

Aligning the Foreign Policies of Western Balkan Countries in Cases of EU's Use of Targeted Sanctions

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Abstract

This paper analyses how the foreign policies of the Western Balkans countries – through the examples of the Republic of North Macedonia and the Republic of Albania, which are part of the Stabilization and Association Process – need to align with the EU when targeted sanctions are imposed. The paper argues that the start of SAP did not mean instant cooperation in the sphere of imposition of targeted sanctions. In this respect, the practice of potential candidate countries was mainly to align their foreign policies with the UN. When the prospects of membership were emphasized at the European Council in Thessaloniki in 2003, the "Thessaloniki Agenda for the Western Balkans" provided for political dialogue and cooperation in the area of Common Foreign and Security Policy. Through this Agenda, the European Union enabled a closer collaboration with the Western Balkan region in the implementation of targeted sanctions.

Consequently, the paper focuses on the legal and institutional structure established within the two Western Balkan republics – North Macedonia and Albania, which are candidate countries for EU membership and how such structure enables them to cooperate effectively in the implementation of targeted sanctions. This is because after an EU Council Decision on imposition of restrictive measures is enacted the candidate countries need to take all necessary measures to align their foreign policies in the respective area with the EU.

Finally, the paper concludes that the adoption of legislation for implementation of restrictive measures together with the establishment of a supporting institutional structure within the candidate countries sends a strong political signal to the European Union and to the international

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community in general that the Western Balkans are willing and ready to respect established regulations on targeted sanctions.

A. Introduction

Sanctions or restrictive measures towards governments of third countries or non-state entities and individuals have been frequently imposed by the European Union (EU) in recent years. When using restrictive measures, the European Union has two objectives. Primarily, the EU acts to implement UN sanctions more effectively. Secondly, the EU uses sanctions as an instrument of its own Common Foreign and Security Policy (CFSP). In each case, the European Union is committed to the effective use of sanctions as an important way to maintain and restore international peace and security in accordance with the principles of the UN Charter and its CFSP.

This paper analyses how the foreign policies of Western Balkan countries – through the examples of the Republic of North Macedonia and the Republic of Albania, which are part of the Stabilization and Association Process (SAP) – need to align with the EU when targeted sanctions are imposed. The paper argues that the start of SAP did not mean instant cooperation in the sphere of imposition of targeted sanctions. In this respect, the practice of potential candidate countries was mainly to align their foreign policies with the UN. When the prospects of membership were emphasized at the European Council in Thessaloniki in 2003, the “Thessaloniki Agenda for the Western Balkans” provided for political dialogue and cooperation in the area of CFSP. Through this Agenda, the European Union enabled a closer collaboration with the Western Balkan region in the implementation of targeted sanctions.

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Finally, the paper concludes that the adoption of legislation for implementation of restrictive measures together with the establishment of a supporting institutional structure within the candidate countries sends a strong political signal to the European Union and to the international community in general that the Western Balkans are willing and ready to respect the established regulations on targeted sanctions.

B. Defining the Terminology – Sanctions, Restrictive Measures and Targeted Sanctions

Sanctions are one of the most used tools in EU foreign policy. There is no one commonly agreed definition for the term 'sanctions'. According to Portela, in international relations "sanctions are not limited to the interruption of economic relations but encompass as well measures devoid of economic significance, such as diplomatic sanctions"¹. Koutrakos describes sanctions as measures that "connote the exercise of pressure by one state or coalition of states to produce a change in the political behaviour of another state or group of states"².

Within the United Nations framework, the Security Council (UNSC) adopts sanctions under Article 41 of the United Nations Charter: "*The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures*". These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations. As it can be seen from the wording of Article 41 of the United Nations Charter, it does not feature the term 'sanctions', but it refers to a formulation, "measures not involving the use of armed force".

In EU terminology, sanctions have traditionally been referred to as 'restrictive measures'. In official documents, the term 'sanctions' appears

¹ Portela, The EU's use of 'Targeted' Sanctions: Evaluating Effectiveness, CEPS Working Document No. 391, March 2014, p. 4.

