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Sanctions in international law: UN charter vs unilateral measures of states

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Abstract. This article analyzes the growing legal “schism” between sanctions authorized under the UN Charter (1945) and unilateral coercive measures imposed by individual states. The relevance of this research is explained by the fact that global powers, such as the USA, the EU and Russia, use economic pressure in order to achieve their objectives without consideration of the UN Security Council mandate. This might be harmful for international legal order because it goes against the UN Security Council. This research looks at the way major powers use sanctions and how they can be justified. It also looks at what other states and actors can do if someone uses measures of economic coercion against them.

Key words: extraterritorial jurisdiction, economic sanctions, international law, the UN Security Council, the UN Charter, deterrence, countermeasures, coercion.

Халықаралық құқықтағы Санкциялар: БҰҰ Жарғысы мемлекеттердің біржақты шараларына қарсы

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Андатпа: Бұл мақалада БҰҰ Жарғысында (1945) рұқсат етілген санкциялар мен жекелеген мемлекеттер енгізген біржақты мәжбүрлеу шаралары арасындағы өсіп келе жатқан құқықтық "бөліну" талданады. Бұл зерттеудің өзектілігі АҚШ, ЕО және Ресей сияқты әлемдік державалардың БҰҰ Қауіпсіздік Кеңесінің мандатын ескермей өз мақсаттарына жету үшін экономикалық қысымды қолдануымен түсіндіріледі. Бұл БҰҰ Қауіпсіздік Кеңесінің шешімдеріне қайшы келетіндіктен халықаралық құқық тәртібіне нұқсан келтіруі мүмкін. Бұл зерттеу ірі державалардың санкцияларды қалай қолданатынын және оларды қалай ақтауға болатынын қарастырады. Сондай-ақ, егер біреу оларға

қарсы экономикалық мәжбүрлеу шараларын қолданса, басқа мемлекеттер мен субъектілер не істей алатынын қарастырады.

Түйін сөздер: біржақты санкциялар, экономикалық мәжбүрлеу, халықаралық құқық, Қауіпсіздік Кеңесі, қарсы шаралар, БҰҰ Жарғысы, тежеу, аумақтан тыс.

Санкции в международном праве: устав ООН против односторонних мер государств

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Аннотация. В данной статье анализируется растущий правовой “раскол” между санкциями, санкционированными Уставом ООН (1945), и односторонними принудительными мерами, вводимыми отдельными государствами. Актуальность данного исследования объясняется тем фактом, что мировые державы, такие как США, ЕС и Россия, используют экономическое давление для достижения своих целей без учета мандата Совета Безопасности ООН. Это может нанести ущерб международному правопорядку, поскольку противоречит решениям Совета Безопасности ООН. В этом исследовании рассматривается, как крупные державы используют санкции и как они могут быть оправданы. В нем также рассматривается, что могут сделать другие государства и субъекты, если кто-то применит против них меры экономического принуждения.

Ключевые слова: односторонние санкции, экономическое принуждение, международное право, Совет Безопасности, контрмеры, Устав ООН, сдерживание, экстерриториальность.

Introduction

The rules of international law about strong measures are based on the United Nations Charter, adopted in 1945, which establishes a clear hierarchy for maintaining international peace and security. The UN Charter provides legal grounds for imposing sanctions according to Chapter VII, whose norms were designed primarily for a rule-based order, which holds states from use of force. However, today’s situation in the world deviates from this ideal significantly. Major powers, such as Russia, the USA or the EU, have started using unilateral economic measures as geopolitical tools more often, and such measures are parallel or, in some cases, contradict to the UN framework.

The **object** of this research is the system of international legal regulation of sanctions, while the **subject** is the comparative legal analysis of UN-mandated

sanctions versus unilateral measures employed by the USA, EU, and Russia. The **goal** of this study is to prove the thesis that the proliferation of unilateral sanctions constitutes a violation of the UN Charter's collective security framework and erodes the stability of the international legal order. To achieve this, the following **tasks** are set: to analyze the doctrinal basis of UNSC sanctions; to examine the legal justifications used by the USA, EU, and Russia for unilateral measures; and to assess the impact of these measures on human rights and state sovereignty.

