution 174 (II).

See International Law Commission <<https://legal.un.org/ilc/>>.

⁴⁴ Blokker, 2003, p.29, Yearbook of the International Law Commission (1985), Vol II. Part One.

⁴⁵ Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character (signed on 14 March 1975, did not enter into force), Article 1(1)(1).

Convention on the Law of Treaties between States and International Organizations or between International Organizations.⁴⁶

The ILC adopted a new approach and defined international organization as “an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality” in its Draft Articles on the Responsibility of International Organizations (“DARIO”).⁴⁷ The commentary of DARIO recognizes the weaknesses of the term intergovernmental organization. First, it is unclear whether intergovernmental organizations is the constituent instrument or the membership; and second, it is not the accurate term since some organizations are formed with state organs.⁴⁸ Considering these weaknesses, this research adopts the term “international organization”, which reflects the legal characterization used by the ILC.

3.2. Classification of International Organizations

International organizations (“IOs”) can be classified in several different ways and these classifications are not mutually exclusive. Two of the most used and accurate classifications are based on membership and function.⁴⁹ Classification by membership distinguishes IOs based on their members, whereas classification by function differentiates them according to their mandates.

The classification based on membership includes three subcategories. The first one concerns the scope of membership. This category makes a distinction between universal and regional organizations. A universal organization includes all states as its members, whereas regional organizations are defined as an organization that includes members from a specific

⁴⁶ Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (signed on 21 March 1986, did not enter into force), Article 2(1)(i).

⁴⁷ DARIO was adopted by the International Law Commission at its sixty-third session, in 2011, and submitted to the General Assembly (A/66/10). See Draft Articles on the Responsibility of International Organizations (2011), Yearbook of the International Law Commission, Vol II, Part Two, Article 2(a) (“DARIO”).

Giorgio Gaja, ILC's Special Rapporteur, influenced this change. Gaja argued that the ILC needs a new definition for international organizations in DARIO due to the need for a more precise definition. See Responsibility of International Organization, First report on responsibility of international organizations, by Mr. Giorgio Gaja, Special Rapporteur, Document A/CN.4/532 (26 March 2003).

⁴⁸ DARIO Commentary was adopted by the International Law Commission at its sixty-third session, in 2011, and submitted to the General Assembly (A/66/10). See Draft Articles on the Responsibility of International Organizations, with Commentaries (2011), Yearbook of the International Law Commission, Vol II, Part Two (“DARIO Commentary”) p. 49.

⁴⁹ Yearbook of the International Law Commission 1963, Volume II, Documents of the fifteenth session including the report of the Commission to the General Assembly (“ILC Yearbook 1963, Volume II”).

region.⁵⁰ There is no universal international organization, even including the most powerful candidate, the United Nations.⁵¹ The EU, the African Union (“AU”), the Association of Southeast Asian Nations (“ASEAN”), and the Arab League (“AL”) are examples of regional organizations. The membership of these organizations are limited to geographical boundaries. It is important to note that regional subsidiary organs of the UN are not considered as regional organizations.⁵² The second sub-category of the classification based on membership is based on the procedure of admission to membership. This distinguishes between organizations with automatic and regulated admission procedures. The third sub-category is based on the extent of authority and power. This makes a distinction between policy-making, operative, and supra-national organizations.

The classification based on functions also includes three subcategories. The first category distinguishes IOs according to the scope of their activities, having a division between general and specialized organization. IOs with general function—such as the United Nations (“UN”)—have power on a wide range of issues; whereas specialized organizations—such as the World Health Organization (“WHO”) or International Labor Organization (“ILO”) have specific tasks in distinguished areas. The second category concerns the division of powers—legislative, executive, and judicial. Some IOs, such as the UN, have organs that exercise all three functions; whereas some IOs may be limited to one of them. The third

⁵⁰ The UN Charter includes a chapter on “regional arrangements”. But this section does not provide a definition for “regional organizations”. See UN Charter, Chapter VIII.

Article 52(1) of the UN Charter states: “Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.” See UN Charter, Article 52(1).

The Egyptian Representative at the San Francisco Conference suggested a definition for “regional organizations”, but the definition was rejected by the committee as it was seen as restrictive. The Egyptian definition is: “There shall be considered as regional arrangements organizations of a permanent nature grouping in a given geographical area several countries which, by reason of their proximity, community of interests or cultural, linguistic, historical or spiritual affinities, make themselves jointly responsible for the peaceful settlement of any disputes which may arise between them and for the maintenance of peace and security in their region, as well as for the safeguarding of their interests and the development of their economic and cultural relations.”

⁵¹ There are opposing views on this matter. For instance, Kinsella, Russett, and Starr noted the League of Nations and the United Nations as organizations with universal membership. Yet, neither the League of Nations, nor the UN include all states as their members. For example, Germany was not admitted to the League of Nations, whereas the Soviet Union was expelled from the membership. Similarly, Palestine has had non-member observer state status in the UN since 2012. As an historical example, there are the “enemy states” to the UN Charter, the states which were an enemy of any signatory of the Charter (Article 53) such as Germany. See Kinsella, Russett, and Starr, 2013, p.59.

⁵² ILC Yearbook 1963, Volume II p.168, para. 67.

category distinguishes IOs in terms of the extent of authority an organization exercises in relation to its member states— policy-making, operative, and supranational organizations. Policy-making IOs are concerned primarily with deliberation and advice, with state discretion in execution of those policies. Operative institutions, however, possess independent administrative power and resources to implement decisions with or without direct state control. Finally, supranational IOs such as the European Union go a step further by exercising sovereign-like powers directly over states and citizens of the states.⁵³

There are other classifications found in the literature, such as the distinction between temporary vs. permanent international organizations and public (inter-governmental) vs. private (non-governmental) organizations.⁵⁴ However, these classifications present conceptual and practical limitations. The temporary v. permanent distinction has a limited analytical value, since IOs may intend to be temporary and then evolve into permanent institutions. Being temporary or permanent also does not have an impact on the legal personality of the IOs. Similarly, the public v. private distinction is misleading, particularly in the legal context. Non-governmental organizations (“NGOs”) are generally formed under domestic legal systems and they do not enjoy the same legal status under international law as the IOs. Even though NGOs can participate in international relations, they fundamentally differ in nature and hence are distinct from IOs.

3.3. The EU as an International Organization

The EU can be analyzed and classified by both the membership-based and function-based classification schemes. According to the membership-based classification, the EU is a regional organization, where the member states are geographically limited to the European ones. The candidate states are required to fulfill complicated political and economic standards. Considering the power and authority, the EU is the most advanced case of a supranational organization. Unlike most international organizations, the EU can pass directly applicable and effective binding legal acts that immediately take effect in the internal legal orders of member states. Secondly, EU institutions like the European Commission, European

⁵³ ILC Yearbook 1963, Volume II, p.168.

⁵⁴ Schwarzenberger, A Manual of International Law. vol I (4th ed., 1960) p.227.

Parliament, and Court of Justice of the European Union (“CJEU”) exercise sovereign-type roles that are not necessarily intergovernmental.

In the categorization by functions, the EU can most accurately be described as a general organization, as it has a broad mandate over economic, political, environmental, social, and legal matters. The EU also embodies all three classic divisions of governmental powers: the legislative powers (mainly through the European Parliament and the Council), the executive powers (mainly held by the European Commission), and the judicial power (by the Court of Justice). Finally, as consistent with its supranational nature, the EU possesses comprehensive powers of operation and even supra-national powers. It can make laws, impose compliance, and adjudicate between member states and individual citizens, often without requiring actions by national governments. This mix of regional scope, regulated geography-based membership, broad mandate, and direct effect over states and individuals place the EU beyond traditional definitions—often blurring the distinction between an international organization and a federal entity. In this context, the term “EU exceptionalism” used at the title of this chapter refers to the EU’s *sui generis* character as a legal and political order which differs from other international organizations both concerning structure and function.

3.4. Restrictive Measures under the EU Law

The EU was founded and has been functioning under its CFSP, contributing to its objectives of promoting peace, security, and international cooperation. Preamble of the Treaty on the European Union (“TEU”) states that the EU will have “*common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 42, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world*”.⁵⁵ The member states are required to actively support the EU’s foreign and security policy.⁵⁶ Chapter 2 of the TEU includes specific provisions on the CFSP, highlighting the framework of the EU’s foreign and security actions. Article 23 of the TEU clarifies that the EU’s acts in the international arena shall be guided

⁵⁵ TEU, Preamble para.11.

⁵⁶ TEU Article 24(3).

by the CFSP.⁵⁷ The extent of the CFSP is broad, including “*all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence*”.⁵⁸ The objectives of CFSP evolve over time, as it is dependent on the collective will of the EU-member states.⁵⁹

The EU restrictive measures are imposed by the Council within the framework of the CFSP. The EU describes those measures as

*“an essential tool in the EU’s common foreign and security policy (CFSP), through which it can intervene where necessary to prevent conflict or respond to current or emerging crises. Although they are called ‘sanctions’, EU restrictive measures are not punitive. They are intended to bring about a change in bad or harmful policies or activities by targeting the non-EU countries, including organisations and individuals, responsible.”*⁶⁰

Article 215 of the Treaty on the Functioning of the European Union (“TFEU”), titled as “restrictive measures” states that “*Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union 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*”.⁶¹ The measures can be targeting third states, their leaders, persons or entities associated or controlled by the third states, terrorists or terrorist organizations.⁶² They can take various forms such as travel bans, visa bans, financial restrictions, sectoral limitations etc.⁶³ The decision to impose restrictive measures are

⁵⁷ TEU Article 23.

⁵⁸ TEU Article 24(1).

⁵⁹ TEU Article 24. See also Elizabeth Duquette, “The European Union's Common Foreign and Security Policy: Emerging from the U.S. Shadow” (2001) 7 UC Davis Journal of International Law and Policy 169, 176.

⁶⁰ European Commission, “Overview of sanctions and related resources” <https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/overview-sanctions-and-related-resources_en> (“European Commission, Overview of Sanctions”).

⁶¹ Treaty on the Functioning of the European Union (“TFEU”), Article 215(2).

⁶² For example see Council Common Position 2009/139/CFSP of 16 February 2009 renewing restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova; Council Common Position 2003/297/CFSP of 28 April 2003 on Burma/Myanmar. See Tarcisio Gazzini and Ester Herlin-Karnell, “Restrictive Measures Adopted by the European Union from the Standpoint of International and EU Law” (2011) 36 European Law Review 798, 799.

⁶³ European Commission, Overview of Sanctions; The European Commission, “Common Foreign and Security Policy” <https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/common-foreign-and-security-policy_en>.

decided unanimously by the Council of the European Union.⁶⁴ If the decision includes financial restrictions (e.g. asset freeze or other economic measures), those are further implemented by a Regulation of the Council of the European Union.⁶⁵ Those decisions enter into force following their publication in the EU official journal and the member states are obliged to implement and enforce them. The EU restrictive measures only apply within the EU jurisdiction.

Lastly, it is important to make a distinction between the autonomous EU measures and UN-mandated EU measures. For the former, the objective is the compliance with the CFSP; whereas for the latter, the objective is to implement the relevant UN Security Council Resolution.⁶⁶

3.5. Overview of the EU Restrictive Measures

There are three types of restrictive measures depending on the origin of the EU restrictive measures: (1) autonomous EU measures, (2) UN mandated EU measures, and (3) mixed measures.⁶⁷ First, the autonomous EU measures include the measures that are solely imposed by the EU under the relevant EU decision (**Appendix, Table 5**).⁶⁸ Second, UN mandated EU measures are measures imposed by the UNSC under Chapter VII of the UN Charter, which authorizes the EU—as any other actor in the international arena—to implement the UNSC decision (**Appendix, Table 6**).⁶⁹ Third, mixed measures refer to the EU measures that reinforce UN sanctions by adopting stricter measures in addition to those imposed by the UNSC (**Appendix, Table 7**).

As of October 2025, the EU adopted restrictive measures in 49 instances—31 of these (approximately 63%) were autonomous EU measures, 8 of them (approximately 16%) were

⁶⁴ European Council Council of the European Union, “How the EU adopts and reviews sanctions” <<https://www.consilium.europa.eu/en/policies/sanctions-adoption-review-procedure/>> (Council, How the EU adopts and reviews sanctions”).

⁶⁵ European Council, How the EU adopts and reviews sanctions <<https://www.consilium.europa.eu/en/policies/sanctions-adoption-review-procedure/>>.

⁶⁶ European Commission, Overview of sanctions and related resources <https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/overview-sanctions-and-related-resources_en>.

⁶⁷ European Council Council of the European Union, “Types of sanctions the EU adopts” <<https://www.consilium.europa.eu/en/policies/sanctions-different-types/#regimes>>.

⁶⁸ All tables in this appendix are created by the author based on data from the EU Sanctions Map.

⁶⁹ UNSC resolutions are binding on all UN member states, and compliance is mandatory. See UN Charter Article 25 and VCLT Article 31(3)(b).

UN mandated EU measures, and 10 of them (approximately 20%) were joint mixed measures.⁷⁰ The majority of the measures are autonomous in nature, which also demonstrates the overreliance on the EU measures, compared to the UN sanctions.

The target countries the EU restrictive measures include Belarus,⁷¹ Bosnia and Herzegovina,⁷² Burundi,⁷³ China, Guinea,⁷⁴ Haiti, Iran, Lebanon,⁷⁵ Libya, Moldova,⁷⁶

⁷⁰ EU Sanctions Map.

⁷¹ The EU imposed sanctions on Belarus on 24 September 2004. The decision stated that “The EU remains seriously concerned at the continuing deterioration of democracy, the rule of law and human rights in Belarus”. The EU aims to see Belarus progress politically, socially, and economically towards becoming a democratic state that respects the rule of law and human rights. As indicated in the official sources of the EU, “The purpose of these sanctions is to put pressure on the Belarusian political leadership to prevent further violence and repression, release all political prisoners and other unjustly detained people, and initiate a genuine and inclusive national dialogue with society at large”. See Council Common Position 2004/661/CFSP of 24 September 2004 concerning restrictive measures against certain officials of Belarus <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004E0661>>; EU sanctions against Belarus (European Council, Council of the European Union) <<https://www.consilium.europa.eu/en/policies/sanctions-against-belarus/>>.

⁷² The EU imposed restrictive measures on Bosnia and Herzegovina in response to the activities that “undermine the sovereignty, territorial integrity, constitutional order and international personality of Bosnia and Herzegovina, seriously threaten the security situation in Bosnia and Herzegovina or undermine the Dayton/Paris General Framework Agreement for Peace and the Annexes thereto”. See Council Decision 2011/173/CFSP of 21 March 2011 concerning restrictive measures in view of the situation in Bosnia and Herzegovina <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011D0173>>.

⁷³ The EU imposed restrictive measures on Burundi in response to the activities that (1) undermine “democracy or obstructing the search for a political solution in Burundi, including by acts of violence” and (2) “violate international human rights law or international humanitarian law, as applicable, or that constitute serious human rights abuses, in Burundi,”. See Council Decision (CFSP) 2015/1763 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015D1763>>.

⁷⁴ The EU imposed restrictive measures on Guinea in response to acts that result in “violent repression or the political stalemate in the country”. See Council Common Position 2009/788/CFSP of 27 October 2009 concerning restrictive measures against the Republic of Guinea <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009E0788>>.