² Koutrakos, Trade, Foreign Policy and Defence in EU Constitutional Law: The Legal Regulation of Sanctions, Exports of Dual-use Goods and Armaments, 2001, p. 49.

in brackets and it is attached to the term 'restrictive measures'.³ The term 'restrictive measures' is used to refer to the EU tool of CFSP regulated by Article 215 of the Treaty on the Functioning of the European Union (TFEU). It is important to notice that according to Article 75 TFEU so-called 'administrative measures' can be imposed as a part of the Area of Freedom, Security and Justice when they are directed to 'internal' terrorism. Article 215 TFEU, on the other hand, concentrates on sanctions against third states and individuals in the area of CFSP.

The sanctions landscape underwent a profound transformation in the mid-nineties because of the emergence of the concept of targeted or 'smart' sanctions. Targeted sanctions are designed to put pressure on leaders or specific elites who are deemed responsible for objectionable behaviour.⁴ Targeted sanctions are used to raise the targeted regime's costs of noncompliance while avoiding general suffering. They mainly include measures such as targeted financial sanctions, arms embargoes, travel bans and diplomatic sanctions directed against named individuals and organizations.⁵

Officially the EU uses 'sanctions' only in connection to measures agreed to in the framework of the Common Foreign and Security Policy, routinely adopted in the form of a CFSP 'common position', or CFSP 'decision' after the Lisbon Treaty. In cases when it is necessary for the EU to act and impose sanctions which are grounded on the CFSP decision, the Council on the basis of Article 215 TFEU can adopt restrictive measures against natural or legal persons and groups or non-State entities. These are known as targeted or smart sanctions because they are aimed at specific individuals or companies rather than, for example, putting an embargo on

³ More in *Portela*, The EU's use of 'Targeted' Sanctions: Evaluating Effectiveness, CEPS Working Document No. 391, March 2014, pp. 4-5.

⁴ *Ibid.*, p. 4.

⁵ For more on this issue see: *Drezner*, Sanctions sometimes smart: Targeted sanctions in theory and practice, *International Studies Review*, Vol. 13, No. 1, 2011, pp. 102-104; *Hufbauer/Oegg*, Targeted Sanctions: A Policy Alternative?, Paper for a symposium on "Sanctions Reform? Evaluating the Economic Weapon in Asia and the World", Peterson Institute for International Economics, February 2000, p. 2; *Friedman*, Smart Sanctions: A Short History, *Foreign Policy*, April 2012, p. 2; *Biersteker/Eckert/Tourinho*, Targeted Sanctions: The Impacts and Effectiveness of United Nations Action, 2016, p. 37.

all trade with a particular country.⁶ Since this paper focuses on the EU sanctions practice under the CFSP aimed at individuals or companies, the term 'targeted sanctions' as used in the academic literature will be used interchangeably with the EU terminology – 'restrictive measures'.

C. The EU and Targeted Sanctions

Alongside the continuing expansion of Union membership, in the years after 1958 the scope of the Union's policy competences has expanded considerably as well. The traditional subject matter of international relations that is foreign security policy and defence was excluded from the formal policy agenda of the European Community. This remained so for decades to come until the CFSP became one of the pillars of the European Union in Maastricht.⁷ Therefore, at first, the imposition of sanctions by the European Community and afterwards by the European Union was strongly connected with UN action. For that reason, a short overview of the UN practice in this area will follow.

I. Why do UN Sanctions Matter?

Under Chapter VII of the UN Charter, the Security Council can implement measures that range from economic and other sanctions not involving the use of armed force to international military action in order to deal with "threats to international peace and security". The use of mandatory sanctions is intended to apply pressure on a state or entity to comply with the objectives set out by the Security Council without resorting to the use of force. Sanctions thus offer the Security Council an important instrument to enforce its decisions. Moreover, the universal character of the United Nations makes it an especially appropriate body to establish and to monitor such measures.

Traditionally, the UN Security Council imposed sanctions against states. In the period since the UN was formed until 1990, the Security Council

⁶ *Misheva/Duic*, The EU Restrictive Measures - What if the Court of Justice of European Union finds them not Being Legal: Cases in Croatia and Republic of Macedonia, *Balkan Social Science Review*, Vol. 6, December 2015, pp. 21-41.

⁷ On this issue see *Bretherton/Vogler*, *The European Union as a Global Actor*, Routledge, 2006, pp. 158-183.

used Article 41 of the Charter to impose sanctions only on two states: a 1966 trade embargo against Southern Rhodesia's white minority government and a 1977 arms embargo against the South African apartheid regime. The imposition of sanctions regimes towards states increased considerably during the 1990s. Only recently, the Security Council started imposing sanctions against non-state actors.