The **hypothesis** posits that unilateral coercive measures, when imposed without UNSC authorization, fundamentally undermine the collective security architecture and frequently violate principles of non-intervention, despite attempts to legitimize them through domestic law or the doctrine of countermeasures. The **methods** used during preparation of this paper are formal legal analysis, comparative legal analysis, and a systematic examination of national and international legal frameworks.

Materials and methodology

This research provides a comparative legal analysis based on primary and secondary sources of domestic and international law. The methodology is designed to evaluate the tension between the centralized sanctioning mechanism of the UN Charter and the decentralized practice of unilateral state measures.

Questions of my research are the following:

1. To what extent do unilateral sanctions imposed by the USA, EU, and Russia comply with the exclusive mandate of the UN Security Council under Chapter VII of the UN Charter?
2. How do the legal justifications for unilateral measures, such as domestic legislation, countermeasures, defense of international order, stand up to scrutiny under customary international law?
3. What are the legal consequences of the extraterritorial application of unilateral sanctions?

Hypothesis. The study posits that unilateral coercive measures, when imposed without UNSC authorization, fundamentally undermine the collective security established by the UN Charter and frequently violate principles of state sovereignty and non-intervention.

Stages of Research. First, we examined the UN Charter provisions (Articles 39, 41, 42) and the Repertoire of the Practice of the Security Council. Second, we analyzed specific sanction regimes implemented by the USA (IEEPA), the EU (CFSP), and Russia (countermeasures). Third, we contrast legal bases, procedural requirements, and scope of application and analyzed the impact of unilateral sanctions of international law. Finally, we summarize all our results and draw a conclusion.

Methods of Research. During this research preparation, formal legal method, comparative legal method and systemic analysis were used.

Materials description. The empirical basis includes primary sources such as the United Nations Charter (1945), relevant UNSC Resolutions, domestic legislation (e.g., US International Emergency Economic Powers Act, EU Council Regulations), and official statements. Secondary sources comprise academic commentaries, reports from

UN Special Rapporteurs, and decisions from international courts. The material covers the period from the adoption of the UN Charter to present-day practices, with a focus on regimes active post-2020.

Note on Artificial Intelligence. Artificial intelligence tools (ChatGPT) were used solely for the preliminary structural organization of the article and for formatting the reference list according to the Harvard referencing style required by the journal. No AI tools were used for generating core legal arguments or substantive content.

Results and discussion

The UN Charter as basis for collective security. The cornerstone of the international security architecture is Article 39 of the UN Charter, which vests the Security Council with the sole power to determine the existence of “any threat to the peace, breach of the peace, or act of aggression”. As Gowlland-Debbas notes, “This provision acts as the mandatory trigger for any enforcement action under Chapter VII. The responsibility is explicitly assigned to the Security Council, making it the designated organ for this critical determination, and this exclusivity is a fundamental principle designed to centralize decision-making and prevent individual states from acting as self-appointed judges.” (Gowlland-Debbas, 2004, p. 3).

Once such a threat is determined, Chapter VII empowers the Council to act through Articles 41 and 42 (UN Charter). Article 41 authorizes “peaceful” measures, including embargoes and financial restrictions as parts of a broader spectrum of collective responses. In contrast, Article 42 permits the use of armed force (UN Charter). This duality shows the legal nature of sanctions in the Charter. They are a way to make people do things from a legal source. The entire system relies on Article 25, which obligates member states to accept and carry out Security Council decisions. While the requirement for unanimity among permanent members has led to political paralysis, it remains a core feature intended to prevent a hegemony “in one single hands”. Consequently, any coercive measure taken outside this framework operates in a “legally gray” area, challenging the post-WWII international legal order.

The United States: extraterritoriality and domestic law as authority. The United States has developed one of the world’s most extensive and far-reaching unilateral sanctions regimes, distinguished by its heavy reliance on domestic legislation, as and a broad interpretation of its jurisdiction that extends extraterritorially (Gevurtz, 2022, p. 347).