⁷⁵ The background of the restrictive measures against Lebanon goes back to the Council conclusions adopted on 7 December 2020, where the EU raised “increasing concern that the grave financial, economic, social and political crisis that has taken root in Lebanon had continued to worsen over the previous months”. The Council decision dated 30 July 2021 further stated that “The Union is ready to use all its policy instruments to contribute to a sustainable way out of the current crisis and to react to a further deterioration of democracy and the rule of law, and of the economic, social and humanitarian situation in Lebanon”. See Council of the European Union, Council Conclusions on Lebanon (7 December 2020) <<https://www.consilium.europa.eu/media/47184/st13730-en20.pdf>>; Council Decision (CFSP) 2021/1277 of 30 July 2021 concerning restrictive measures in view of the situation in Lebanon <<https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2021%3A277I%3ATOC&uri=uriserv%3AOJ.LI.2021.277.01.0016.01.ENG>>.

⁷⁶ The first set of restrictive measures imposed on Moldova concerns the actions destabilising the Republic of Moldova. The background of the restrictive measures against Moldova concerns the weaknesses of “the country’s resilience, security, stability, economy and energy supply in the face of destabilising activities by external actors”. See Council Decision (CFSP) 2023/891 of 28 April 2023 concerning restrictive measures in view of actions destabilising the Republic of Moldova <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023D0891>>.

Myanmar/Burma,⁷⁷ Nicaragua,⁷⁸ Russia, Syria, Tunisia, Turkey,⁷⁹ Ukraine,⁸⁰ United States, Venezuela,⁸¹ and Zimbabwe⁸². The selection of target countries demonstrates geographical

The second set of restrictive measures imposed on Moldova concerns the Transnistrian conflict. It is stated that “The EU considers the continued obstructionism of the leadership of the Transnistrian region of the Moldovan Republic and its unwillingness to change the status quo to be unacceptable”. It is further stated that “in support of the EU's more active involvement in the political process, the Council has decided to implement targeted sanctions in the form of a travel ban aimed solely at those members of the Transnistrian leadership considered to be primarily responsible for the lack of cooperation to promote a political settlement of the conflict”. See Council Common Position 2003/139/CFSP of 27 February 2003 concerning restrictive measures against the leadership of the Transnistrian region of the Moldovan Republic <<https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32003E0139>>.

⁷⁷ The restrictive measures against Burma/Myanmar concerns the absence of progress towards democratisation and at the continuing violation of human rights in Burma/Myanmar. The council decision further notes “the practice of torture, summary and arbitrary executions, forced labour, abuse of women, political arrests, forced displacement of the population and restrictions on the fundamental rights of freedom of speech, movement and assembly”. See Common Position of 28 October 1996 defined by the Council on the basis of Article J.2 of the Treaty on European Union, on Burma/Myanmar (96/635/CFSP) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31996E0635>>.

⁷⁸ The EU imposed restrictive measures against Nicaragua for the “persons and entities responsible for serious human rights violations or abuses or for the repression of civil society and democratic opposition in Nicaragua, as well as persons and entities whose actions, policies or activities otherwise undermine democracy and the rule of law in Nicaragua, and persons associated with them”. See Council Decision (CFSP) 2019/1720 of 14 October 2019 concerning restrictive measures in view of the situation in Nicaragua <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019D1720>>.

⁷⁹ The EU imposed restrictive measures on Turkey concerning the Turkish drilling activities in the Eastern Mediterranean. Before imposing restrictive measures, On 14 October 2019, the Council reaffirmed its full solidarity with Cyprus concerning the respect of its sovereignty and sovereign rights in accordance with international law. On 11 November 2019, the Council decided on restrictive measures against the natural and legal persons responsible for or involved in the Turkish drilling activities. See Council Decision (CFSP) 2019/1894 of 11 November 2019 concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019D1894>>.

⁸⁰ The EU imposed restrictive measures on Russia concerning “misappropriation of Ukrainian State funds and persons responsible for human rights violations, with a view to consolidating and supporting the rule of law and respect for human rights in Ukraine”. The background of these measures concerns the Russian military activities in Ukraine. The Council also condemned all use of violence in Ukraine on 20 February 2014. See Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014D0119>>.

⁸¹ The EU imposed restrictive measures on Venezuela, as a response to the continuing deterioration of democracy, the rule of law and human rights in Venezuela. The Council stated that “targeted restrictive measures should be imposed against certain natural and legal persons responsible for serious human rights violations or abuses or the repression of civil society and democratic opposition and persons, entities and bodies whose actions, policies or activities undermine democracy or the rule of law in Venezuela, as well as persons, entities and bodies associated with them”. See Council Decision (CFSP) 2017/2074 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=uriserv%3AOJ.L_.2017.295.01.0060.01.ENG>.

⁸² The EU restrictive measures on Zimbabwe concerns “serious violations of human rights and of the freedom of opinion, of association and of peaceful assembly”. It is stated that “for as long as the violations occur, the Council deems it necessary to introduce restrictive measures against the Government of Zimbabwe and those who bear a wide responsibility for such violations”. See Council Common Position of 18 February 2002 concerning restrictive measures against Zimbabwe (2002/145/CFSP) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32002E0145>>.

concentration and similarity on political patterns. First, considering geography, the target countries are located in Eastern Europe and the post-Soviet area (e.g. Belarus, Moldova, Russia, Ukraine), the Middle East and North Africa (e.g. Iran, Lebanon, Libya, Syria, Tunisia) and sub-Saharan Africa (e.g. Burundi, Guinea, Zimbabwe). There are also several other additional targets in Asia (e.g. Myanmar, China), Latin America (e.g. Nicaragua, Venezuela) and the Caribbean (e.g. Haiti). These are less in number compared to the first group of regions. Second, a high number of the target countries are categorized as authoritarian or hybrid regimes, with low scores on political rights and civil liberties. Many of the targeted states are located close to the EU external borders (Belarus, Moldova, Russia, Turkey, Ukraine, Libya, Syria, and Tunisia) which reflects a broader foreign policy and external security concern. Lastly, most of the target countries are not considered as strategic partners or allies of the EU; with some controversial cases such as Turkey, Russia, and the United States.

The idea of law. In spite of everything, seems still to be stronger than any ideology of power.⁸³

Chapter 4:

LEGAL ASSESSMENT OF THE EUROPEAN UNION'S RESTRICTIVE MEASURES

Do the so-called EU “sanctions” really qualify as sanctions in international law? Is this the proper legal classification, or rather a non-legal concept? If not, what would be the proper legal classification for these measures? This section conducts a legal assessment of the EU's restrictive measures, focusing on the legal concepts of retorsion, sanctions, countermeasures, and restrictive measures. Before moving on with the legal assessment of the EU's restrictive measures, it is necessary to mention the relationship between international law and EU law. The CJEU calls the EU an autonomous legal order.⁸⁴ However, the EU remains bound by international law. Even Article 21(1) of the TEU states that the Union shall “respect for the principles of the United Nations Charter and international law”.⁸⁵ In this sense, while the EU's internal legal system recognizes the primacy and direct effect of its own law, its external actions are still subject to international law.

4.1. Introducing the Legal Concepts: Retorsion, Sanctions, Countermeasures, Restrictive Measures

Article 2(4) of the Charter of the United Nations (“UN Charter”), the famous rule of the prohibition of the use of force, states that “*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political*

⁸³ Hans Kelsen. See Danilo Zolo, "Hans Kelsen: International Peace through International Law" (1998) 9 EJIL 306, 306.

⁸⁴ Court of Justice of the European Union, *Flaminio Costa v E.N.E.L.*, Judgment of the Court of 15 July 1964, Case 6/64.

⁸⁵ TEU, Article 21(1).

independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".⁸⁶ This provision is also considered as customary international law and has a *jus cogens* character.⁸⁷ Resorting to military force against other states has been prohibited, with the exception of self-defense and peace enforcement under UN Security Council's authorization under Chapter VII of the UN Charter.⁸⁸ This ban on the use of military force increased the significance of the use of non-military force in international relations in the post-1945 era.⁸⁹ These self-help measures take different names such as retortion, sanctions, and countermeasures. Categorization of such measures is a significant issue since the requirements and consequences under international law vary and their legality depends on their author and legal basis.

4.1.1. Retorsion

Retorsion is defined as "retaliatory measures that aggrieved state is legally free to take whether or not the offending state committed an illegal act".⁹⁰ These measures are

⁸⁶ Charter of the United Nations (signed on 26 June 1945, entered into force on 24 October 1945) ("UN Charter"), Article 2(4). See also Claus Kreß, 'The International Court of Justice and the 'Principle of Non-Use of Force'' in Marc Weller (ed), *The Oxford Handbook of the Use of Force in International Law* (OUP 2015).

⁸⁷ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment. I.C.J. Reports 1986, p. 14, para. 134; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136, para. 87.

⁸⁸ The prohibition of the use of force is not an absolute ban as it has two exceptions: the inherent right to self-defense and Security Council authorization under Chapter VII. For the discussion on whether humanitarian intervention can be considered as a third exception see Sean D. Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order* (University of Pennsylvania Press 1996).

One may argue that the ban on warfare is also not absolute due to these exceptions. Yet, the conditions of self-defense and Security Council authorization indicates that the use of force in these two exceptions must be proportionate and necessary. For discussions see Tom Ruys, *Armed Attack and Article 51 of the UN Charter: Evolutions in Customary Law and Practice* (CUP 2010); Elizabeth Wilmshurst, 'Principles of International Law on the Use of Force by States in Self-Defence' (2005) Chatham House, ILP WP 05/01; Thomas M. Franck, 'Terrorism and the right to self-Defense' (2001) 95 AJIL 839; Carsten Stahn, 'Terrorist Acts as Armed Attack: The Right to Self-Defense, Article 51(1/2) of the UN Charter and International Terrorism' (2003) 27 *Fletcher F World Aff*.

The International Court of Justice ("ICJ") concluded that humanitarian intervention cannot be considered as a third exception to the prohibition of the use of force. See *Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russia Federation)* Order of 16 March 2022, para. 57 cf. Kevin Jon Heller, 'The Illegality of 'Genuine' Unilateral Humanitarian Intervention' (2021) 32 *European Journal of International Law* 613.

⁸⁹ For the use of economic statecraft see J.J. Lew and R. Nephew, 'The Use and Misuse of Economic Statecraft' (2018) 97 *Foreign Affairs* 139; Nikhil Kalyanpur and Abraham L. Newman, 'Mobilizing Market Power: Jurisdictional Expansion as Economic Statecraft' (2019) 73 *International Organization* 1.

⁹⁰ Lori Fisler Damrosch and Sean D. Murphy, *International Law Cases and Materials* (West Academic Publishing 2019), p.521.

mostly political measures that do not raise a legal question.⁹¹ The most common examples can be listed as refusing trading with others in the absence of a legal requirement such as a trade agreement, severing diplomatic relations, or denying foreign aid.⁹² These measures aim to change policies of the target state. However, this objective is not sufficient to classify a measure as retorsion. The key for retorsion is not raising any legal questions.

Applying the famous *lotus principle* of international law—whatever is not prohibited is permitted⁹³—it is easy to conclude that international organizations can impose retorsion against other states or international organizations. However, the difficulty is to determine whether these measures amount to a breach of international law. If the act amounts to a breach of international law, instead of retorsion, it will either be classified as a sanction or a countermeasure.

4.1.2. Sanctions

The word “sanctions” took several different meanings in international law and international relations and it lacks a “single authoritative definition”.⁹⁴ From a more theoretical perspective, we can rely on Ruys’s three approaches to define sanctions: (1) purpose-oriented approach, (2) author-oriented approach, and (3) type-oriented approach.⁹⁵ The purpose oriented approach focuses on the objective qualifications of the measure which is to respond to a violation. Accordingly, sanction can be defined as a measure “taken against a State to compel it to obey international law or to punish it for a breach of international law”.⁹⁶ The second approach, the author-oriented approach, limits sanctions to “measures adopted by an international organization, and in accordance with the organization’s rules”.⁹⁷ The third approach, the type-oriented approach, “focuses on the type of measures adopted,

⁹¹ Thomas Giegerich, "Retorsion" (Max Planck Encyclopedias of International Law [MPIL], 2020).

⁹² Lori Fisler Damrosch and Sean D. Murphy, *International Law Cases and Materials* (West Academic Publishing 2019), p.521.

⁹³ See Permanent Court of International Justice (PCIJ), *The Case of the S.S. "Lotus"*, Series A.-No.10, 7 September 1927; Armin von Bogdandy and Markus Rau, "Lotus, The" (Max Planck Encyclopedias of International Law [MPIL], 2006).

⁹⁴ Tom Ruys, "Sanctions, retortions and countermeasures: concepts and international legal framework" in Larissa van den Herik (ed.), *Research Handbook on UN Sanctions and International Law* (Edward Elgar Publishing, 2016), 19 ("Ruys 2016").

⁹⁵ Ruys 2016, 19.

⁹⁶ Jonathan Law and Elizabeth Martin (eds), *A Dictionary of Law* (OUP 2014) 'sanction'. See also Jeremy Farrall, *United Nations Sanctions and the Rule of Law* (CUP 2007) 6.

⁹⁷ Ruys 2016, 20.

and construes the notion as referring specifically to a variety of economic measures, notably embargoes [...], import and export restrictions, and (increasingly popular) targeted sanctions, such as asset freezes, travel bans etc”.⁹⁸ In international relations theory, the definitions of sanctions are more similar to this approach.⁹⁹ Hufbauer, Schott, Elliott, and Oegg defines sanctions as “deliberate, government-inspired withdrawal or threat of withdrawal of customary trade or financial relations”.¹⁰⁰ From an international relations perspective, such measures are typically used to change the behavior of a target state or impose coercion.¹⁰¹

In practice, there are two most commonly accepted types of “sanctions”. First, it is undisputed that the “sanctions” refer to the UN Security Council measures as per the UN Charter, whose provisions are supreme to any other treaty obligation.¹⁰² This is mostly known as the “UN sanctions” which is decided by the UN Security Council under its Chapter VII powers on action with respect to threats to the peace, breaches of the peace, and acts of aggression. Article 39 of the UN Charter states *“The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”*¹⁰³ Article 41 of the UN Charter regulates non-military measures, whereas Article 42 is about measures involving military force. The former includes actions such as *“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”* and the latter includes *“demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations”*.¹⁰⁴ Interestingly, none of these provisions refer to the term “sanction”, but rather call them “measures”, yet it is undisputed that the term refers to the UN measures.

⁹⁸ Ruys 2016, 21.

⁹⁹ Ruys 2016, 21.

¹⁰⁰ Gary Hufbauer, Jeffrey J. Schott, Kimberly Ann Elliott, and Barbara Oegg, *Economic Sanctions Reconsidered* (Peterson Institute for International Economics 2007) 3.

¹⁰¹ Ruys 2016, 22.

¹⁰² Pavel Šturma, “The Notion of ‘Sanctions’ and ‘Countermeasures’ in International Law” in Pavel Šturma (Eds) *International Sanctions and Human Rights* (Springer, 2024), p.16 (“Šturma, 2024”). See also UN Charter Article 103: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail”.

¹⁰³ UN Charter Article 39.

¹⁰⁴ UN Charter Articles 41 and 42.

The UN sanctions are generally regarded as lawful and binding measures under international law. The legality of the UN sanctions derives from the primary responsibility of the UN Security Council, which is to maintain international peace and security.¹⁰⁵ Articles 39-42 of the UN Charter also empowers the Security Council to determine the existence of a threat to the peace and to adopt coercive measures to restore or maintain peace. Further, pursuant to Article 25 of the UN Charter, member states agree to accept and carry out the decisions of the Security Council. When read together with Article 103—the provision establishing the supremacy of obligations arising from the UN Charter—the decisions of the Security Council will have the same effect. In practice, the Security Council has invoked Chapter VII to impose sanctions on a wide range of situations.¹⁰⁶

Second, international organizations can impose “sanctions” to its member states aiming to ensure compliance with the rules of the organization.¹⁰⁷ A classical example of this is Article 7 of the Treaty of the European Union which allows the EU to suspend certain rights of member states.¹⁰⁸ Such “internal sanctions” operate within the framework of an international organization’s constituent treaty.