According to Tostensen and Bull, "it is exceedingly difficult to predict what internal political dynamics a sanctions regime will create in the targeted state"⁸. The effects of sanctions on targeted regimes cannot be easily evaluated. This is mainly due to the fact that those trying to design effective sanctions have little research at their disposal on the effects of sanctions on targeted states' decision-making processes.⁹

While being an important device in the hands of the Security Council, economic sanctions are raising concerns regarding their negative effect particularly on vulnerable civilian populations and the possible collateral effects on third states. The concept of so-called 'smart' or 'targeted' sanctions is designed to raise the targeted regime's costs of noncompliance while avoiding the general suffering that comprehensive sanctions often create. As a result, the use of targeted or smart sanctions has increased over the years. They mainly include measures such as targeted financial sanctions, arms embargoes, travel bans and diplomatic sanctions directed against named individuals and organizations. They are assumed to be more effective in targeting and penalizing political elites and other individuals. Moreover, the scope of grounds justifying their use has also expanded. Targeted sanctions are now used as a tool to restore democracy and human rights, to prevent aggression, or pressure regimes that are supporting terrorist activities and others charged with international crimes.¹⁰ In the development of targeted sanctions regimes particular interest was put primarily on financial sanctions, as well as on travel and aviation bans, and embargoes on specific commodities such as arms or diamonds. Therefore, the following instruments can be applied: financial

⁸ *Tostensen/Bull, Are Smart Sanctions Feasible?*, 54 *World Politics*, 2002, pp. 373-403.

⁹ *Ibid.*

¹⁰ See *Cortright/ Lopez, Assessing Smart Sanctions: Lessons from the 1990s*, in *Cortright/López* (eds.), *Smart Sanctions: Targeting Economic Statecraft*, 2002.

sanctions - freezing of funds and other financial assets¹¹, ban on transactions, investment restrictions; trade restrictions on particular goods, e.g. arms, diamonds, oil, lumber, or services; travel restrictions; diplomatic constraints; cultural and sports restrictions and air traffic restrictions.

II. Use of Targeted Sanctions in the EU

Sanctions or restrictive measures towards governments of third countries or non-state entities and individuals have been frequently imposed by the EU in recent years. They have been mainly used as a form of coercive diplomacy. This was done either on autonomous EU basis or by implementing a binding UN Security Council Resolution within the framework of the Common Foreign and Security Policy.

EU sanctions are agreed upon in the CFSP framework where decisions are taken by unanimity and where each member state has a formal veto. Under the Lisbon Treaty, a CFSP act – 'CFSP Common Position' before the Lisbon Treaty or 'Council Decision' thereafter – must be adopted under Chapter 2 of Title V of the Treaty on European Union (TEU) on a joint proposal from the High Representative and the European Commission.¹² The legal basis is Article 215 TFEU, which explicitly provides for the adoption of both sanctions against third countries as well as individuals, groups and non-state entities. Article 215 TFEU sets forth that:

"1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the

¹¹ Financial assets and economic benefits of any kind include: cash; cheques, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources.

¹² For further explanation on the legal basis and implementation before and after the Treaty of Lisbon see: *Portela*, 'Targeted sanctions against individuals on grounds of grave human rights violations – impact, trends and prospects at EU level', study for the Directorate – General for External Policies, 2018, pp. 10-13; *Eckes* 'EU Counter-Terrorism Politics and Fundamental Rights', 2009, pp. 78-124; *Wessel*, 'Resisting Legal Facts: Are CFSP Norms as Soft as They Seem?', *European Foreign Affairs Review*, 2015, pp. 4-15.

interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.

2. 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.”