This approach stands in stark contrast to the UN Charter’s centralized system, positioning U.S. law as a parallel, and often overriding, source of legal obligation for a wide range of actors globally (Hovell, 2019, p. 41). The main legal instrument enabling this wide authority is the International Emergency Economic Powers Act (IEEPA, 2018), which allows the President to regulate international commerce and financial transactions in response to threats to national security, foreign policy, or the economy (Hovell, 2019, p. 140). The U.S. Supreme Court has described the powers granted under IEEPA as “sweeping and unqualified,” providing a broad mandate for executive action (*Dames & Moore v. Regan, 1981*). While framed as a tool for responding to foreign policy crises, the application of IEEPA has enabled the U.S. to

impose sanctions that function as instruments of economic coercion far beyond its borders, targeting non-U.S. persons and entities engaged in activities deemed contrary to U.S. interests.

A defining characteristic of the U.S. approach is the widespread use of extraterritorial and secondary sanctions (Silvestre, 2024, p. 201). Sanctions are rules that stop people from doing things with other countries (Ruys, Ringaert, 2020 p. 4). They are not allowed to do business with countries that are on the list and this is to make sure that other countries follow the rules. It is not clear if this is legal. Some people say that the USA does this to protect itself, but others say it is wrong because it goes against other countries' laws (Ruys, Ringaert, 2020, p. 167). The debate about these measures has been a big topic in international law. Some people say that these measures are not good and don't follow the rules. The government of the USA says that its actions are good, but other people don't agree. If you break the rules in the USA, you can get punished. But if you don't want to be punished, you have to do what the USA wants.

The debate about these measures has been a big topic in international law. Some people and countries ask if these measures are good. The government of the USA says that its actions are good, but other people don't agree. This makes it hard for people to know what to do. People have to choose between the laws of their country and the laws of other countries. They want to be good for the USA, but they don't want to lose money (A/HRC/51/33, 2022).

The legality of these measures in the context of international law is a matter of debate. The United States maintains that these actions are necessary to safeguard national security interests. However, opponents argue that these actions unlawfully extend the U.S. jurisdiction into the territory of other countries, in violation of the principle of non-intervention (Happold, 2016, p. 45). Recently, there has been a change in policy. The USA has started to use economic dependence as a way to compete with other countries. It does this by making it hard for other countries to sell their goods in the USA. This is not good enough because it breaks the rules which the UN encourages all states to follow. The ILC's Draft Articles on State Responsibility confirm that the exercise of jurisdiction is generally limited to conduct occurring within a state's territory, a principle that the U.S. secondary sanctions regime appears to stretch to its limits (International Law Commission, 2001, p. 9).

The European Union: defending order through unilateral action. The European Union operates its sanctions through the Common Foreign and Security Policy (CFSP), characterized by legal precision and a stated objective of upholding international law. The EU justifies its unilateral measures, particularly those against Russia regarding Ukraine, as defensive responses to internationally wrongful acts when the UNSC is paralyzed by vetoes. Legal instruments like Council Regulation (EU) No 833/2014 link restrictive measures directly to the situation of Ukraine.

A key driver behind the EU's increasing reliance on its CFSP sanctions regime is the perceived decline in the effectiveness of the UN Security Council, largely due to the frequent use of Russian vetoes to block action on issues related to Ukraine and

other conflicts (Gálik, 2025, p. 22). This has created a strategic vacuum that the EU feels compelled to fill in order to project its values and maintain a degree of influence over global security governance. The Treaties provide only limited flexibility for decision-making, such as qualified majority voting in certain circumstances, but unanimity is often required for CFSP matters, meaning that a single veto can halt progress. This reality has pushed the EU to expand the use of its autonomous sanctions' powers. The EU's actions are thus a reaction to the paralysis of the primary multilateral institution (Gálik, 2025, p. 24). As Mr. Gálik noted, "the EU has implemented measures allowing its ... authorities to seize assets of Russian oligarchs and freeze their funds, directly impacting their ability to operate financially" (Gálik, 2025, p. 25). The same way the extension of the SWIFT ban in July 2025 to additional Russian banks shows a clear effort to use financial infrastructure as a tool of coercion and deterrence.