The ILC also uses a more limited and narrower definition of the term “sanctions”. According to the ILC, sanctions refers to the “measures taken in accordance with the constituent instrument of some international organization, in particular under Chapter VII of the [UN Charter]”.¹⁰⁹ The ILC also confirms that international organizations can impose sanctions only to their member states.¹¹⁰ ILC’s approach supports the conclusion that sanctions can either refer to the UNSC measures—which is known as the UN sanctions—and to the measures of international organizations imposed on their member-states. Indeed, UN sanctions are a form of international organization sanctions imposed on member states. Overall, the application of sanctions requires a vertical relationship between the entity applying the sanction—the IO—and the target state.

¹⁰⁵ UN Charter Article 24(1).

¹⁰⁶ See United Nations Security Council Consolidated List
<<https://main.un.org/securitycouncil/en/content/un-sc-consolidated-list>>.

¹⁰⁷ Šturma, 2024, p.12.

¹⁰⁸ For the timeline of Article 7 of the Treaty of the European Union, including cases, see European Council of the European Union, “Timeline - Article 7: the story so far”
<<https://www.consilium.europa.eu/en/policies/article-7-procedures/timeline-the-story-of-article-7/>>.

¹⁰⁹ ILC ARSIWA Commentary vol II, part II.

¹¹⁰ ILC ARSIWA Commentary vol II, part II, at 47.

4.1.3. Countermeasures

The term countermeasure was first used in the Air Services Agreement Case of 1978.¹¹¹ It then took part in various ICJ judgments such as the Case Concerning US Diplomatic and Consular Staff in Tehran in 1980.¹¹² The concept of countermeasures was mainly developed by the ILC in its Articles on State Responsibility ("ARSIWA").¹¹³ The rules on countermeasures are accepted as part of customary international law.¹¹⁴

Countermeasures are an act precluding wrongfulness.¹¹⁵ Article 22 of ARSIWA defines countermeasures in respect of an internationally wrongful act as "*The wrongfulness of an act of a State not in conformity with an international obligation towards another State is precluded if and to the extent that the act constitutes a countermeasure taken against the*

¹¹¹ Šturma, 2024, p.16; Air Services Agreement Case, France v. United States (1978), 18 R.I.A.A. 416.

¹¹² Šturma, 2024, p.16; United States Diplomatic and Consular Staff in Tehran, Judgment, ICJ Reports 1980, p. 3.

¹¹³ The text of ARSIWA was adopted by the ILC in 2001, at the fifty-third session. It was submitted to the UNGA by the ILC and appears on the General Assembly Resolution 56/83 of 12 December 2001. The text was later corrected by the A/56/49(Vol.I)/Corr.4. See Responsibility of States for Internationally Wrongful Acts (2001) <https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf>. See also James Crawford, "Articles on Responsibility of States for Internationally Wrongful Acts" United Nations Audiovisual Library of International Law <<https://legal.un.org/avl/ha/rsiwa/rsiwa.html>>.

¹¹⁴ Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Judgment, ICJ Reports 1997, p. 7 ("Gabčíkovo-Nagymaros Project Judgment"). The International Court of Justice previously defined international customary law as "customary international law which in fact comprises a limited set of norms for ensuring the co-existence and vital co-operation of the members of the international community, together with a set of customary rules whose presence in the opinio juris of States can be tested by induction based on the analysis of a sufficiently extensive and convincing practice, and not by deduction from preconceived ideas." See Delimitation of the Maritime Boundary in the Gulf of Maine Area, Judgment, I.C.J. Reports 1984, p. 246., para.111.

¹¹⁵ Chapter V of ARSIWA regulates circumstances precluding wrongfulness in international law which are consent (Article 20), self-defence (Article 21), countermeasures (Article. 22), force majeure (Article 23), distress (Article 24) and necessity (Article 25) These circumstances preclude wrongfulness "that would otherwise not be in conformity with the international obligations of the State concerned". This constitutes a justification or excuse and does not terminate the obligation in question. See ARSIWA Chapter V, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (2001) <https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf> p. 71 ("ARSIWA Commentary"); Gabčíkovo-Nagymaros Project Judgment, para.48.

Preclusion of wrongfulness was previously discussed in the Preparatory Committee of the 1930 Hague Conference. Even though self-defence and reprisals were discussed as "circumstances under which States can decline responsibility", these were neither concluded nor codified. See ARSIWA Commentary, p. 71-72; Francisco V. García-Amador, "Report on International Responsibility by Mr. F.V. Garcia-Amador, Special Rapporteur", Extract from the Yearbook of the International Law Commission:- 1956 ,vol. II, A/CN.4/96, p.219-225. See also Francisco V. García-Amador "Third Report on International Responsibility by Mr. F.V. Garcia-Amador, Special", Extract from the Yearbook of the International Law Commission:- 1958 ,vol. II, A/CN.4/111 .

latter State in accordance with chapter II of part three".¹¹⁶ The ICJ¹¹⁷ and other international courts and tribunals¹¹⁸ also discussed the application of countermeasures in their previous decisions or awards. The application of countermeasures does not terminate the obligation itself, but precludes the wrongfulness for the time-being of the prior wrongful act.¹¹⁹ In other words, a conduct violating international law will be precluded for the time being if it fulfills the requirements of a countermeasure.

Chapter two of ARSIWA regulates rules governing the regime of countermeasures. Countermeasures can be categorized into two as (1) those taken by the injured state and (2) those taken by the third states. The latter is named as "invocation of responsibility by a State other than an injured State" or "collective countermeasures" and can be taken in the existence of violations concerning *erga omnes* or *erga omnes partes* obligations.¹²⁰

Countermeasures require some certain conditions.¹²¹ First, the countermeasure shall be taken in response to a prior wrongful act.¹²² It is important to highlight that "Countermeasures are not intended as a form of punishment for wrongful conduct, but as an instrument for achieving compliance with the obligations of the responsible State".¹²³ Second, the countermeasure must be directed against the state which conducted the prior wrongful act.¹²⁴ It cannot be directed to any other third state. Third, countermeasures must be "limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State".¹²⁵ This requirement highlights the

¹¹⁶ ARSIWA, Article 22.

¹¹⁷ *Gabcikovo-Nagymaros Project Judgment*, para. 83; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) Merits, Judgment*. I.C.J. Reports 1986, p. 14, para. 249.

¹¹⁸ *Air Service Agreement of 27 March 1946 between the United States of America and France*, Reports of International Arbitral Awards, 9 December 1978, Volume XVIII pp.417-493, p.443-446.

¹¹⁹ ARSIWA Commentary, p.75. For the application and distinction between termination of the obligation and preclusion of wrongfulness see Gerald Fitzmaurice, "Fourth report on the Law of Treaties by Mr. G. G. Fitzmaurice, Special Rapporteur", Extract from the Yearbook of the International Law Commission:- 1959, vol. II, A/CN.4/120, p.41, para.8; Case concerning the difference between New Zealand and France concerning the interpretation or application of two agreements, concluded on 9 July 1986 between the two States and which related to the problems arising from the Rainbow Warrior Affair, Reports of International Arbitral Awards, 30 April 1990, Volume XX, pp.215-284, para.75; *Gabcikovo-Nagymaros Project Judgment*, para. 47.

¹²⁰ ARSIWA, Articles 42 and 48.

¹²¹ *Gabcikovo-Nagymaros Project Judgment*, para. 83.

¹²² ARSIWA, Article 49(1); *Gabcikovo-Nagymaros Project Judgment*, para. 83.

¹²³ ARSIWA Commentary, p.130.

¹²⁴ ARSIWA Article 49(1); ARSIWA Commentary, p.130; *Gabcikovo-Nagymaros Project Judgment*, para. 83.

¹²⁵ ARSIWA, Article 49(2).

temporary nature of countermeasures.¹²⁶ As also stated in ARSIWA, countermeasures “shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question”.¹²⁷ In other words, countermeasures cannot be taken as a form of “punishment” or “retortion”.¹²⁸ This requires the measure to be “reversible”.¹²⁹ But these requirements are not compulsory as the ordinary meaning of the provision uses the term “as long as” and does not name these as compulsory requirements. This indicates that “if the injured State has a choice between a number of lawful and effective countermeasures, it should select one which permits the resumption of performance of the obligations suspended as a result of countermeasures”.¹³⁰ Fourth, there are some obligations which cannot be affected by countermeasures. These can be classified under two groups: the first includes some certain obligations and the second concerns the maintenance of communication between the states in concern.¹³¹ Starting with the first group, countermeasures cannot effect “(a) the obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations;¹³² (b) obligations for the protection of fundamental human rights;¹³³ (c) obligations of a humanitarian character prohibiting reprisals;¹³⁴ (d) other obligations under

¹²⁶ ARSIWA Commentary, p.130.

¹²⁷ ARSIWA, Article 49(3).

¹²⁸ ARSIWA Commentary, p.131.

¹²⁹ ARSIWA Commentary, p.131; *Gabcikovo-Nagymaros Project Judgment*, para. 87.

¹³⁰ ARSIWA Commentary, p.131.

¹³¹ ARSIWA Commentary, p.131.

¹³² See UN Charter Article 2(4). See also Oliver Dörr and Albrecht Randelzhofer, "Ch.I Purposes and Principles, Article 2 (4)" in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus, Nikolai Wessendorf (eds) *The Charter of the United Nations: A Commentary*, Volume I (3rd Edition); Michael Wood, *International Law and the Use of Force: What Happens in Practice* (Indian Journal of International Law, 2013); Tom Ruys, *The Meaning of Force* (American Journal of International Law, 2014).

¹³³ See United Nations Economic and Social Council, "General Comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights", 12 December 1997, E/C.12/1997/8.

¹³⁴ See Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field (signed 12 August 1949, entered into force 21 October 1950) 75 UNTS 31; Geneva Convention for the amelioration of the condition of the wounded, sick and shipwrecked members of the armed forces at sea (signed 12 August 1949, entered into force 21 October 1950) 75 UNTS 85; Geneva Convention relative to the treatment of prisoners of war (signed 12 August 1949, entered into force 21 October 1950) 75 UNTS 135; Geneva Convention relative to the protection of civilian persons in time of war (signed 12 August 1949, entered into force 21 October 1950) 75 UNTS 287; Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I) (signed 14 June 1977, entered into force 7 December 1978) 1125 UNTS 3.

peremptory norms of general international law¹³⁵.¹³⁶ Further, countermeasures cannot affect obligations "(a) under any dispute settlement procedure applicable between it and the responsible State;¹³⁷ (b) to respect the inviolability of diplomatic or consular agents, premises, archives and documents¹³⁸".¹³⁹ Fifth, the countermeasure must be proportionate. Article 51 of ARSIWA defines proportionality as "commensurate with the injury suffered, taking into account the gravity of the internationally wrongful act and the rights in question".¹⁴⁰ This includes both a qualitative and quantitative assessment.¹⁴¹

There are also several procedural requirements for lawful countermeasures. Before taking a countermeasure, the injured state is required to call upon the responsible State to fulfil its obligations and to notify the latter of any decision to take countermeasures.¹⁴² "Urgent countermeasures" are considered as an exception to these requirements.¹⁴³ Countermeasures shall not be taken or be suspended if "(a) the internationally wrongful act has ceased; and (b) the dispute is pending before a court or tribunal which has the authority to make decisions binding on the parties".¹⁴⁴ The latter does not apply if the responsible state does not act in good faith to implement the dispute settlement process.¹⁴⁵

¹³⁵ This is also confirmed by Article 26 of ARSIWA which states "Nothing in this chapter precludes the wrongfulness of any act of a State which is not in conformity with an obligation arising under a peremptory norm of general international law". See ARSIWA Article 26.

Vienna Convention on the Law of Treaties ("VCLT") Article 53 defines "peremptory norm" or "jus cogens" as "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." See Vienna Convention on the Law of Treaties (signed 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.

See also Report of the International Law Commission Seventy-first session (29 April–7 June and 8 July–9 August 2019), A/74/10; Fourth report on peremptory norms of general international law (jus cogens) by Dire Tladi, Special Rapporteur, International Law Commission Seventy-first session, 31 January 2019, A/CN.4/727.

¹³⁶ ARSIWA, Article 50(1); ARSIWA Commentary, p.131.

¹³⁷ See ARSIWA Commentary p.133; Appeal Relating to the Jurisdiction of the ICAO Council, Judgment, I.C.J. Reports 1972, p. 46, p.53; United States Diplomatic and Consular Staff in Tehran, Judgment, I.C.J. Reports 1980, p. 3, para. 53 ("United States Diplomatic and Consular Staff in Tehran Judgment"). See also UN Charter Article 33 and 103.

¹³⁸ See ARSIWA Commentary p.133; ("United States Diplomatic and Consular Staff in Tehran Judgment"), para.86. See also Vienna Convention on Diplomatic Relations (signed 18 April 1961, entered into force 24 April 1964) 500 UNTS 95; Vienna Convention on Consular Relations (signed 24 April 1963, entered into force 19 March 1967) 596 UNTS 261.

¹³⁹ ARSIWA, Article 50(2).

¹⁴⁰ ARSIWA, Article 51. See also Gabčíkovo-Nagymaros Project Judgment, para. 85.

¹⁴¹ ARSIWA Commentary, p.135.

¹⁴² ARSIWA, Article 52(1).

¹⁴³ ARSIWA, Article 52(2); ARSIWA Commentary, p.135.

¹⁴⁴ ARSIWA, Article 52(3).

¹⁴⁵ ARSIWA, Article 52(4).

Lastly, collective countermeasures can be taken by the non-injured actors, under several specific conditions, in addition to the requirements presented above.¹⁴⁶ This is allowed under two circumstances: (1) if the prior wrongful act is an *erga omnes partes* obligation (“the obligation breached is owed to a group of States including that State, and is established for the protection of a collective interest of the group”), and (2) if the prior wrongful act is an *erga omnes* obligation (“the obligation breached is owed to the international community as a whole”).¹⁴⁷ In the absence of an *erga omnes partes* or *erga omnes* obligations, non-injured states cannot resort to countermeasures.¹⁴⁸ One interesting exception can be non-violent collective self-defense against a prior armed attack. Despite there being theoretical discussions on this matter, there is nothing preventing actors to rely on non-forcible measures as a response to prior use of force. Accordingly, if the victim state of a prior armed attack requests assistance, other states can resort to collective self-defense with or without using armed force.

4.1.4. Restrictive Measures

In international law, there is no separate legal category for “restrictive measures”. This term is commonly used to describe the EU measures, as referred to in Article 215 of the TFEU. The term “restrictive measures” can be defined as “measures intended to affect negatively the interests of third states or other entities”.¹⁴⁹ In this thesis, the term “restrictive measures” are used to describe the EU measures, consistent with the TFEU. However, a legal assessment is not required for “restrictive measures”, as there is no separate category as such.

4.2. Legal Classification of EU Restrictive Measures

The legal classification of the EU's restrictive measures is an interesting question, particularly considering the trichotomy between retorsion, sanctions, and countermeasures. The first question to ask is whether the measures of the EU targeted on non-member states can be *per se* classified as “sanctions”. To answer this question, it is important to make a

¹⁴⁶ ARSIWA, Article 48.

¹⁴⁷ ARSIWA, Article 48(1).

¹⁴⁸ See Russell Buchan, "Non-Forcible Measures and the Law of Self-Defence" (2002) 72 International & Comparative Law Quarterly 1.