Furthermore, under the Lisbon Treaty, a separate article regulates the adoption of sanctions against individuals, specifically in the field of terrorism. Article 75 TFEU provides for the adoption of 'administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-state entities'. Such measures are to be adopted by the Council and the European Parliament through ordinary legislative procedure. Implementation is by a Council act on a Commission proposal, without the European Parliament's participation. The adoption of terrorist listings under Article 75 TFEU contrasts with the adoption of other sanctions, mainly because it is part of the Area of Justice, Freedom and Security rather than the CFSP. When the EU applies sanctions in implementation of UNSC Resolutions, the same procedure applies. In this case, the only difference is that the CFSP act includes a reference to the UNSC Resolution it gives effect to.¹³

The CFSP decision is directly binding on EU Member States and requires them to take appropriate measures to give effect to its objectives. When CFSP Council decisions set out arms embargoes and travel bans, these measures are directly implemented at national level. By contrast asset freezes and export bans, i.e. economic measures, are an EU competence and they are implemented by EU regulations.¹⁴

¹³ *Portela*, 'Targeted sanctions against individuals on grounds of grave human rights violations – impact, trends and prospects at EU level', study for the Directorate – General for External Policies, 2018, pp. 10-11.

¹⁴ *Eckes* 'The Law and Practice of EU Sanctions', in *Blockmans/Koutrakos*, 'Research Handbook on CFSP/CSDP', 2018, pp. 206-230.

The European Union is committed to the effective use of targeted sanctions as an important way to maintain and restore international peace and security in accordance with the principles of the UN Charter and its Common Foreign and Security Policy.¹⁵ Therefore, the Union fulfills its obligations under the UN Charter and farther, it imposes autonomous EU sanctions in support of efforts to fight terrorism and the proliferation of weapons of mass destruction and as a restrictive measure to uphold respect for human rights, democracy, the rule of law and good governance.¹⁶ Restrictive measures imposed by the Union, may include: diplomatic sanctions (expulsion of diplomats, severing of diplomatic ties, suspension of official visits); boycotts of sport or cultural events; trade sanctions (general or specific trade sanctions, arms embargoes); financial sanctions (freezing of funds or economic resources, prohibition on financial transactions, restrictions on export credits or investment); flight bans; and restrictions on admission.¹⁷

Recently, the EU is showing an inclination to impose autonomous targeted sanctions which are going beyond UN measures. Also, the Union displays a certain readiness to impose "tough" measures that have serious economic implications.¹⁸ This may not come as a surprise since the EU sanctions policy is one its strongest foreign policy tools, as it leverages the Union's significant economic power to promote its external objectives. As a consequence, the threat or the imposition of economic and financial sanctions can be a powerful device in the Union's hands in order to exert influence on the conduct of other actors on the international arena. It is also important to stress that the European Union is in a much better position to impose sanctions than its Member States, since EU sanctions have a greater impact on the international stage.¹⁹ Currently, there is a number of important examples of such autonomous sanctions being levied

¹⁵ *Kuijper/Wouters/et al.*, *The Law of EU External Relations*, 2013, pp. 243-365.

¹⁶ *Basic Principles on the Use of Restrictive Measures (Sanctions)*, Council of the European Union, Brussels, 07/06/2004.

¹⁷ For more on this issue see *Anthony*, *Sanctions Applied by the European Union and United Nations*, SIPRY Yearbook, 2002: Armaments, Disarmaments and International Security, pp. 203-228.

¹⁸ See *de Vries/Portela/Guijarro-Usobiaga*, *Improving the Effectiveness of Sanctions: A Checklist for the EU*, CEPS Special Report No. 95, November 2014, p. 1.

¹⁹ *Portela*, *Are European Union sanctions "targeted"?*, *Cambridge Review of International Affairs*, Vol. 29, 2016, pp. 912-929.

on Belarus, Moldova, Russian Federation, Syria. The catalogue of EU targeted sanctions is diverse and includes numerous possible restrictive measures which can be imposed by the Union based on the decision which measure or package of measures is most appropriate in order to promote the desired outcome.

When it comes to targeted sanctions that are imposed by the United Nations Security Council, especially taking into consideration that targeted sanctions are measures directed at individuals who are named on ad hoc lists, a distinction has to be made between the situations in which the lists are established and maintained by the UNSC or a specialized sanctions committee²⁰. If the former, crucial decisions concerning listing and delisting are taken at UN level. If the latter, the UNSC confines itself to deciding that sanctions are to be imposed upon certain subjects, leaving the concrete identification and listing of those subjects to the EU²¹.