As researchers Biersteker and Portela note, "The legitimacy of these measures has recently been called into question by some UN members – particularly UNSC permanent members Russia and China – in what is sometimes referred to as the 'floor versus ceiling' debate: i.e., whether UN sanctions should be considered the 'floor' on which other measures can be built or whether they constitute the 'ceiling' (or limit) on what is legitimate." (Biersteker, 2022, p. 2).

Russia: countermeasures and retaliation. A Chinese legal scholar Yang states that "The establishment of Russia's anti-sanctions legal framework arises from the intensifying unilateral sanctions imposed by Western states, compounded by geopolitical conflicts in Russia's neighboring regions. The Crimean Crisis of 2014 marked a pivotal moment in this regard. In response to allegations of violating Ukraine's sovereignty, the U.S. and the EU imposed the first round of large-scale sanctions against Russia. These measures targeted sectors including finance, energy, and defense, while also freezing the assets of Russian officials and restricting the financing capabilities of key enterprises." (Yang, 2025, p. 4). In this case, Russian response is based on countermeasures allowed by customary international law as a respond to internationally wrongful acts of another states, so it claims Western sanctions as unlawful towards Russian persons and entities.

However, the application of countermeasures in this context is complex and controversial. Critics argue that the scale and nature of some Russian measures extend beyond what is permissible under the doctrine (Hofer, 2025, p. 289). For example, the SWIFT ban affecting certain Russian banks, while initially a response to Western action, has had significant spillover effects on global financial stability and the economies of third-party states. Moreover, the invocation of countermeasures is generally limited to situations involving a direct relationship between the responding state and the state committing the wrongful act. When a state responds to sanctions that were themselves imposed by another state, the chain becomes more convoluted, raising questions about the validity of the counter-response (Visit, 2017). The seizure of Russian Central Bank assets by some Western states has been justified by those states as a form of third-party countermeasure, a novel and legally dubious application of the doctrine (Hofer, 2025, p. 304).

According to the International Law Commission's Articles on State Responsibility, countermeasures must be directed against the state responsible and cease once obligations are met. Russia argues that the sanctions constitute wrongful acts, so it has the right to do something about them. However, the scale of these responses and their consequences for third parties are not clear and raise questions to definitive criteria of countermeasures. Furthermore, from Russia's point of view, these sanctions are needed because the world is hostile, but they make the international law system more divided and the UN more difficult.

The Russian perspective presents a significant challenge to the UN-centric sanctions model. It poses its actions as defensive and lawful self-help; Russia contests the legitimacy of the Western-led sanctions regimes. This narrative resonates with many states, particularly those critical of Western dominance in international affairs, and is often echoed in resolutions introduced at the United Nations General Assembly and Human Rights Council by countries like China, Cuba etc.

Conclusion

The aim of this research was to look at the difference between sanctions that are allowed by the UN and measures that some countries use alone. We wanted to see if these measures are good for international law. We looked at what the USA, the EU and Russia do. Our study showed that sanctions that countries use on their own don't agree with what the UN says in Chapter VII of its Charter.

The results show that the use of one-sided measures has made international law less united. The USA uses extraterritoriality. The EU does not use the UN Security Council because it is too difficult. Russia uses a lot of measures. These measures make the rules about countries not interfering in each other's affairs less important. Also, these measures often make people's rights be broken in a way that is not fair. This happens to people who are not the target of the measures.

The conclusions say that the way countries do things now is not good for the world. Countries do things alone, but it is not right because it is not in the rules of the United Nations. We need to make more rules and maybe change the Security Council to make it work better. We need new rules for sanctions that are good for people. We also need to find ways to use the law to fix things. The world needs to go back to the rules of the United Nations to make it better.

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