¹⁴⁹ Tarcisio Gazzini and Ester Herlin-Karnell, "Restrictive Measures Adopted by the European Union from the Standpoint of International and EU Law" (2011) 36 European Law Review 798, 798.

distinction concerning (1) origin of the measures, and (2) target of the measures (**Figure 1**). The EU measures led by the UNSC decisions qualify as sanctions, as these are the measures adopted by the UN, and implemented by the EU. However, one should be careful that these are not “EU sanctions”, but rather “UN sanctions implemented by the EU”. The EU measures imposed on its member states also qualify as sanctions, as these are measures within the organization. However, the autonomous EU measures imposed on non-member states cannot be classified as sanctions and their legality needs further assessment.



Figure 1: Overview on the EU measures

Accordingly, autonomous EU measures targeting non-member states can be categorized as either: (1) retorsions that do not raise a question of international law, (2) countermeasures that preclude wrongfulness, or (3) violations of international law (**Figure 2**). The legal assessment of these measures require case-by-case analysis, taking into consideration the applicable international law rules¹⁵⁰ between the EU and the targeted entity.

¹⁵⁰ As per Article 38 of the Statute of the International Court of Justice (“ICJ Statute”) there are primary and subsidiary sources of international law. The primary sources are “(a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations” whereas the subsidiary sources are “judicial decisions and the teachings of the most highly qualified publicists of the various nations”. For the sources of international law see ICJ Statute Article 38; Alain Pellet and Daniel Müller, 'Part Three Statute of the International Court of Justice, Ch.II Competence of the Court, Article 38' in

The first question to ask is whether there is a potential violation of international law or not. If there is no potential violation, then the measure will be a retorsion, which does not raise a legal question. If there is a potential violation, then the second question should be asked: Are the requirements for lawful countermeasures fulfilled? The EU restrictive measures can be classified as lawful countermeasures as long as they qualify the abovementioned substantive and procedural conditions of countermeasures. Otherwise, they will constitute a violation of international law. This analysis will be conducted for each case in the below chapter.

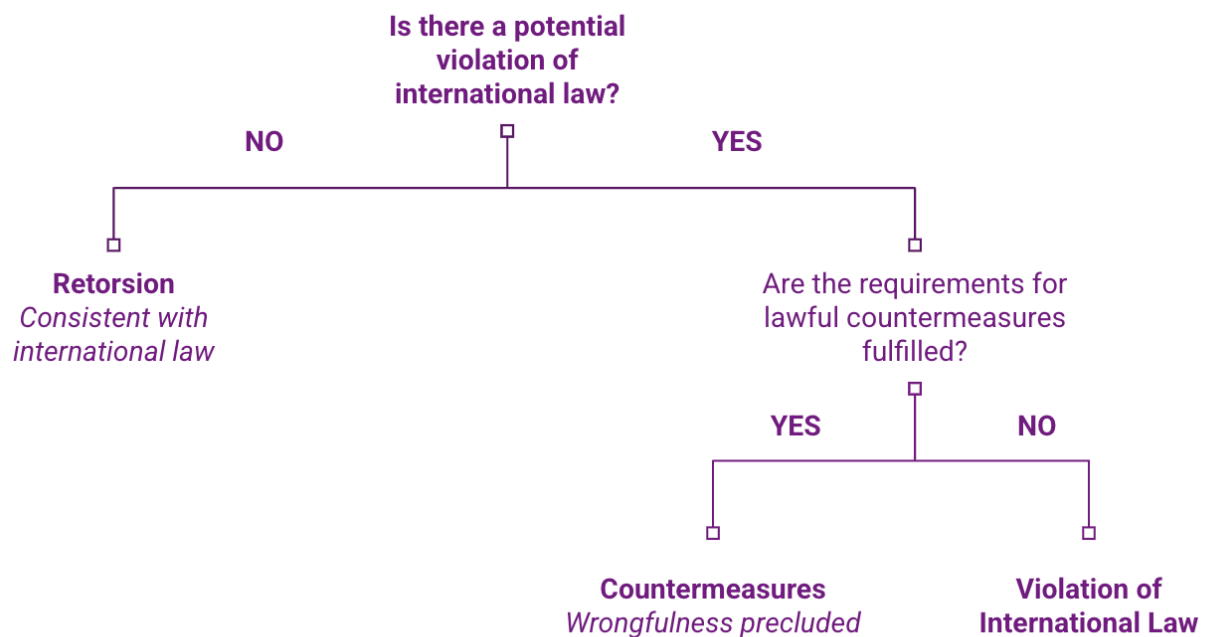


Figure 2: Retorsion - Countermeasure Dichotomy

Before engaging in such a case-by-case analysis, two preliminary questions can be addressed. The first issue considers the specific target of the measures. A lawful countermeasure must be directed against the responsible state.¹⁵¹ This means that the target of the countermeasure cannot be individuals or entities that are not state organs. It is mostly accepted that countermeasures can have collateral effects on third parties, such as individuals

Andreas Zimmermann, Christian J. Tams, Karin Oellers-Frahm, Christian Tomuschat (eds), *The Statute of the International Court of Justice: A Commentary* (3rd Edition) (OSAIL 2019).

¹⁵¹ ARSIWA, Article 49(1).

or entities.¹⁵² However, if the rights of such third parties are directly affected by the conduct in question; then it will not be classified as a countermeasure, but rather be a violation of international law.¹⁵³ The EU restrictive measures target individuals and organizations, in addition to state entities.¹⁵⁴ The EU measures directed to a third party other than the state are *per se* unlawful.

Second, the legality of unilateral restrictive measures largely depends on their consistency with the principle of non-intervention. The principle of non-intervention involves “the right of every sovereign State to conduct its affairs without outside interference”¹⁵⁵ and prohibits “all States or groups of States to intervene directly or indirectly in internal or external affairs of other States”¹⁵⁶. As confirmed by the ICJ, a prohibited intervention encompasses coercion on the political, economic, social, and cultural spheres.¹⁵⁷ This was also confirmed in the Friendly Relations Declaration, which states “*No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.*”¹⁵⁸ The principle of non-intervention has two requirements: (1) the issue must be within the *domaine réservé* of the state, and (2) the intervention must be coercive. Matters that remain within the state’s sovereignty—which may either be defined as by an absence of an international obligation (*ex negativo*) or by inherent sovereign rights (*ex positivo*)—is within the *domaine réservé* of the state. The coercion¹⁵⁹ requirement can be defined as compelling a state’s will by using measures. This is a high threshold, which is different from the “economic coercion” definition of the international relations discourse.¹⁶⁰ Within this context, it is often discussed whether

¹⁵² Federica I Paddeu, “Countermeasures” (2015) Max Planck Encyclopedias of International Law [MPIL], para.41 (“Paddeu 2015”).

¹⁵³ Paddeu 2015, para.41.

¹⁵⁴ European Commission, Overview of Sanctions.

¹⁵⁵ ICJ, Nicaragua 1986, para.202.

¹⁵⁶ ICJ, Nicaragua 1986, para.205.

¹⁵⁷ ICJ, Nicaragua 1986, para.205.

¹⁵⁸ UN General Assembly Resolution 2625, Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (Friendly Relations Declaration), p.123.

¹⁵⁹ See Omri Sender, “Coercion” (2021) Max Planck Encyclopedias of International Law [MPIL].

¹⁶⁰ In international relations discourse the terms “economic coercion” or “economic statecraft” are also used in a similar manner with the term “sanctions” or “unilateral measures”. In this discourse, economic coercion can be defined as using economic pressure to change the policies of the target state which includes “the use, or

financial restrictions result in a violation of the customary prohibition of non-intervention.¹⁶¹ The position of the United Nations General Assembly (“UNGA”) on whether unilateral economic measures amount to coercion is specifically interesting. The UNGA consistently decided that the economic, commercial and financial embargo imposed by the United States against Cuba violates international law.¹⁶² More interestingly, the EU countries support this position of the UN, voting all in favor in the recent resolution declaring the US measures as unlawful.¹⁶³ The UN Human Rights Council’s Special Rapporteur on unilateral coercive measures also argues that unilateral economic measures constitute a breach of international law.¹⁶⁴ State practice on this issue varies.¹⁶⁵ The European position holds the view that unilateral measures do not amount to an international law violation, but rather be used as a foreign policy tool.¹⁶⁶

threat to use, ‘measures of an economic—as contrasted with diplomatic or military—character taken to induce [a target State] to change some policy or practices or even its governmental structure’. See Barry E Cartel “Economic Coercion” (Max Planck Encyclopedia of Public International Law (MPEPIL), 2009) <<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1518?prd=EPIL>>.

For state coercion and statecraft see Henry Farrell and Abraham L. Newman, “Weaponized Interdependence: How Global Economic Networks Shape State Coercion” (2019) 44 *International Security* 42; Jacob J. Lew and Richard Nephew, “The Use and Misuse of Economic Statecraft” (2018) 97 *Foreign Affairs* 139. See also Daniel McCormack and Henry Pascoe “Sanctions and Preventive War” (2017) 61 *The Journal of Conflict Resolution* 1711; Gary Clyde Hufbauer, Jeffrey J. Schott, Kimberly Ann Elliott, and Barbara Oegg, *Economic Sanctions Reconsidered* (Peterson Institute for International Economics 2007); Nikhil Kalyanpur and Abraham L. Newman, “Mobilizing Market Power: Jurisdictional Expansion as Economic Statecraft” (2018) 73 *International Organization* 1.

¹⁶¹ *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States of America). Merits, Judgment. I.C.J. Reports 1986, p. 14, para.202 (“ICJ, Nicaragua 1986”).

¹⁶² See for example, UNGA, A/RES/74/7 (12 November 2019); UNGA, A/RES/73/8 (5 November 2018); UNGA, A/RES/65/6 (23 November 2010). See also Florian Kriener, “Intervention, Prohibition of” (2023) Max Planck Encyclopedias of International Law [MPIL], para.32 (“Kriener 2023”).

¹⁶³ UNGA, A/79/L.6 (10 October 2024).

¹⁶⁴ Kriener 2023, para.34.

¹⁶⁵ For example see UNSC, A/74/768*-S/2020/238 (26 March 2010), Letter dated 25 March 2020 from the representatives of Angola, Cambodia, China, Cuba, the Democratic People’s Republic of Korea, Dominica, Grenada, the Islamic Republic of Iran, Myanmar, Nicaragua, the Russian Federation, Saint Vincent and the Grenadines, Sri Lanka, the Sudan, Suriname, the Syrian Arab Republic, the Bolivarian Republic of Venezuela and Zimbabwe to the United Nations addressed to the Secretary-General and the President of the Security Council.

¹⁶⁶ Kriener 2023, para.34.

4.3. Article 53 of the UN Charter and Regional Enforcement Actions

The legality of enforcement measures adopted by regional organizations—such as the EU—may raise interesting questions with respect to Article 53 of the UN Charter.¹⁶⁷ This provision is part of Chapter VIII of the UN Charter on “Regional Arrangements” and provides that “the Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council [...]”.

A key interpretation question concerns whether the term “enforcement action” includes non-forcible measures.¹⁶⁸ The more restrictive interpretation holds that enforcement action refers only to forcible measures. According to this view, non-military measures—such as economic or financial restrictions—fall outside the scope of this provision and do not require Security Council authorization. This position is often linked to the practice of the Security Council, notably the Dominican Republic–Organization of American States (“OAS”) incident.¹⁶⁹ However, it is very important to note that this dispute considered non-military sanctions adopted by the OAS to one of its members, the Dominican Republic. Therefore, it is arguable that the Security Council’s position in that case reflected an aim to avoid interfering in intra-organizational matters within the OAS, rather than limiting the definition of enforcement action to the use of force. A broader interpretation regards Article 53 as including both forcible and non-forcible measures. This is based on the ordinary meaning¹⁷⁰ of Article 53, which does not distinguish between military and non-military coercion, and contextual interpretation¹⁷¹ of the UN Charter, particularly Article 2(7), which refers more generally to “enforcement measures under Chapter VII”.¹⁷² On this basis, any

¹⁶⁷ For the commentary on Article 53 see Jürgen Bröhmer, Georg Ress, Christian Walter, “Article 53” in Nikolai Wessendorf, Bruno Simma, Saniel-Erasmus Khan, Georg Nolte, Andreas Paulus (eds.) *The Charter of the United Nations: A Commentary*, Volume II (OUP 2012).

¹⁶⁸ See Christian Walter, “Regional Arrangements and the United Nations Charter” (2009) *Max Planck Encyclopedias of International Law [MPIL]*”, part E; Ugo Villani, “The Security Council's Authorization of Enforcement Action by Regional Organizations” (2002) 6 *Max Planck Yearbook of United Nations Law* 535, 537 et seq.

¹⁶⁹ UNSC Resolution of 9 September 1960 (S/4491).

¹⁷⁰ VCLT 31(1).

¹⁷¹ VCLT 31(1) and VCLT 31(2).

¹⁷² On this position, see *Repertory of Practice of United Nations Organs*, Supplement 3, Volume II (1959–1966), para. 20.

coercive action by regional arrangements—including the EU—could, in principle, require prior Security Council authorization.

This debate demonstrates the tension between regional autonomy and the centralized authority of the Security Council. It also highlights the ambiguous legal space in which the EU's autonomous restrictive measures operate within the framework of the UN Charter. Considering the lack of a settled interpretation, it would be early to base a legal assessment solely on Article 53. Yet, the provision remains an important area for further clarification. In case the Security Council or state practice confirm the broader interpretation of the provision, the EU measures targeting non-member states could be regarded as unlawful if not authorized by the Security Council.

The truth or falsify of a statement depends not merely on the meanings of words but on what act you were performing in what circumstances.¹⁷³

Chapter 5:

CASE STUDIES: LEGAL AND POLITICAL ASSESSMENT

This section conducts analysis on three cases: Turkey, Russia, and Zimbabwe, as the target countries of the EU restrictive measures. The analysis will include two major aspects. First, each measure in these cases will be classified either as (1) retorsions that do not raise a question of international law, (2) countermeasures that preclude wrongfulness, or (3) violations of international law. The second aspect will evaluate the interests and strategic considerations behind the decisions of the EU restrictive measures.

Table 1: Comparative Overview of Cases

Criteria	Turkey	Russia	Zimbabwe
Nature of Alleged Wrongful Act	Acts in the Eastern Mediterranean	Annexation of Crimea, recognition of Donetsk and Luhansk, full-scale invasion of Ukraine, human rights violations	Human rights violations, political repression, erosion of the rule of law in Zimbabwe
Target of the Prior Act	Directed against EU member states (Greece and Cyprus)	Not directly against the EU or its member states	Not directly against the EU or its member states
Victim Status of the EU	Yes, via member states	No	No
Geographical Proximity to the EU	At the external borders of the EU	Neighboring the EU (Eastern Europe)	Geographically distant (Global South)
Strategic Status	NATO ally; EU candidate country	Major power; P-5 member with UNSC veto	Peripheral to EU strategic interests

¹⁷³ J.L. Austin, *How To Do Things With Words* (Harvard University Press 1975), p.145.