Until very recently, the CFSP's only sanctions regime was the anti-terrorism blacklist, implementing the UN's al-Qaida/Taliban sanctions list created in the aftermath of 9/11.²² This was something of an anomaly in the CFSP's multifarious sanctions toolbox.²³ And this was the case until autumn 2018 when the EU adopted a sanctions instrument to address the use and proliferation of chemical weapons, allowing it to apply travel bans and asset freezes to those "involved in the development and use of chemical weapons anywhere"²⁴. The listings are due soon, and a human rights sanctions tool for egregious human rights abusers is currently under discussion.

D. Implementation of EU Targeted Sanctions Legislation in Candidate Countries

²⁰ Resolution 1267, of 1997 concerning Al Qaeda.

²¹ Regime established under Resolution 1373 of 2001: in this case it is the EU that has to identify individuals and groups involved in terrorism.

²² View more in: *Eckes*, EU Restrictive Measures against Natural and Legal Persons: from Counterterrorist to Third Country Sanctions, *Common Market Law Review* 51, 2014, pp. 869–906.

²³ See *de Vries/Portela/Guijarro-Usobiaga*, Improving the Effectiveness of Sanctions: A Checklist for the EU, CEPS Special Report No. 95, November 2014, p. 3.

²⁴ Council Decision (CFSP) 2018/1544.

After reviewing the use and models of sanctions within the European Union and the targeted sanctions regime in particular, an analysis of the implementation of the said regime in EU candidate countries will follow. The legal and institutional framework in this area will be considered on the examples of two Western Balkan countries – the Republic of Northern Macedonia and the Republic of Albania.

After the Eastern enlargement, the European Union initiated a process in the Western Balkans aimed at contributing towards the stabilization of the region and subsequent association of Western Balkan countries to the EU. The Stabilization and Association Process was launched in 1999 and provided the Western Balkans countries with the status of potential candidate countries. However, the start of the SAP did not mean instant cooperation in the area of imposition of restrictive measures. The potential candidate countries were mainly aligning their foreign policies with the UN in the area of targeted sanctions. In 2003, the prospect of membership was emphasised at the European Council in Thessaloniki. The "Thessaloniki Agenda for the Western Balkans: moving towards European integration" provided for European Partnerships, promoted political dialogue and cooperation in the area of CFSP, the strengthening of parliamentary cooperation and more financial means for institution building.²⁵

By promoting political dialogue and cooperation in the area of CFSP, the European Union enabled a closer collaboration with Western Balkan countries in the implementation of targeted sanctions. This means that after an EU Council Decision on imposition of restrictive measures is enacted, Western Balkans countries need to take all necessary steps to align their foreign policies in this matter with the EU. Therefore, both countries have established a legal framework enabling their institutions to cooperate effectively in the implementation of targeted sanctions. They have established coordination agencies responsible for the development and dissemination of information, compliance initiatives, consideration of exemptions, administration of assets, and enforcement efforts. As it will be seen in the case studies presented below, usually such role is taken by the Ministry of Foreign Affairs. The main functions of the coordination

²⁵ *Thessaloniki Agenda for the Western Balkans: moving towards European integration*, Thessaloniki: General Affairs and External Relations Council (GAERC) Conclusions, 16 June 2003.

agency within the country is the determination of penalties for violations of targeted sanctions; granting of exemptions; receiving information from, and cooperating with, economic operators (including financial and credit institutions); reporting upon their implementation to the Commission. For UN sanctions, the coordination agency liaisons with Security Council sanctions committees if required with respect to specific exemption and delisting requests.

What follows is a case study of two Western Balkans candidate countries discussing the specific manner in which their legal and institutional structure implementing the EU sanctions regime was created. The Republic of North Macedonia and the Republic of Albania are candidate countries to join the EU which at present are more or less at the same stage of integration: their candidate status has been granted and both are waiting to start accession negotiations with the European Union in mid-2019.

I. Implementation of EU Targeted Sanctions in North Macedonia

The Republic of North Macedonia has signed the Stabilisation and Association Agreement (SAA) with the European Union in 2001 and was granted the status of candidate country in 2005. The Commission made its first recommendation to the Council to open negotiations with the country and to move to the second phase of SAA implementation in October 2009. However, the country has not yet started the negotiations process. Conditional progress has been made after signing the Prespa Agreement with neighboring Greece for resolving the name issue. If the Prespa Agreement is ratified by both countries and its implementation is ongoing, the country will begin the screening process with the European Union with negotiations potentially starting as early as mid 2019.

