University of Graz

European Master's Degree in Human Rights and Democratisation A.Y. 2013/2014

EU SANCTIONS: A NEW HUMAN RIGHTS TOOL?

The Case of Belarus

Author: Rocio Alamillos Sánchez Supervisor: Univ.-Prof. Mag. Dr. Wolfgang Benedek

Abstract

The thesis focuses on the use of EU sanctions to promote respect for human rights in third countries. Targeted or 'smart' sanctions have been widely used in recent years by the European Union in pursue of its foreign policy objectives. Their purpose it is not punitive but to bring about a behavioural or policy change. This work reveals to what extent sanctions have become a 'normative tool' to promote 'normative aims'. On the other hand sanctions may conflict with other fundamental principles of international law, namely the principle of non-intervention or with respect for fundamental right of the targets. This work claims that the EU sanctions can effectively contribute to decrease human rights violations in third states. However, the effectiveness of these measures depends on a higher level of consistency among member states at the decision-making and implementation level. Based on the research outlined above the case study on Belarus illustrates the function of sanctions in a wider strategy to promote and protect human rights, however, the existence of the above mentioned inconsistencies have led to failure of this policy.

Table of contents

Abstract	2
Table of contents	3
Table of abbreviations	6
INTRODUCTION	7
A. Research questions and limitations	8
B. Structure of the thesis	9
C. Methodology and sources	10
CHAPTER I - SANCTIONS AND THE INTERPLAY BETWEEN EU HUMAN RIGHTS	S
AND FOREIGN POLICIES	12
A. The notion of international sanctions	12
1. The definition of international sanctions	12
2. Evolution from comprehensive to targeted or 'smart' sanctions	13
2.1. Sanctions and human security: lessons learned from the past	14
2.2. The concept of targeted or 'smart' sanctions	16
3. Types of sanctions	17
3.1. Sanctions adopted under the Common Foreign and Security Policy (C	FSP)
framework	17
3.2. Sanctions adopted outside the Common Foreign and Security Policy (CFSP
framework	18
B. The EU's external human rights policy	19
1. Towards a more coherent and consistent human rights policy	20
2. Human rights mainstreaming in EU external relations	21
C. The choice for autonomous sanctions	22
1. Factors which have contributed to increase the use of autonomous sanctions	22
2. The carrots-and-sticks strategy	23
3. Autonomous sanctions vs. implementation of UN Security Council Resolutions	24
Conclusion	24
CHAPTER II - LEGALITY, LEGITIMACY AND CONSISTENCY OF THE EU	
SANCTIONS POLICY	26

A. Compliance with International Law	<u>,</u>
1. The principle of non-intervention and obligations <i>erga omnes</i>	,
2. Compliance with International Human Rights Law)
2.1. The EU's human rights obligations)
2.2. The use of sanctions and respect of fundamental rights of the targets 30)
2.3. Unintended targets: the adverse consequences of EU sanctions on the	
population32)
B. EU sanctions normative framework and judicial control	
1. Legal bases for EU sanctions and the decision-making procedure34	
2. Restrictive measures guidelines	<u>,</u>
3. Legal safeguards for restrictive measures	;
3.1. Mechanisms of protection	;
3.2. Judicial review in EU sanctions policy)
C. Legitimacy of the use of sanctions as response to human rights violations	i
1. Multilateral sanctions and cooperation	
2. International consensus on the use of sanctions	,
3. The aim to protect human rights as a legitimizing factor	<u>,</u>
4. Internal legitimacy: the compatibility with the national interests of the member states4	17
D. Consistency in the EU sanctions policy)
Conclusion)
CHAPTER III - BELARUS: INTRODUCTION TO THE CASE STUDY	
A. An overview of Belarus	,
1. The post-Soviet context	,
2. Failed democratisation and poor human rights records	i
B. The relationship between the EU and Belarus	<u>.</u>
1. The first track: relations between the Brussels and Lukashenko's regime	<u>.</u>
1.1. The period from independence to the first round of sanctions	<u>,</u>
1.2. The EU 'policy of critical engagement' within the European Neighbourhood	f
Policy (ENP)57	,
1.3. The inclusion of Belarus in the European Eastern Partnership (EaP) 58	,
2. The second track: the support to civil society)
C. The relations between Russia and Belarus)
Conclusion 61	

CHAPTER IV - EU SANCTIONS AGAINST HUMAN RIGHTS VIOLATIONS IN	
BELARUS	63
A. Restrictive measures within a wider strategy towards Belarus	63
1. Strategic objectives towards Belarus	63
2. The function of the restrictive measures	64
B. The reasons for the adoption of sanctions and the targets	65
1. Are sanctions imposed for valid reasons?	65
2. Do sanctions target the relevant parties?	68
C. Effectiveness of restrictive measures	69
1. The problem of assessing effectiveness	69
2. Impact on the targets	70
2.1. Visa ban	70
2.2. Financial sanctions	71
2.3. Embargo on arms embargo and ban on exports of equipment for interna	1
repression	72
3. Safeguards and protection of fundamental rights of the targets	72
4. What results have been obtained?	73
D. Unintended targets: the impact on the Belarusian society	74
1. The link between sanctions and repression of civil and political rights	75
2. The impact on welfare: economic, social and cultural rights	78
3. The impact on the public opinion	79
E. Coherence and consistency	80
F. Evaluation	84
1. Current challenges towards the sanctions policy	84
2. Are there other alternatives?	86
Conclusion	87
FINAL CONCLUSIONS	89
Ribliography	91