Historical Link to the EU	Long-standing candidate for EU membership	No direct colonial or membership ties	Former British colony
Other Reactions	No other states imposed similar measures	Other states imposed unilateral measures; no UNSC sanctions due to Russian veto	Some other states imposed sanctions, but limited in number and scope
Level of Threat	Regional dispute	Matter concerning international peace and security	Not framed as an international peace and security issue; issue located within Zimbabwe

The selection of Turkey,¹⁷⁴ Russia, and Zimbabwe follows a most-different systems design, which shows the main cause of the similar outcome in each case.¹⁷⁵ These three cases were selected concerning strategic, geographical, and historical diversity; as well as considering the nature of the alleged prior wrongful act conducted by the target states and the other reactions from the international community (Table 1). The first case is on the restrictive measures targeting Turkey due to Turkey's alleged unlawful acts in the Eastern Mediterranean. Turkey is a NATO ally and a long-standing EU candidate country. It is also located at the external borders of the EU. In the Turkish case, the alleged prior wrongful act of Turkey was directed towards the EU-member states, Greece and the Republic of Cyprus ("Cyprus"). No other states imposed similar measures on Turkey concerning the Eastern Mediterranean maritime dispute. The second case is on the restrictive measures targeting Russia due to the Russian annexation of Crimea, Russian recognition of Donetsk and Luhansk, Russia's full scale invasion of Ukraine, and various human rights violations. This is an important case as the target of the restrictive measures is a major power and a member of the P-5 of the UNSC with a veto power. In this case, the alleged prior wrongful act was neither directed against the EU itself, nor its member states. The EU resorted to collective measures, as it was not the victim of the act. Other states also imposed unilateral measures

¹⁷⁴ The selection of Turkey partly reflects the author's regional expertise and professional background in Turkish foreign policy and the law of the sea. However, the case selection follows most-different systems design and is guided by analytical rather than normative considerations.

¹⁷⁵ Carsten Anckar, "On the Applicability of the Most Similar Systems Design and the Most Different Systems Design in Comparative Research" (2008) 11 IJSRM 389.

on Russia; however, the UNSC did not impose sanctions due to the Russian veto. The Russian acts have been named as matters concerning international peace and security, making the EU responding to a significant threat. The third case is on the restrictive measures targeting Zimbabwe due to the human rights violations, political repression, and the erosion of the rule of law taking place in Zimbabwe. Unlike the first two cases of Turkey and Russia, Zimbabwe is located in the Global South, being geographically distant from the EU external borders. It is also a former colony of Britain, which was a EU member state when the restrictive measures were imposed. Similar to the Russian case, neither the EU nor the member states are the victim of the wrongful acts of Zimbabwe. However, unlike the Russian case, there is not a matter concerning international peace and security. There were several other states that imposed unilateral measures on Zimbabwe, but they were very limited in number and scale.

5.1. EU Restrictive Measures on Turkey

5.1.1. Background and Restrictive Measures

Turkey, Cyprus, and Greece have been in a dispute concerning maritime delimitation in the Eastern Mediterranean for more than two decades. On 17 February 2003, Cyprus and Egypt signed an agreement on the delimitation of their exclusive economic zones in the Mediterranean Sea.¹⁷⁶ Following this, Cyprus claimed an exclusive economic zone and continental shelf in the eastern part of the Mediterranean Sea based on Law No. 64(I)/2004 which was submitted to the UN Secretary-General.¹⁷⁷ The Exclusive Economic Zone and Continental Shelf Law, amended in 2014, proclaimed the outer limit of Cyprus' Exclusive Economic Zone ("EEZ") as 200 nautical miles from the Cypriot baselines.¹⁷⁸ Turkey objected to the maritime delimitation agreement signed between Cyprus and Egypt with the information note dated 2 March 2004.¹⁷⁹ Turkey also claimed *ipso facto* and *ab initio* legal

¹⁷⁶ Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone 17 February 2003 <<https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/EGY-CYP2003EZ.pdf>>.

¹⁷⁷ A Law to Provide for the Proclamation of the Exclusive Economic Zone by the Republic of Cyprus (2nd April 2004) <<https://faolex.fao.org/docs/pdf/cyp50932E.pdf>>.

¹⁷⁸ The Exclusive Economic Zone and the Continental Shelf Laws 2004 and 2014 <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/CYP_EEZ-CS_Law_2014.pdf>.

¹⁷⁹ Information note dated 2 March 2004 concerning Türkiye's objection to the Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone, 17 February 2003 (Law of the Sea Bulletin No. 54).

and sovereign rights in accordance with international law beyond the western parts of the longitude 32°16'18". Turkey argues that no delimitation agreement concerning the western parts of the longitude 32°16'18" can be made without the active participation of Turkey. Turkey attempted to strengthen its position by signing agreements with Libya and the Turkish Republic of Northern Cyprus. The longstanding disputes concerning the islands in the Aegean Sea and in the Mediterranean also add another layer of discussion concerning whether small Greek islands closer to the Turkish coastline generate maritime zones. The EU has expressed full solidarity with Greece and Cyprus since the beginning of the dispute.¹⁸⁰

Figure 3 shows the overlapping claims in the Eastern Mediterranean.

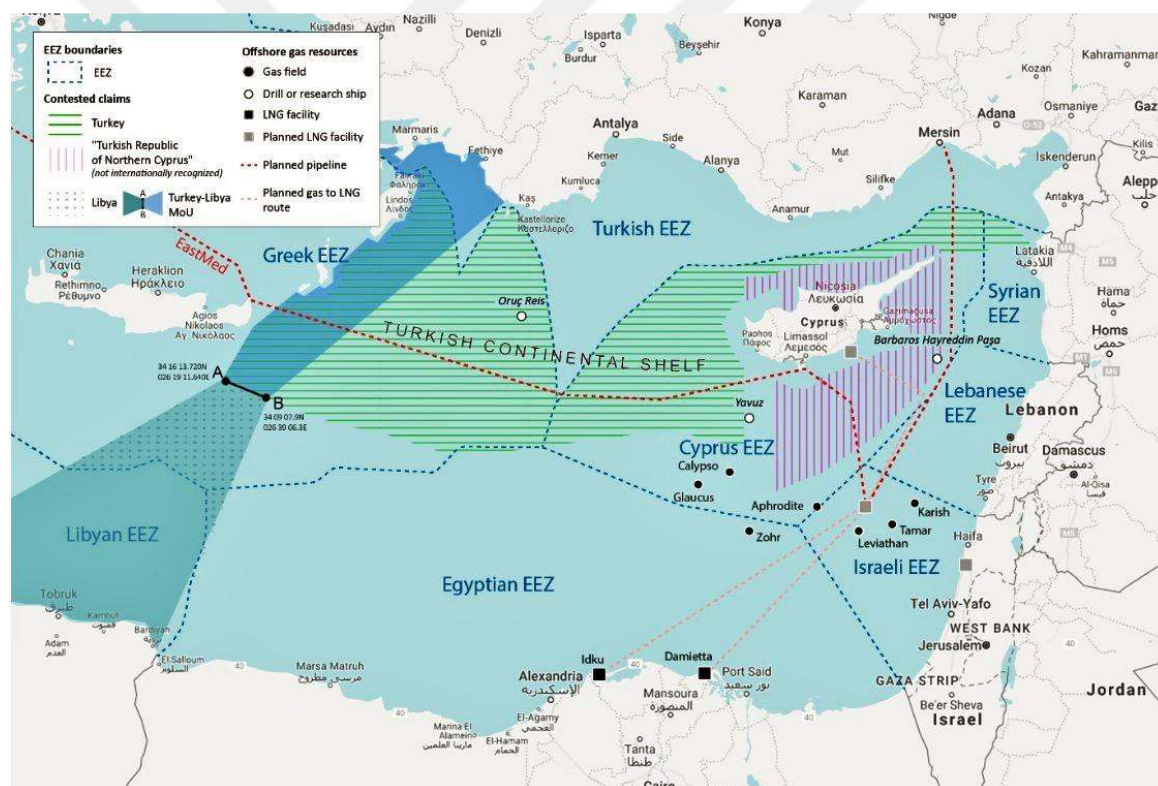


Figure 3: Overlapping Claims in the Eastern Mediterranean¹⁸¹

¹⁸⁰ See for example European Parliament, Parliamentary question - E-004974/2020(ASW) - Reply <https://www.europarl.europa.eu/doceo/document/E-9-2020-004974-ASW_EN.html>; European Union External Action, Statement by the Spokesperson on the situation in the Eastern Mediterranean <https://www.ecas.europa.eu/ecas/statement-spokesperson-situation-eastern-mediterranean_en>; European Parliament News, Eastern Mediterranean: Turkey must immediately end illegal drilling activities <<https://www.europarl.europa.eu/news/en/press-room/20200910IPR86828/eastern-mediterranean-turkey-must-immediately-end-illegal-drilling-activities>>.

¹⁸¹ The EU and the Eastern Mediterranean Flashpoint, Aspenia Online (September 27, 2021), <https://aspeniaonline.it/the-eu-and-the-eastern-mediterranean-flashpoint/>.

The tension in the Eastern Mediterranean significantly increased after Turkey initiated drilling activities. The first Turkish drilling ship, Fatih, started off-shore drilling operations on 3 May 2019 after Turkey granted a license to Turkish Petroleum Corporation (“TPAO”).¹⁸² Turkey then continued such activities with the second Turkish drilling ship named Yavuz.¹⁸³

The EU strongly criticized the Turkish drilling operations and adopted several conclusions and decisions. The European Council first adopted conclusions concerning Turkey’s drilling activities in the Eastern Mediterranean on 24 October 2014.¹⁸⁴ The European Council urged Turkey to respect the sovereign rights of Cyprus over its territorial sea and in its exclusive economic zone. On 22 March 2018, the European Council adopted another conclusion and called Turkey to refrain from illegal drilling activities and respect Cyprus’ sovereign rights due to the obligation to respect international law & good neighborly relations and normalize relations with EU-members.¹⁸⁵ Recalling the conclusions of 22 March 2018, the Council expressed its concerns towards Turkey’s illegal drilling activities within Cyprus’ territorial waters and exclusive economic zone on 18 June 2019.¹⁸⁶ Further, the European Council conclusion of 20 June 2019 reaffirmed these concerns and called Turkey to respect the sovereign rights of Cyprus. The European Council also invited the Commission and European External Action Service (EEAS) to discuss appropriate measures. On 15 July 2019, after Turkey started the second drilling operation in the Eastern Mediterranean, the Council adopted conclusions and strongly condemned Turkey’s

¹⁸² No: 199, 10 July 2019, Press Release Regarding the Activities of our Drilling Ship Yavuz <<https://eu-pr.mfa.gov.tr/Mission/ShowAnnouncement/360029>>.

¹⁸³ QA-4, 19 January 2020, Statement of the Spokesperson of the Ministry of Foreign Affairs, Mr. Hami Aksoy, in Response to a Question Regarding the Statement Made by the EU on the Turkish Drilling Ship Yavuz’s Third Drilling Operation in the TRNC License Areas <<https://washington-emb.mfa.gov.tr/Mission/ShowAnnouncement/367625>>.

¹⁸⁴ European Council Conclusions, 24 October 2014, EUCO 169/14 <<https://data.consilium.europa.eu/doc/document/ST-169-2014-INIT/en/pdf>>.

¹⁸⁵ European Council Conclusions, 23 March 2018, EUCO 1/18 <<https://www.consilium.europa.eu/media/33457/22-euco-final-conclusions-en.pdf>>.

¹⁸⁶ European Council Council of the European Union, "Council conclusions on enlargement and stabilisation and association process" (18 June 2019) <<https://www.consilium.europa.eu/en/press/press-releases/2019/06/18/council-conclusions-on-enlargement-and-stabilisation-and-association-process/>>; See also No: 178, 18 June 2019, Press Release Regarding the EU General Affairs Council Conclusions on Turkey <https://www.mfa.gov.tr/no_178_-ab-nin-ulkemiz-ile-ilgili-kararlari-hk.en.mfa>.

continued illegal drilling activities within Cyprus' territorial sea.¹⁸⁷ The Council urged Turkey to respect sovereignty and sovereign rights of Cyprus as well as calling Turkey to act in a spirit of good neighborliness and not to violate international law. On 14 October 2019, the Council adopted conclusions in which it put a framework for restrictive measures towards natural and legal persons responsible for or involved in Turkey's illegal drilling activities which are considered as a violation of Cyprus' sovereign rights and international law.¹⁸⁸ The European Council endorsed the Council conclusion on 18 October 2019.¹⁸⁹ On 11 November 2019, the Council decided to impose restrictive measures in response to Turkey's unauthorized drilling activities.¹⁹⁰ The Decision was followed by the Regulation which included details for implementation for the financial restrictions.

The Council Decision (CFSP) 2019/1894 of 11 November 2019¹⁹¹ imposed two types of restrictive measures which are restrictions on admission (visa or travel ban) and financial restrictions (freezing of funds and economic resources). Member states are called to take all the necessary measures to prevent entry into, or transit through their territories.¹⁹² Accordingly, necessary visas will not be granted for third party nationals that are listed in Annex I and if they try to cross the external borders their entry will be denied. However, this measure does not oblige a member state to refuse its own nationals to enter into its territory.¹⁹³ Exemptions from the visa or travel ban are available if the travel is justified under urgent

¹⁸⁷ Council of the EU, Turkish drilling activities in the Eastern Mediterranean: Council adopts conclusions <<https://www.consilium.europa.eu/en/press/press-releases/2019/07/15/turkish-drilling-activities-in-the-eastern-mediterranean-council-adopts-conclusions/>>.

¹⁸⁸ Foreign Affairs Council, Foreign Affairs Council, 14/10/2019, 14 October 2019 <<https://www.consilium.europa.eu/en/meetings/fac/2019/10/14/>>.

¹⁸⁹ European Council Conclusion, 18 October 2019, EUCO 23/19 <<https://www.consilium.europa.eu/media/41123/17-18-euco-final-conclusions-en.pdf>>.

¹⁹⁰ Council Decision (CFSP) 2019/1894 of 11 November 2019 concerning restrictive measures in view of Turkey's unauthorized drilling activities in the Eastern Mediterranean. For related materials, see Council Regulation (EU) 2019/1890 of 11 November 2019 Concerning Restrictive Measures in view of Turkey's Unauthorised Drilling Activities in the Eastern Mediterranean (11 November 2019) OJ L 291; Council Decision (CFSP) 2020/275 of 27 February amending Decision (CFSP) 2019/1894 concerning restrictive measures in view of Turkey's unauthorized drilling activities in the Eastern Mediterranean (27 February 2020) L 56 I.

¹⁹¹ Council Decision (CFSP) 2019/1894 of 11 November 2019 concerning restrictive measures in view of Turkey's unauthorized drilling activities in the Eastern Mediterranean ("EU Council Decision 2019/1894"). For related materials, see Council Regulation (EU) 2019/1890 of 11 November 2019 Concerning Restrictive Measures in view of Turkey's Unauthorised Drilling Activities in the Eastern Mediterranean (11 November 2019) OJ L 291; Council Decision (CFSP) 2020/275 of 27 February amending Decision (CFSP) 2019/1894 concerning restrictive measures in view of Turkey's unauthorized drilling activities in the Eastern Mediterranean (27 February 2020) L 56 I.

¹⁹² EU Council Decision 2019/1894, Article 1(1).

¹⁹³ EU Council Decision 2019/1894, Article 1(2).

humanitarian need or under specific conditions of attending certain meetings or if there is a necessity for a judicial process.¹⁹⁴ Financial restrictions consist of two aspects: (1) freezing of funds (cash, cheques, stocks, shares, etc.) and economic resources (assets which are not funds) that belong to, owned, held, or controlled by the individuals or entities listed in Annex I and (2) a prohibition on making funds or economic resources available to or for the benefit of the listed persons.¹⁹⁵ Exemptions are available under certain conditions listed in Article 2 such as necessity to satisfy the basic needs, payment of reasonable professional fees or extraordinary expenses.¹⁹⁶

5.1.2. Legal Assessment

Are these measures retorsion or countermeasures? The first step is to determine whether these measures raise potential violation of international law. This requires an analysis of the applicable law between the EU—its member states— and Turkey. First, concerning the visa and travel ban, there is no rule of international law granting a right to individuals to enter into foreign countries. Instead, it is generally accepted that visa and travel allowance is within the scope of sovereign discretion. The closest rule would be protection of freedom of movement as per Article 2 of the European Convention on Human Rights Optional Protocol 4 (“Optional Protocol 4”)¹⁹⁷ and Article 12 of the International Covenant on Civil and Political Rights (“ICCPR”)¹⁹⁸. These provisions guarantee the right to liberty of movement within the territory of a State, freedom to choose his residence, and the freedom to leave any country.¹⁹⁹ They do not protect the right to enter a country and hence are not relevant for the visa and travel bans. Therefore, the visa and travel ban in the Turkish case does not raise a legal question. The measure is a retorsion, complying with international law.