In the framework of the Stabilization and Association Process, North Macedonia cooperates with the Union in the area of Common Foreign and Security Policy. This is done on several different levels²⁶. One of them is

²⁶ They include: the regular political dialogue between the EU and Macedonia, which covers foreign policy issues on an on-going basis; alignment with the common foreign and security policy; the issues connected with the conflict prevention; the issues connected with the non-proliferation; the cooperation with international organisations; participation in civil and military crisis management operations.

the process of alignment of Macedonian foreign policy with EU statements and common positions relating to the CFSP. Moreover, the country takes part in implementation of targeted sanctions applied both on autonomous EU basis and by binding UN Security Council Resolutions. This process is monitored and reported within the European Commission Progress Report in the Chapter on Foreign, Security and Defense Policy. In its latest report, the Commission concluded that "the country is moderately prepared in this area". As per the Commission's report North Macedonia supported the Global Strategy for the European Union's Foreign and Security Policy and on Common Foreign and Security Policy the country aligned, when invited, with 53 out of 65 EU declarations and Council Decisions (around 83 % alignment). However, the country did not align its foreign policy with certain Council Decisions including EU restrictive measures related to Russia and Ukraine.²⁷

In North Macedonia the process of implementation of targeted sanctions is provided by the Law on Restrictive Measures. The Parliament enacted the first Law on Restrictive Measures in 2007²⁸ and afterwards a new Law on Restrictive Measures was enacted in 2011²⁹. However, due to the need of defining more clearly a number of issues connected to financial measures, the manner of their implementation as well as the supervision of violation of such implementation, in 2017, a proposal for a new Law on Restrictive Measures was submitted by the Ministry of Foreign Affairs. This new Law was adopted in December 2017³⁰. According to it, the Coordination body for the monitoring implementation of international restrictive measures consists of representatives from the Ministry of Foreign Affairs, the Ministry of Defense, the Ministry of Interior, the Ministry of Economy, the Ministry of Finance, the Public Prosecutor's Office, the Intelligence Agency, Customs Administration, Taken Property Management Agency and Financial Intelligence Directorate. The members of the Coordination body are appointed for a four year term and meet regularly. The Ministry of Foreign Affairs deals with the administrative issues connected to the work of the Coordination body. In this manner,

²⁷ European Commission Progress Report – The Former Yugoslav Republic of Macedonia Report 2018, Strasbourg, 18.04.2018.

²⁸ Official Gazette of Republic of Macedonia, No.36/07, 23.03.2007.

²⁹ Official Gazette of Republic of Macedonia, No.36/11, 23.03.2011.

³⁰ Official Gazette of Republic of Macedonia, No.190/17, 25.12.2017.

the inter-institutional cooperation in the process of implementation of restrictive measures is strengthened.

Another important instrument in this process is the Register of International Restrictive Measures kept by the Ministry of Foreign Affairs and made public through the web-page of the Ministry³¹. Additionally, different sub-registers are established and kept within other competent institutions. The list of individuals and legal persons upon which targeted sanctions are implemented is separate from the Registry but also falls in the responsibility of the Ministry of Foreign Affairs. North Macedonia regularly updates the lists of individuals in accordance with the information received from the European Union or the Sanctions Committees of the UN.

The procedure of implementation of targeted sanctions in North Macedonia has been streamlined under the new Law on Restrictive Measures. According to the new law, the Government is the starting point where the decision for implementation of targeted sanctions is taken. Based on the applicable EU Council regulation or the UNSC Resolution, the Governmental decision³² provides the type of measure together with the list of responsible institutions within the country that are tasked with its implementation.

Speed is particularly important in case of asset freezes where funds can move quickly. Therefore, there is an obligation for the Financial Intelligence Directorate to act immediately and to send the relevant information to responsible financial institutions as well as to the Agency for Real Estate Cadaster. However, the time gap between the adoption of the Council regulation and the adoption of the Governmental decision is quite wide. The whole process begins with the translation of the regulation in Macedonian and the adoption procedure of the Governmental decision is, in itself, quite time consuming. For that reason, unofficial signals are usually sent to the Financial Intelligence Directorate in order to be alerted for upcoming targeted sanctions.

Another important aspect in the process of implementing targeted financial sanctions aimed at strengthening the fight against terrorism is

³¹ The Registry can be accessed online at: <http://www.mfa.gov.mk/?q=nadvoresna-politika/megjunarodni-pozicii>.

³² All decisions of the Macedonian Government for the implementation of the restrictive measures are published in the Official Gazette of Republic of Macedonia.

the establishment of an anti-money laundering legislative and institutional framework. The new Law on Prevention of Money-Laundering and Financing of Terrorism, incorporating the revised Financial Action Task Force (FATF) recommendations was enacted in 2014³³. The main aim of the Law is the monitoring and prevention of money laundering and financing of terrorism, as well as the establishment of a body that will coordinate those activities. The Financial Intelligence Unit, functioning as a part of the Ministry of Finance was established for that purpose and is one of the main pillars in the implementation of targeted financial sanctions. Besides coordinating with the financial institutions in the country and the Ministry of Interior, the Unit monitors financial transactions of natural and legal persons.

Finally, an additional improvement in the area of implementation of targeted sanctions are the fines provided by the Law on Restrictive Measures which are imposed on natural and legal persons that are obstructing the process of implementation.

II. Implementation EU Targeted Sanctions in Albania

The Process of Stabilisation and Association for the Republic of Albania started a bit latter than for the Republic of Macedonia. Namely, the Stabilisation and Association Agreement between the EU and Albania was signed in June 2006 and entered into force in April 2009. In its 2012 Progress Report for Albania³⁴, the Commission recommended the Council to grant Albania the status of candidate country. This is mainly due to the "key judicial and public administration reform measures being completed and the parliamentary rules of procedure being revised"³⁵. The Republic of Albania has become a candidate country in 2014 and is expected to start accession negotiations in mid-2019.

As regards the Common Foreign and Security Policy, Albania aligns its foreign policy with the one of the European Union and, consequently, implements EU's targeted sanctions applied to third states and non-state actors introduced by Council Decisions.

³³ Official Gazette of Republic of Macedonia, No.130/14, 03.09.2014.

³⁴ 2012 European Commission Progress Report for Republic of Albania, 10.10.2012.

³⁵ Füle, EU Commissioner for Enlargement and Neighbourhood Policy, Enlargement Package 2012: Address to the Committee on Foreign Affairs (AFET).

Unlike North Macedonia, Albania has not enacted a Law on Restrictive Measures to provide for a unified procedure for implementation of restrictive measures. The legal basis for the implementation of EU and UN imposed restrictive measures can be found in the Albanian Constitution. According to Article 5 of the Constitution, international law is binding upon domestic law, if it is ratified in a relevant procedure. Moreover, Article 122 (3) of the Constitution stipulates that "the norms of international organizations have superiority in case of conflict, over the national legislation if the agreement for participation in the organization ratified by the Republic of Albania expressly contemplates their direct applicability". Therefore, both EU Council Decisions and UNSC Resolutions, as long as they are accessible for the public and provide for self-execution, are directly applicable in Albania. In opposite cases, when they are not considered self-executing, the Council of Ministers has to adopt normative legal acts for their implementation. The authorities responsible for the implementation of targeted sanctions are appointed by such normative acts. After the lapse of the fixed period of time for which sanctions are imposed, they are tacitly repealed within the internal legal order without normative action being required.

However, targeted financial sanctions are regulated in detail by the Law on Measures against Financing of Terrorism³⁶. The Law provides for the basic definition of assets and other properties³⁷ that are subjected to targeted financial sanctions. In its Article 5 (1) the Law provides that pursuant to UNSC Resolutions the Council of Ministers adopts a decision to include declared persons on the list of individuals upon whom targeted sanctions need to be implemented. Moreover, the second paragraph of Article 5 widens the obligation of the Council of Ministers to the inclusion of individuals on the list based on "the acts of other international organizations or from other international agreements, where the Republic

³⁶ Law No. 157/2013 "On measures against financing of terrorism" as amended by Law No 43/2017.