Second, the measures of financial restrictions may raise concerns under the right to property. The European Convention on Human Rights Optional Protocol 1 (“Optional

¹⁹⁴ EU Council Decision 2019/1894, Articles 1(6) and 1(7).

¹⁹⁵ EU Council Decision 2019/1894, Articles 2(1) and 2(2).

¹⁹⁶ EU Council Decision 2019/1894, Article 2(3).

¹⁹⁷ Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto, European Treaty Series - No. 46. (“Optional Protocol 4”). Turkey is not a party to the Optional Protocol 4.

¹⁹⁸ International Covenant on Civil and Political Rights (signed on 16 December 1966, entered into force on 23 March 1976) 999 UNTS 171 (“ICCPR”).

¹⁹⁹ Optional Protocol 4, Article 2.

Protocol 1”), which was ratified by Turkey, includes protection of property in its Article 1.²⁰⁰ This provision states,

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

The term possession includes both immovable and movable property in the form of existing possessions.²⁰¹ These can be either existing possessions such as assets or legitimate expectations in exceptional circumstances.²⁰² This is independent of any definition of property or possession from domestic laws of states.²⁰³ The different kinds of possessions that are protected under Optional Protocol 1 Article 1 include claims,²⁰⁴ judgment debts,²⁰⁵ company shares,²⁰⁶ bonds,²⁰⁷ professional practices and their clientele,²⁰⁸ licences,²⁰⁹ future

²⁰⁰ Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No.11, European Treaty Series - No.009.

²⁰¹ European Court of Human Rights, Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights, Protection of Property (updated on 28 February 2025), para. 4 (“ECHR Guide on Protection of Property”).

²⁰² ECtHR Guide on Protection of Property, paras. 4 and 11; ECtHR, Case of Marckx v. Belgium (Application no. 6833/74) 13 June 1979, para.50; ECtHR, Case of Pressos Compania Naviera S.A. and Others v. Belgium (Application no. 17849/91), 20 November 1995, para. 31.

²⁰³ ECtHR Guide on Protection of Property, paras. 5 and 6.

²⁰⁴ ECtHR, Case of Plechanow v. Poland (Application no. 22279/04) 7 July 2009, para. 83; ECtHR, Case of Vilho Eskelien and Others v. Finland (Application No. 63235/00) 19 April 2007, para.94.

²⁰⁵ ECtHR, Case of Stran Greek Refineries and Straits Andreadis v. Greece (Application no. 13427/87) 09 December 1994, para.59; ECHR, Case of Burdov v. Russia (Application no. 59498/00) 4 September 2002, para.40.

²⁰⁶ ECtHR, Final Decision as to the Admissibility of Application no. 30417/96 by Tadeusz Olczak against Poland, para. 60; ECtHR, Case of Sovtransavto Holding v. Ukraine (Application no. 48553/99) 6 November 2002, para.91.

²⁰⁷ ECtHR, Case of Pintar and Others v. Slovenia (Application nos. 49969/14 and 4 others) 14 September 2021, para. 92.

²⁰⁸ ECtHR, Case of Malik v. United Kingdom (Application no. 23780/08) 13 March 2012, para.89; ECtHR, Case of Könyv-Tar Kft and Others v. Hungary (Application no. 21623/13) 18 March 2019, paras. 31-32.

²⁰⁹ ECtHR, Case of Megadat.com Srl v. Moldova (Application no. 21151/04) 8 April 2008, paras. 62-63; ECtHR, Case of Capital Bank Ad v. Bulgaria (Application no. 49429/99) 24 February 2006, para.130.

income if earned or enforceable,²¹⁰ lease on property and housing rights,²¹¹ social security benefits.²¹²

Article 1 of Optional Protocol 1 includes three rules.²¹³ First, everyone enjoys peaceful enjoyment of possessions. Second, deprivation of peaceful enjoyment of possessions is subject to certain conditions. Third, states can control the use of property in accordance with general interest. State interference with the right to property shall comply with several criteria including the principle of lawfulness and a legitimate aim by means reasonably proportionate to the aim sought to be realised.²¹⁴ The principle of lawfulness requires the domestic law to be “sufficiently accessible, precise and foreseeable”.²¹⁵ Arbitrary decisions do not qualify this requirement. The legitimate aim requirement derives from Article 18 of the ECHR, which states that “*The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.*”.²¹⁶ Article 1 of Optional Protocol 1 requires a fair balance between the protection of property and a general interest in the community.²¹⁷ This further requires “a reasonable relationship of proportionality between the means employed and the aim sought to be realised”.²¹⁸

Accordingly, three requirements should be checked to conclude on the legality of the financial restrictions: (1) lawfulness, (2) legitimate aim, (3) proportionality (the fair balance). First, concerning lawfulness, an analogy can be established between domestic law of states and the applicable EU law. The lawfulness in this case is controversial, since there are

²¹⁰ ECtHR, Case of Denisov v. Ukraine (Application no. 76639/11) 25 September 2018, para.137; ECtHR, Case of Juszczyszyn v. Poland (Application no. 35599/20) 20 January 2023, para.344.

²¹¹ ECtHR, Case of Stretch v. the United Kingdom (Application no. 44277/98) 3 December 2003, paras.32-35; ECtHR, Case of Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland (Application no. 45036/98) 30 June 2005; ECtHR, Case of Chiragov and Others v. Armenia (Application no. 13216/05) 16 June 2015.

²¹² ECtHR, Müller v. Austria, Decision of 16 December 1974 on the admissibility of the application, p.49; ECtHR, Grand Chamber Decision as to the Admissibility of Applications nos. 65731/01 and 65900/01, paras. 47-56.

²¹³ ECtHR, Case of Sporrang and Lönnroth v. Sweden (Application no. 7151/75; 7152/75) 23 September 1982; ECtHR, Case of Iadridis v. Greece (Application no. 31107/96) 25 March 1999.

²¹⁴ ECtHR, Case of Beyeler v. Italy (Application no. 33202/96) 5 January 2000, paras.108-114 (“ECtHR, Beyeler v. Italy”).

²¹⁵ ECtHR, Beyeler v. Italy, para.109.

²¹⁶ ECtHR, Article 18.

²¹⁷ ECtHR, Beyeler v. Italy, para.111.

²¹⁸ ECtHR, Beyeler v. Italy, para.114.

problems on accessibility and foreseeability. The target of the financial restrictions are natural and legal persons who are not EU citizens. Even though the EU measures formally meet the lawfulness requirements—e.g. relevant legal basis in EU law and publishing the decisions in the Official Journal—these are not *per se* accessible or foreseeable by non-EU persons. This raises significant concerns over the lawfulness requirements which may also violate Article 17 of the ICCPR through arbitrary interference. Second, the legitimate aim requirement is mostly likely to be fulfilled, through a public interest justification. The protection of sovereignty and sovereign rights can be considered as a legitimate aim to secure a significant interest. Third, concerning the proportionality requirement, there shall be a fair balance between the protected rights—the right to property—and the general interest of the community. It must be questioned whether the burden imposed on the individual is excessive in relation to the aim pursued. The proportionality requirement is more likely to be violated if the causation between the targeted individual and the conduct justifying the measures are weak. The burden imposed on the individuals is denying their access to any funds or property within EU jurisdiction. This can be a serious interference, more specifically if these persons have personal savings in any EU member states. The EU Council Regulation 2019/1890 lists two people that are subjected to these measures. The first one is Mehmet Ferruh Akalın, who was the Vice-President (Assistant General Manager) and member of the Board of Directors of the TPAO.²¹⁹ The second one is Ali Cosgun Namoglu, who was the Deputy Director of the Exploration Department of the TPAO.²²⁰ The EU claims that both of them were responsible for planning, directing and implementing TPAO's offshore hydrocarbon exploration activities, without Cyprus' authorization.²²¹ Since only two individuals on high ranks were targeted, it is likely to be proportional; but it is still controversial on whether those measures can really have an effect on the company itself. Therefore, the financial restrictions raise a legal question due to its inconsistency with Article 1 of Optional Protocol 1 and it cannot be classified as restorsion.

The second question should be asked: are the requirements for lawful countermeasures fulfilled? Concerning these financial restrictions the most critical issue is

²¹⁹ EU Council Regulation 2019/1890, Annex 1.

²²⁰ EU Council Regulation 2019/1890, Annex 1.

²²¹ EU Council Regulation 2019/1890, Annex 1.

the specific targets. The measures were directed against two individuals, who were high-ranking employees at the TPAO. As mentioned in the previous section, lawful countermeasures cannot directly target individuals. There might be collateral effects, but the individuals cannot be the ultimate target of the measure. The fact that those individuals were high ranking employees is not sufficient to argue the opposite. The existence of a prior wrongful act, proportionality of the measure, and not affecting human rights were also controversial. Therefore, the financial measures cannot be justified as a lawful countermeasure and it constitutes a violation of international law.

Overall, visa and travel ban in the Turkish case constitute a retorsion and does not raise an inconsistency with international law. However, financial measures constitute a violation of international law, since they do raise a potential international law issue and do not fulfill the requirements of lawful countermeasures. **Table 2** provides the overview of the legal assessment of the EU restrictive measures targeting Turkey.

Table 2: EU Restrictive Measures on Turkey

Restrictive Measure	Q1: Possible violation of international law	Q2: Requirements of lawful countermeasures	Classification
Visa and travel bans	No	—	Retorsion
Financial measures	Yes	Not fulfilled	Violation of international law

5.1.3. Interests and Strategic Concerns

There are two key European interests and strategic considerations behind these restrictive measures. The first one is securing the EU external borders and ensuring regional stability. There are repeated references in the relevant EU documents to “sovereignty and sovereign rights [of Cyprus]” which demonstrate the rationale.²²² More specifically, in the

²²² European Council conclusions of 24 October 2014 <<https://data.consilium.europa.eu/doc/document/ST-169-2014-INIT/en/pdf>>: “Cyprus' sovereignty over its territorial sea and Cyprus' sovereign rights in its exclusive economic zone”; European Council conclusions of 22 March 2018 (<https://www.consilium.europa.eu/media/33457/22-euco-final-conclusions-en.pdf>) : “sovereign rights of Cyprus to explore and exploit its natural resources in accordance with EU and International Law”; Conclusions of 15 July 2019 <<https://www.consilium.europa.eu/en/press/press-releases/2019/07/15/turkish-drilling->

Council Decision (CFSP) 2019/1894 of 11 November 2019, it was stated that “the Council reaffirmed its full solidarity with Cyprus with regard to the respect of its sovereignty and sovereign rights in accordance with international law” and “[t]he above-mentioned drilling activities infringe the sovereignty or sovereign rights and jurisdiction of the Republic of Cyprus in its territorial sea, exclusive economic zone and continental shelf”²²³. Additionally, the term “full solidarity” reflects a political commitment to defending the claims of member states. The Turkish activities in the Eastern Mediterranean challenge the EU’s capacity to maintain control over its borders and the EU responds to them with measures in order to safeguard its external borders. Overall, ensuring stability in the Eastern Mediterranean region is significant for the EU’s security framework.

The second consideration is the strategic and economic interests of the EU. The Eastern Mediterranean hosts rich hydrocarbon resources and the EU aims to secure access and maintain control into these energy resources.²²⁴ This also aligns with the EU’s policy to diversify its energy resources and reduce its dependency on traditional suppliers such as Russia.²²⁵ The Turkish control in the Eastern Mediterranean raises significant geopolitical concerns for the EU and risks towards its strategic and economic interests.

Accordingly, the EU’s restrictive measures on Turkey reflect a broader trend: the EU acts more like a geopolitical actor—rather than an international organization—in matters involving sovereignty, security, external borders, and strategic resources. This shift supports the paradox of the EU presented at the beginning of this thesis and further raises fundamental concerns on the compatibility of the EU on the legal standards.

[activities-in-the-eastern-mediterranean-council-adopts-conclusions/](#): “sovereignty and sovereign rights of Cyprus in accordance with international law.”

²²³ Council Decision (CFSP) 2019/1894 of 11 November 2019 concerning restrictive measures in view of Turkey’s unauthorized drilling activities in the Eastern Mediterranean <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D1894>> (“EU Council Decision 2019/1894”).

²²⁴ European Parliament Fact Sheets on the European Union <<https://www.europarl.europa.eu/factsheets/en/sheet/68/energy-policy-general-principles>> (“Fact Sheets on the European Union”).

²²⁵ Fact Sheets on the European Union.

5.2. EU Restrictive Measures on Russia

5.2.1. Background and Restrictive Measures

The EU measures on Russia were gradually imposed following the Russian annexation of Crimea, Russian recognition of Donetsk and Luhansk, Russia's full scale invasion of Ukraine, and various human rights violations. On 3 March 2014, the EU ministers for foreign affairs had an extraordinary meeting concerning Russia's annexation of Crimea.²²⁶ The Council condemned Russia for "the clear violation of Ukraine's sovereignty and territorial integrity by acts of aggression by the Russian armed forces as well as the authorisation given by the Federation Council of Russia on 1 March for the use of the Russian armed forces on the territory of Ukraine" and indicated the EU's support to Ukraine.²²⁷ This was followed by an extraordinary meeting of EU Heads of State or Government on 6 March 2014, where the EU leaders decided on the preparation of measures.²²⁸ On 17 March 2014, the first set of restrictive measures were imposed on 21 Russian and Ukrainian officials.²²⁹ This was followed by multiple additions and extensions.²³⁰

²²⁶ Foreign Affairs Council, EU condemns Russia's actions in Ukraine, calls for dialogue and remains ready for further measures <<https://www.consilium.europa.eu/en/meetings/fac/2014/03/03/>>.

²²⁷ Foreign Affairs Council, EU condemns Russia's actions in Ukraine, calls for dialogue and remains ready for further measures <<https://www.consilium.europa.eu/en/meetings/fac/2014/03/03/>>.

²²⁸ European Council, Extraordinary meeting of EU Heads of State or Government on Ukraine, 06/03/2014, 6 March 2014 <<https://www.consilium.europa.eu/en/meetings/european-council/2014/03/06/>>.

²²⁹ Foreign Affairs Council, 17/03/2014, 17 March 2014, Council condemns the illegal referendum in Crimea <<https://www.consilium.europa.eu/en/meetings/fac/2014/03/17/>>.

²³⁰ See European Council, Council of the European Union, European Council, 20-21 March 2014 <<https://www.consilium.europa.eu/en/meetings/european-council/2014/03/20-21/>>; European Council Council of the European Union, Foreign Affairs Council, 14-15/04/2014, 14-15 April 2014 <<https://www.consilium.europa.eu/en/meetings/fac/2014/04/14-15/>>; European Council Council of the European Union, Foreign Affairs Council, 12/05/2014, 12 May 2014 <<https://www.consilium.europa.eu/en/meetings/fac/2014/05/12/>>; Council of the European Union, Ukrainian crisis: EU broadens remit of sanctions <<https://www.consilium.europa.eu/media/22026/144047.pdf>>; European Council, Statement by the President of the European Council Herman Van Rompuy and the President of the European Commission in the name of the European Union on the agreed additional restrictive measures against Russia <<https://www.consilium.europa.eu/media/22015/144158.pdf>>; Council of the European Union, Reinforced restrictive measures against Russia <<https://www.consilium.europa.eu/media/21992/144868.pdf>>; Council of the European Union, EU strengthens sanctions against separatists in Eastern Ukraine <<https://www.consilium.europa.eu/media/21990/145967.pdf>>; European Council Council of the European Union, Foreign Affairs Council, 29/01/2015, 29 January 2015 <<https://www.consilium.europa.eu/en/meetings/fac/2015/01/29/>>; Council of the European Union, List of persons and entities under EU restrictive measures over the territorial integrity of Ukraine <<https://www.consilium.europa.eu/media/21988/17022015-russia-sanctions-table-persons-and-entities.pdf>>; European Council Council of the European Union, Council extends EU sanctions over misappropriation of Ukrainian state funds <<https://www.consilium.europa.eu/en/press/press-releases/2015/03/05/council-extends-eu-sanctions-over-misappropriation-ukrainian-state-funds/>>; European Council Council of the European Union, EU extends validity of sanctions over action against Ukraine's territorial integrity

Following Russia's recognition of Donetsk and Luhansk, the EU adopted 18 new measure packages in 2022-2025.²³¹ The second package included measures against Vladimir

<https://www.consilium.europa.eu/en/press/press-releases/2015/03/13/eu-extends-validity-sanctions-ukraine/>>; European Council Council of the European Union, Misappropriated Ukrainian state funds: Council extends asset freezes <<https://www.consilium.europa.eu/en/press/press-releases/2015/06/05/ukraine-state-funds/>>; European Council Council of the European Union, Crimea: EU extends restrictions in response to illegal annexation <<https://www.consilium.europa.eu/en/press/press-releases/2015/06/19/crimea-eu-extends-restrictions-illegal-annexation/>>; European Council Council of the European Union, Russia: EU extends economic sanctions by six months <<https://www.consilium.europa.eu/en/press/press-releases/2015/06/22/russia-sanctions/>>.

²³¹ Council Decision (CFSP) 2022/264 of 23 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2022/335 of 28 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2022/429 of 15 March 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine; Council Decision (CFSP) 2022/430 of 15 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; European Council Council of the European Union, European Council conclusions on Ukraine, 30 May 2022 <<https://www.consilium.europa.eu/en/press/press-releases/2022/05/31/european-council-conclusions-on-ukraine-30-may-2022/>>; Council Decision (CFSP) 2022/1907 of 6 October 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine; Council Decision (CFSP) 2022/1908 of 6 October 2022 amending Decision (CFSP) 2022/266 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas; Council Decision (CFSP) 2022/2477 of 16 December 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine; Council Decision (CFSP) 2022/2478 of 16 December 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2022/2479 of 16 December 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine; Council Decision (CFSP) 2023/431 of 25 February 2023 amending Council Decision (CFSP) 2017/1775 concerning restrictive measures in view of the situation in Mali; Council Decision (CFSP) 2023/432 of 25 February 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine; Council Decision (CFSP) 2023/433 of 25 February 2023 amending Decision (CFSP) 2020/1999 concerning restrictive measures against serious human rights violations and abuses; Council Decision (CFSP) 2023/434 of 25 February 2023 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2023/1217 of 23 June 2023 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2023/1218 of 23 June 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine; Council Decision (CFSP) 2023/2874 of 18 December 2023 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2024/746 of 23 February 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine; Council Decision (CFSP) 2025/931 of 20 May 2025 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

Putin (President of the Russian Federation) and of Sergey Lavrov (Minister for Foreign Affairs of the Russian Federation).²³²

The EU restrictive measures on Russia can be grouped into two broad categories: measures in response to human rights violations and measures in response to invasion of Ukraine.²³³ The measures in response to human rights violations targeting individuals and entities responsible for genocide, crimes against humanity, torture, slavery, and other human rights violations listed in Article 1 of Council Decision (CFSP) 2020/1999.²³⁴ These measures include travel bans and financial restrictions targeting the individuals and entities responsible for those violations.²³⁵ Currently, 47 individuals and one entity are targeted by these measures.²³⁶

The measures in response to the invasion of Ukraine were gradually imposed starting with the Russian annexation of Crimea. These measures target individuals and entities that are responsible for the actions threatening sovereignty, territorial integrity, and independence of Ukraine. Currently, over 2400 individuals and entities are targeted by these measures, including Vladimir Putin, Sergey Lavrov, Viktor and Oleksandr Yanukovych, Roman Abramovich, ministers, governors, local politicians, high-ranking military officials, businesspeople, and oligarchs.²³⁷ The list is extensive and even includes banks and financial institutions, companies in the military and defence sectors, organisations responsible for re-educational programmes for and deportation of Ukrainian children, and companies from third

²³² European Council Council of the European Union, Russia's military aggression against Ukraine: EU imposes sanctions against President Putin and Foreign Minister Lavrov and adopts wide ranging individual and economic sanctions; <<https://www.consilium.europa.eu/en/press/press-releases/2022/02/25/russia-s-military-aggression-against-ukraine-eu-imposes-sanctions-against-president-putin-and-foreign-minister-lavrov-and-adopts-wide-ranging-individual-and-economic-sanctions/>>; Council Decision (CFSP) 2024/3182 of 16 December 2024 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

²³³ European Council Council of the European Union, EU sanctions against Russia <<https://www.consilium.europa.eu/en/policies/sanctions-against-russia/>> ("Council of the EU, EU sanctions against Russia").

²³⁴ Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, Article 1 ("Council Decision (CFSP) 2020/1999").

²³⁵ Council Decision (CFSP) 2020/1999.

²³⁶ Council of the EU, EU sanctions against Russia; Council Decision (CFSP) 2020/1999, Annex.

²³⁷ Council of the EU, EU sanctions against Russia.

countries supporting Russia.²³⁸ These measures include travel bans and financial sanctions.²³⁹ The financial sanctions target multiple Russian sectors including finance, trade, energy, transport, technology and defence.²⁴⁰ The consequences of these sanctions are significant. For example, following the third package of measures, “around €210 billion of the Central Bank of Russia’s assets were immobilised in the EU”.²⁴¹ Further, restrictions on imports, exports, and services were also imposed as a result of the Russian annexation of Crimea and Sevastopol and Russian recognition of Donetsk, Luhansk, Zaporizhzhia and Kherson.²⁴² Other measures included restrictions on economic cooperation, bans on media outlets, ban of funding of political parties in the EU, diplomatic measures, suspension of the visa agreement,²⁴³ tariffs on agricultural products and fertilisers,²⁴⁴ and anti-circumvention measures.²⁴⁵ Overall, the EU measures on Russia can be grouped in 9 categories: (1) travel bans, (2) asset freeze, (3) sectoral financial restrictions, (4) arms embargo, (5) export and import restrictions, (6) media ban, (7) ban on political party financing, (8) suspension of visa facilitation agreements, (9) anti-circumvention measures.

5.2.2. Legal Assessment

This section will pose the same questions introduced above: Are these measures retorsion, lawful countermeasures, or a violation of international law? Since the EU was not

²³⁸ Council of the EU, EU sanctions against Russia.

²³⁹ Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (“Council Decision 2014/145/CFSP”).

²⁴⁰ Council Decision 2014/145/CFSP.

²⁴¹ Council of the EU, EU sanctions against Russia.

²⁴² Council Decision 2014/386/CFSP of 23 June 2014 concerning restrictions on goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol; Council Decision (CFSP) 2024/633 of 19 February 2024 amending Decision (CFSP) 2022/266 concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine.

²⁴³ European Council Council of the European Union, Council adopts full suspension of visa facilitation with Russia <<https://www.consilium.europa.eu/en/press/press-releases/2022/09/09/council-adopts-full-suspension-of-visa-facilitation-with-russia/>>; European Council Council of the European Union, Council adopts decision not to accept Russian documents issued in Ukraine and Georgia <<https://www.consilium.europa.eu/en/press/press-releases/2022/12/08/council-adopts-decision-not-to-accept-russian-documents-issued-in-ukraine-and-georgia/>>.

²⁴⁴ European Council Council of the European Union, Trade: EU adopts new tariffs on Russian and Belarusian agricultural goods and fertilisers <<https://www.consilium.europa.eu/en/press/press-releases/2025/06/12/trade-eu-adopts-new-tariffs-on-russian-and-belarusian-agricultural-goods-and-fertilisers/>>.

²⁴⁵ Council of the EU, EU sanctions against Russia.

the victim of the Russian conducts, it can only resort to collective countermeasures as per Article 48 of ARSIWA. As the Russian acts pertain to matters concerning international peace and security, there is no problem as such in resorting to collective countermeasures. **Table 3** presents an overview on the legality assessment of the EU measures on Russia.

Travel bans: Concerning travel bans, there is no international law rule applicable between the EU and Russia. The reasoning is very similar to that which was adopted in the visa and travel ban analysis in the Turkish case. Accordingly, there is neither a potential international law violation, nor a legal question. Travel bans are classified as retorsion and comply with international law.

Asset freeze: Concerning asset freeze, different analysis should be conducted for different targets: state related entities and other third parties. Asset freeze of state related entities, such as the Russian central bank, includes a potential international law violation, the rules on state immunity. States, including its organs of government, units or political subdivisions, enjoy immunity.²⁴⁶ This pertains to central banks as well. As there is a potential international law violation, this does not pertain to a retorsion and the second question should be asked: is this measure justified as a lawful countermeasure? The answer pertains to be yes, since the requirements of a lawful countermeasure is highly likely to be fulfilled. Asset freeze of other third parties include a potential international law violation, arising from Article 1 of Optional Protocol 1.²⁴⁷ Despite Russia's expulsion from the Council of Europe, the obligations arising from the ECHR and relevant documents remain applicable to acts that were committed prior to 16 September 2022.²⁴⁸ Asset freeze of other third parties cannot be justified as lawful countermeasures, as explained in the Turkish case.²⁴⁹

Sectoral financial restrictions: The legal analysis on sectoral financial restrictions is not clear compared to other types of measures. This includes complex business relations. There may be a potential legal issue; not under international law, but rather as a possible breach of contract. As the business contracts are outside the scope of this study, this analysis on sectoral financial restrictions will not be detailed.

²⁴⁶ United Nations Convention on Jurisdictional Immunities of States and Their Property (signed on 2 December 2004, not in force), Articles 1 and 2.

²⁴⁷ See Section 5.1.2.

²⁴⁸ ECtHR, Case of Ukraine and the Netherlands v. Russia (Applications nos. 8019/16, 43800/14, 28525/20 and 11055/22), 9 July 20205, para. 188.

²⁴⁹ See Section 5.1.2.

Arms embargo: No international law rule between the EU member states and Russia was identified concerning the issue of arms embargo. It is highly unlikely that there is no international law rule as such. Accordingly, arms embargo is classified as retorsion and comply with international law.

Export and import restrictions: The legal assessment on export and import restrictions require an analysis of the World Trade Organization (“WTO”) law. Both Russia and the EU are WTO members.²⁵⁰ General Agreement on Tariffs and Trade 1994 (“GATT”) Article XI states, *“No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.”*²⁵¹ Article XXI of GATT provides national security exceptions applicable to all the rules. As per this provision, state parties can impose export and import restrictions *“to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests”*.²⁵² As the EU mentions *“Russia’s malign activities directed against the Union, its Member States, international organisations and third countries”*²⁵³ as the reason behind the restrictive measures, the export and import restrictions are highly likely to fall within the scope of national security exceptions of the GATT. Accordingly, the export and import restrictions are specifically permitted by an international treaty and comply with international law.

Media ban: The media ban raises significant issues concerning the freedom of expression. Freedom of expression is both guaranteed under ECHR Article 10 and ICCPR Article 19. These provisions establish a broad scope on freedom of expression, including the right to hold opinions and the freedom to receive and impart information and ideas. The free exchange of ideas required in a democratic society is the basis of it. ECHR Article 10(2) lists the conditions upon which the freedom of expression can be limited. This requires (1)

²⁵⁰ World Trade Organization, Members and Observers
<https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm>.

²⁵¹ Marrakesh Agreement establishing the World Trade Organization (signed on 15 April 1994, entered into force on 1 January 1995) 1867 UNTS (“GATT”), Article XI.

²⁵² GATT, Article XXI(b).

²⁵³ See for example Council Decision (CFSP) 2025/1443 of 15 July 2025 amending Decision (CFSP) 2024/2643 concerning restrictive measures in view of Russia’s destabilising activities.

prescribed by law, (2) necessary in a democratic society, and (3) legitimate aim.²⁵⁴ Similarly, ICCPR 19(2) and 19(3) list the conditions of limitation as (1) be provided by law, (2) be necessary, (3) respect the rights and reputations of others, and (4) be conducted for the protection of national security or of public order, or of public health or morals.²⁵⁵ Necessity requirement is problematic, since it might be excessively restrictive. Accordingly, there is a potential violation of international law and the media ban cannot be classified as a retorsion. Concerning the second question, there should be a distinction between ban on the state-led media outlets and ban on other media outlets. The ban on the state-led media outlet can be classified as lawful countermeasures. However, the media ban on other media outlets cannot be lawful countermeasures, as the direct target cannot be other entities or individuals. Therefore, the ban on other media outlets constitute a violation of international law.

Ban on political party financing: There is no applicable international law rule between the EU member states and Russia that prohibits the ban on political party financing. Indeed, Article 16 of the ECHR permits contracting parties to impose such bans, by clarifying that the freedom of expression, freedom of assembly and association, and prohibition of discrimination does not imply such a ban.²⁵⁶ Accordingly, the ban on political party financing complies with international law.

Suspension of visa facilitation agreements: The visa facilitation agreement between the EU and Russia includes a suspension provision. As per Article 15(5) of this agreement, “[e]ach Party may suspend in whole or in part this Agreement for reasons of public order, protection of national security or protection of public health”.²⁵⁷ Similar to the national security exception to GATT, this provision allows parties to lawfully suspend their treaty obligations in case of a national security issue. Accordingly, suspension of the visa facilitation agreement is specifically permitted by an international treaty and comply with international law.

Anti-circumvention measures: The legality of the anti-circumvention measures will be dependent on the legality of the primary measure.

²⁵⁴ ECHR, Article 10(2).

²⁵⁵ ICCPR, Article 19(2).

²⁵⁶ ECHR, Article 16.

²⁵⁷ Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation Official Journal of the European Union L 129/27, Article 15(5).

Table 3: EU Restrictive Measures on Russia

Restrictive Measure	Q1: Possible violation of international law	Q2: Requirements of lawful countermeasures	Classification
Travel bans	No	—	Retorsion
Asset freeze of state related entities	Yes	Fulfilled	Countermeasure
Asset freeze of third parties	Yes	Not fulfilled	Violation of International Law
Sectoral financial restrictions	N/A	N/A	N/A
Arms embargo	No	—	Retorsion
Export and import restrictions		Specifically permitted	
Media ban (state-led media outlets)	Yes	Fulfilled	Countermeasure
Media ban (other media outlets)	Yes	Not fulfilled	Violation of international law
Ban on political party funding	No	—	Retorsion
Suspension of visa facilitation agreements		Specifically permitted	
Anti-circumvention measures	Depends on the analysis of the primary measure		

5.2.3. *Interests and Strategic Concerns*

The key European interest is securing its external borders and ensuring regional stability. The relevant EU decisions and documents make repeated references to the

“commitment to the core principles on which European security is built”,²⁵⁸ “common and indivisible security space in Europe”,²⁵⁹ “peace and stability on the European continent”²⁶⁰, “European and global security and stability”²⁶¹. These concerns are the primary rationale for the EU support towards Ukraine’s sovereignty and territorial integrity.²⁶² Russia’s annexation of Crimea and its involvement in destabilizing Eastern Ukraine by sending troops are seen as threats to the stability and security of the EU. The protection of Ukraine’s sovereignty aligns with the EU’s broader goal of preventing further erosion of borders and threatening military action. In other words, Ukraine serves as a buffer zone between the EU and Russia. Any destabilization of this zone has direct consequences for the EU’s external security.