³⁷ According to Article 3(3) of the Law on Measures against Financing of Terrorism No. 157/2013, assets and other properties are financial assets and property of any kind, real estate or personal property, regardless of the way of benefit and legal documents or instruments of any kind, including electronic and digital documents that prove the ownership or interests in these assets and other properties. The definition includes, but not limited on, bank credits, bank or traveler's cheques, order payments, shares, bonds, ballot, payments, letters of credit and any other interest, dividend or other incomes and the values collected or generated from assets or other properties.

of Albania is a party." This paragraph implicitly applies to EU Council Decisions. The responsible authority to implement targeted financial sanctions is the Ministry of Finance and Economy, which takes the decision for temporary blocking, confiscation or freezing of funds and other financial assets.

Additionally, the Law appoints the General Directorate for Prevention of Money Laundering as the responsible authority for the collection, processing, analysing and exchanging of data in the implementation of measures against terrorism. The organizational structure and the main functions of the General Directorate for Prevention of Money Laundering are provided by the Law on Prevention of Money Laundering and Financing of Terrorism³⁸. According to this Law, the General Directorate for Prevention of Money Laundering reports directly to the Minister and serves as the Financial Intelligence Unit of Albania.

Finally, since there is no Law on Restrictive Measures, fines for non-implementation of targeted sanctions in general, do not exist. However, the aforementioned laws provide for fines when their provisions are not observed.

E. Conclusion

Sanctions constitute one of the most frequently used foreign policy tools in international relations. They are traditionally resorted to by states but they also have been used by international organisations in order to assist them in fulfilling their mandates. The emergence of targeted sanctions happened in the mid-1990s. This was due to the humanitarian impact of embargoes which were deemed unacceptable, accentuating the need for a shift to measures designed to affect only the wrongdoers. More than twenty years on, this paper considers the extent to which the EU uses targeted sanctions as a tool of its CFSP and how it affects the countries that are candidate states for EU membership.

EU targeted sanctions have become a cornerstone of European CFSP, since their early beginnings. The EU acts to implement UN sanctions more effectively, or it uses sanctions as a very particular instrument of its own Common Foreign and Security Policy. On the one hand sanctions are a tool

³⁸ Law No. 9917/2008 "On the Prevention of Money Laundering and Financing of Terrorism".

of EU foreign relations serving general policy objectives; and on the other, they are individualized decisions aimed to directly interfere with fundamental rights of singled-out persons. The imposition of targeted sanctions as a CFSP tool has increased steadily since the 1990s, in particular over the past decade. The catalogue of measures when it comes to the targeted sanctions is open-ended. They are often tailored to affect leaderships or elites, taking into account that circumstances vary from country to country. Therefore, there are new forms of targeted sanctions continually being devised.

EU sanctions targeting individuals – no matter whether they are terrorist suspects or regimes supporters, is a powerful tool which slowly but surely replaces comprehensive state sanctions. These developments in the sanctions regime of the Union put an additional pressure on candidate countries, especially when it comes to the implementation of complex EU legislation in this area.

Western Balkan countries are part of the Stabilization and Association Process that was launched in 1999, which did not mean instant cooperation in the sphere of imposition of restrictive measures. By emphasising the prospects of membership in Thessaloniki in 2003 and through the promotion of political dialogue and cooperation in the area of CFSP, the European Union enabled a closer cooperation with countries from the Western Balkan region in the implementation of targeted sanctions. The study of the two candidate countries – the Republic of North Macedonia and the Republic of Albania, has shown that these countries have established a viable legal framework that will enable their institutions to collaborate effectively in the implementation of targeted sanctions. The two countries have a different approach when it comes to the type of legislation regulating this field, but they both provide the legal framework required to implement EU legislation on the use of targeted sanctions. The next challenge facing the two candidate countries in this process is the enhancement of the capacity of national institutions and their cooperation. Even though there were numerous actions undertaken over the past years, there is a need for further development of the legislative and institutional structure in this respect.

On a policy level, there is an inception of cooperation among the Western Balkans states in the area of targeted sanctions which is essential for their effective implementation. This regional cooperation needs to be

further developed and much more resources need to be allocated to it. Especially when it comes to the fight against terrorism in the Western Balkans, regional cooperation is particularly important and needs to be strengthened.

The adoption of legislation for implementation of targeted sanctions, together with the establishment of a supporting institutional structure within the candidate countries sends a strong political signal to the European Union and to the international community in general that the Western Balkans are willing and ready to respect established regulations on targeted sanctions. Moreover, this is a signal to third states as well that there is no chance of escaping international standards in the area of the imposition of targeted sanctions in these countries.