The EU also had several other strategic interests. These are not only limited to weakening the Russian capacity, but also include balancing the global power dynamics and accelerating the EU-NATO cooperation.²⁶³ These strategic interests contribute to strengthening the EU’s position as a critical geopolitical power, rather than being a mere economic actor or normative organization. The restrictive measure regime on Russia reflects a manifestation of European unified action against a systemic threat. Overall, the EU’s restrictive measures on Russia confirm the broader trend that the EU is acting more like a geopolitical actor, rather than an international organization, concerning the matters of security issues.

Lastly, the EU reflected the threats posed by Russia on the international order, international peace and security, and human rights.²⁶⁴ Despite the EU raising these concerns,

²⁵⁸ Council Decision (CFSP) 2022/264 of 23 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine (“Council Decision (CFSP) 2022/264”).

²⁵⁹ Council Decision (CFSP) 2022/264.

²⁶⁰ Council Decision (CFSP) 2022/264.

²⁶¹ Council Decision (CFSP) 2022/429 of 15 March 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

²⁶² Council Decision (CFSP) 2022/264 of 23 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.

²⁶³ European Parliament Briefing, EU-NATO Cooperation <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/772922/EPRS_BRI\(2025\)772922_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/772922/EPRS_BRI(2025)772922_EN.pdf)>.

²⁶⁴ Council Decision (CFSP) 2022/1908 of 6 October 2022 amending Decision (CFSP) 2022/266 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas.

it still reflects a paradox that the EU seeks to defend international law while potentially violating it.

5.3. EU Restrictive Measures on Zimbabwe

5.3.1. Background and Restrictive Measures

During President Robert Mugabe's regime in Zimbabwe, there was widespread human rights violations, electoral fraud, and the violent suppression of political opposition.²⁶⁵ On 28 January 2002, the Council expressed serious concerns on the situation in Zimbabwe.²⁶⁶ The concerns included escalation of violence in Zimbabwe, intimidation of political opponents, harassment of the independent press, and overturning the democratic process.²⁶⁷

On 18 February 2002, the EU imposed four counts of restrictive measures on Zimbabwe: (1) arms embargo, (2) travel bans, (3) financial measures (asset freeze and prohibition to make funds available), and (4) restrictions on equipment used for internal repression.²⁶⁸ The target of the measures included key individuals in the Zimbabwean government and military.²⁶⁹ This followed by new sets of restrictive measures imposed in 2004,²⁷⁰ 2011,²⁷¹ 2013,²⁷² and 2022²⁷³ which extended the scope of the measures.

5.3.2. Legal Analysis

The first step of the legal assessment is to determine whether these measures raise potential violations of international law. Concerning the arms embargo, travel ban, and

²⁶⁵ For a chronological explanation on the politics & issues in Zimbabwe see Resat Bayer, "Lord Carrington's Mediation of the Rhodesian Settlement: Zimbabwe's Second Chimurenga Concludes" Online Journal of Peace and Conflict Resolution 1.4.

²⁶⁶ European Commission, 2406th Council meeting - General Affairs - Brussels, 28 January 2002 <https://ec.europa.eu/commission/presscorner/detail/en/pres_02_16> ("European Commission, 2406th Council meeting").

²⁶⁷ European Commission, 2406th Council meeting.

²⁶⁸ Council Common Position of 18 February 2002 concerning restrictive measures against Zimbabwe (2002/145/CFSP) ("Council Common Position of 18 February 2002").

²⁶⁹ Council Common Position of 18 February 2002.

²⁷⁰ Council Common Position 2004/161/CFSP of 19 February 2004 renewing restrictive measures against Zimbabwe.

²⁷¹ Council Decision 2011/101/CFSP of 15 February 2011 concerning restrictive measures against Zimbabwe.

²⁷² Commission Implementing Regulation (EU) No 145/2013 of 19 February 2013 amending Council Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe.

²⁷³ Council Regulation (EU) 2022/225 of 17 February 2022 amending Regulation (EC) No 314/2004 concerning restrictive measures in view of the situation in Zimbabwe.

restrictions on equipment used for internal repression there is no applicable legal rule between the EU member states and Zimbabwe. Accordingly, these two measures are retorsion and comply with international law. Concerning the financial measures, there is a potential violation of the right to property. The important question here is whether the right to property is customary international law or not. Accepting the customary status of the right to property, the financial measures imposed on individuals constitute a violation of international law. Therefore, the financial measures and the restrictions on equipment is likely to constitute a potential violation of international law.

The second step of the legal assessment is to determine whether the financial measures are a lawful countermeasure or a violation of international law. Here, the categorical problem is the requirements of collective countermeasures. As explained in Section 4, collective countermeasures must concern a violation of *erga omnes* or *erga omnes partes*. The acts of Zimbabwe do not amount to an *erga omnes* or *erga omnes partes* obligation. Therefore, the financial measures cannot be a lawful countermeasure. They violate international law. **Table 4** presents an overview on the legality assessment of the EU measures on Russia.

Table 4: EU Restrictive Measures on Zimbabwe

Restrictive Measure	Q1: Possible violation of international law	Q2: Requirements of lawful countermeasures	Classification
Arms embargo	No	—	Retorsion
Travel bans	No	—	Retorsion
Financial measures	Yes	Not fulfilled	Violation of international law
Restrictions on equipment used for internal repression	No	—	Retorsion

5.3.3. *Interests and Strategic Concerns*

The relevant EU decisions and documents highlight the human rights violations and rule of law crisis in Zimbabwe as the primary motivation behind the restrictive measures. However, the EU interest on imposing restrictive measures on Zimbabwe go beyond mere normative ideas. First, these measures target regional stability, which can protect the EU's broader development and economic interests in Africa, such as foreign direct investment.²⁷⁴ This was also supported by the gradual extension of sanctions in 2013 and 2022, where the EU was willing to ease the measures in case of an improvement in political stability, showing prioritization of the strategic outcomes.

Second, the measures would strengthen the EU's geopolitical influence in Africa. This is particularly significant concerning the growing influence of China, Russia, and other emerging regional powers. The European pressure on the African continent assets the EU's role as a key political and normative power in the region. Accordingly, the restrictive measures complement the EU's engagement strategies, such as its position in Africa.

Third, there is a distinct implicit identity and post colonial dimension of the measures. The EU's opposition to the Zimbabwean government reflects its broader efforts to differentiate itself from its colonial legacy. This identity-related aspect is significant for maintaining the EU's soft power and legitimacy in its relations with the African countries. Overall, the EU's restrictive measures on Zimbabwe demonstrate a complex interplay between strategic interests, geopolitical calculations, and identity politics, supporting the paradox of the EU.

5.4. Cross-Case Comparative Analysis

In all three cases, travel/visa bans consistently qualify as retorsions. By contrast, private-targeted financial measures tend to be unlawful, as they directly burden individuals other than the state itself. The one partial deviation is the measures on Russia's state-linked assets, which can qualify as countermeasures. Concerning the measures against Turkey, the

²⁷⁴ For example see German Marshall Fund, North African Stability Powers Europe's Energy Transition <<https://www.gmfus.org/news/north-african-stability-powers-europes-energy-transition>>; European Union External Action, Why the EU has a stake in the stability of the Horn of Africa <https://www.eeas.europa.eu/eeas/why-eu-has-stake-stability-horn-africa_en>. See also European Parliament Fact Sheets on the European Union, Africa <<https://www.europarl.europa.eu/factsheets/en/sheet/180/africa>>.

EU can frame them though possible victimhood of its member states Greece and Cyprus. However, the measures used still miss countermeasure requirements, as they target private persons. In the Russian case, the EU is a non-injured actor and can only rely on collective countermeasure justification, when the requirements are fulfilled. In the case of Zimbabwe, the absence of an *erga omnes* or an *erga omnes partes* obligations forecloses collective countermeasures, which makes the measures tend toward illegality.

The EU's approach varies across the three cases. In the Turkish case, the measures are limited and mostly symbolic, aimed at showing political solidarity with member states and discouraging further Turkish drilling activities. The Russian case, by contrast, involves the broadest and most complex set of measures—covering travel bans, asset freezes, trade and financial restrictions, media bans, and visa suspensions. The Zimbabwe regime falls somewhere in between the previous two cases: it relies on targeted measures with periodical extensions, while avoiding full-scale measures.

The EU acts according to its strategic interests in all three cases. In Turkey's case, the focus is on protecting EU borders and energy security; in Russia's case, on safeguarding European peace and the post-Cold War security order; and in Zimbabwe's case, on projecting the EU's political influence in Africa.

The world does not speak. Only we do.²⁷⁵

Chapter 6:

CONCLUSION: EU RESTRICTIVE MEASURES AS A HYBRID INSTRUMENT

The study of the EU restrictive measures taken against Turkey, Russia, and Zimbabwe illustrates both the breadth of the EU restrictive measures regime and the theoretical inconsistency. While the EU is self-proclaimed as being liberal institution as an international organization, founded upon cooperation, multilateralism, and rule of law, its usual resort to unilateral sanctions—particularly against non-members—adopts a rather realistic foreign action.

In the case of Turkey, restrictive measures were a policy response to an anticipated threat to the sovereignty of EU member states and the security of the external borders. Formulated in a legal and normative language, the EU response in the name of restrictive measures was one of self-help, which expresses a realist action. Similarly, the EU's restrictive measures regime against the Russian example was motivated by geopolitically driven deterrence towards a great power that has been a threat to European security and norms. This is also consistent with the realist prediction that international actors—even institutions like the EU—may resort to unilateral action when strategic vital interests are at risk. The case of Zimbabwe shows the EU interference as a response to internal politics and repression. Despite this being framed as a concern on human rights issues, the broader strategic interests lead the motivation. The EU's concern for regional stability in Southern Africa, as well as identity politics support the European realist perspective.

It is important to acknowledge that in all three cases—as well as in others—the EU frames the prior issue as a systemic problem, such as a violation of international law, a human rights violation, or a democracy and rule of law concern. However, this framing is not sufficient to analyze the primary motivations behind the decisions. This is also supported by

²⁷⁵ Richard Rorty, *Contingency, Irony, and Solidarity* (CUP 1989).

the selectivity of the application of the measures. The EU often targets smaller and less influential states; while more powerful and influential states with similar issues may not be targeted by restrictive measures.

These findings confirm the first theoretical framework: the EU paradox. As a liberal international organization, the EU professes commitment to cooperation and multilateral conflict resolution; however in practice it frequently resorts to realist tools such as unilateral sanctions to ensure its security and interests in an anarchic international system. In addition, the cases reflect how the EU extends its power and norms beyond its external borders, which aligns with the second theoretical framework—imposing rules outside the regime. Although non-members like Turkey, Russia, and Zimbabwe are beyond the legal authority of the EU, the EU attempts to regulate their behavior using economic and legal coercion. Further, concerning the unlawful aspect of the restrictive measures, it is controversial that the EU acts against its founding principles based on rule of law and respect for international law. Looking ahead, and considering the broader global trend on the increasing use of unilateral measures by states, it is likely that the EU will continue to rely on restrictive measures as a central foreign policy tool. However, to remain consistent with its founding principles and with international law, such measures must rest on a clear international legal basis.

Overall, the analysis support the conclusion that EU restrictive measures are a hybrid instrument: they are applied in line with strategic self-interest but framed in liberal-normative language, thus enabling the EU to maintain its identity as a normative actor while pursuing realist power politics. It is this tension—between strategic behavior and normative identity—that lies at the root of the EU's evolving role in international relations as a *sui generis* actor, positioned between a supranational organization and a federal state.

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APPENDIX

Table 5: Autonomous EU Measures

Country	Specification (Type)
Belarus	Restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine
Bosnia & Herzegovina	Restrictive measures in view of the situation in Bosnia and Herzegovina
Burundi	Restrictive measures in view of the situation in Burundi
China	Specific restrictive measures in relation to the events at the Tiananmen Square protests of 1989
Guatemala	Restrictive measures in view of the situation in Guatemala
Guinea	Restrictive measures in view of the situation in Guinea
Haiti	Prohibiting the satisfying of certain claims by the Haitian authorities
Iran	Restrictive measures in relation to serious human rights violations in Iran
Iran	Restrictive measures in view of Iran's military support to Russia's war of aggression against Ukraine and to armed groups and entities in the Middle East and the Red Sea region
Lebanon	Restrictive measures in view of the situation in Lebanon
Libya	Prohibiting the satisfying of certain claims in relation to transactions that have been prohibited by the UN Security Council Resolution 883 (1993) and related resolutions

Mali	Restrictive measures in view of the situation in Mali
Moldova	Restrictive measures in view of actions destabilising the Republic of Moldova
Moldova	Restrictive measures in relation to the campaign against Latinscript schools in the Transnistrian region
Myanmar/Burma	Restrictive measures in view of the situation in Myanmar/Burma
Nicaragua	Restrictive measures in view of the situation in Nicaragua
Niger	Restrictive measures in view of the situation in Niger
Russia	Restrictive measures in view of the situation in Russia
Russia	Restrictive measures in view of Russia's destabilising activities
Russia	Restrictive measures in view of Russia's actions destabilising the situation in Ukraine (sectoral restrictive measures)
Sudan	Restrictive measures in view of activities undermining the stability and the political transition of Sudan
Syria	Restrictive measures against Syria
Tunisia	Misappropriation of state funds of Tunisia
Turkey	Restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean
Ukraine	Restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine
Ukraine	Restrictive measures in respect of actions undermining or threatening the territorial

	integrity, sovereignty and independence of Ukraine
Ukraine	Misappropriation of state funds of Ukraine
Ukraine	Restrictive measures in response to the illegal annexation of Crimea and Sevastopol
United States	Measures protecting against the effects of the extra-territorial application of certain legislation adopted by the US
Venezuela	Restrictive measures in view of the situation in Venezuela
Zimbabwe	Restrictive measures in view of the situation in Zimbabwe

Table 6: UN Mandated EU Measures

Country	Specification (Type)
Afghanistan	Restrictive measures imposed with respect to the Taliban
Central African Republic	Restrictive measures in view of the situation in the Central African Republic
Iraq	Restrictive measures on Iraq
Lebanon	Restrictive measures in relation to the UN Security Council Resolution 1701 (2006) on Lebanon
Lebanon	Restrictive measures in relation to the 14 February 2005 terrorist bombing in Beirut, Lebanon
Somalia	Restrictive measures in view of the situation in Somalia
Syria	Restrictive measures in relation to the 14 February 2005 terrorist bombing in Beirut, Lebanon
Yemen	Restrictive measures in view of the situation in Yemen

Table 7: Mixed Measures

Country	Specification (Type)
Democratic People's Republic of Korea (North Korea)	Restrictive measures in relation to the non-proliferation of weapons of mass destruction
Democratic Republic of the Congo	Restrictive measures in view of the situation in the Democratic Republic of the Congo
Guinea-Bissau	Restrictive measures in view of the situation in Guinea-Bissau
Haiti	Restrictive measures in view of the situation in Haiti
Iran	Restrictive measures in relation to the non-proliferation of weapons of mass destruction
Libya	Restrictive measures in view of the situation in Libya
Montenegro	Prohibiting the satisfying of certain claims in relation to transactions prohibited by the UN Security Council Resolution 757 (1992)
Serbia	Prohibiting the satisfying of certain claims in relation to transactions prohibited by the UN Security Council Resolution 757 (1992)
South Sudan	Restrictive measures in view of the situation in South Sudan
Sudan	Restrictive measures in view of the situation in Sudan