Power and Restraint: A critical examination of the unilateral sanctions of the European Union through the kaleidoscopic lens of proportionality

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Project abstract:

Unilateral economic sanctions are popular self-help instruments for States and international organisations such as the European Union (EU) to redress internationally wrongful acts. In recent years, targeted sanctions have become the norm, as they are meant to exert pressure on those responsible for objectionable behaviours and not on entire populations. However, the EU's use of 'massive and targeted' sanctions against Russia reflects a growing willingness to resort to severe and comprehensive sanctions directed at every facet of the Russian economy. These measures have extensive spill-over effects vis-à-vis the sanctioning States' own economic operators, third States and the Russian civilian population.

This project submits that such powerful instruments need substantive regulation, so that they may not exceed what is necessary to attain their objective. This could be achieved by applying the proportionality principle, which is present under various forms in the legal regimes governing EU unilateral sanctions: the customary law of State responsibility, international trade law, the European Convention on Human Rights, and EU law.

This research project aims to critically analyse the various proportionality standards present in this fragmented legal framework, how they interact with each other and impact the shaping of EU sanctions. Finally, it seeks to examine the effect of proportionality on the legality of sanctions, and how this is dealt with by the competent courts.

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1. Research Data Summary

List and describe all datasets or research materials that you plan to generate/collect or reuse during your research project. For each dataset or data type (observational, experimental etc.), provide a short name & description (sufficient for yourself to know what data it is about), indicate whether the data are newly generated/collected or reused, digital or physical, also indicate the type of the data (the kind of content), its technical format (file extension), and an estimate of the upper limit of the volume of the data.

Dataset Name	Description	New or reused	Digital or Physical	Only for digital data Digital Data Type	Only for digital data Digital Data format	Only for digital data Digital data volume (MB/GB/TB)	Only for physical data Physical volume
		Please choose from the following options: • Generate new data • Reuse existing data	*Please choose from the following options:* • Digital • Physical	*Please choose from the following options:* • Observational • Experimental • Compiled/aggregated data • Simulation data • Software • Other • NA	*Please choose from the following options:* • .por, .xml, .tab, .csv,.pdf, .txt, .rtf, .dwg, .gml, … • NA	*Please choose from the following options:* • <100MB • <1GB • <100GB • <1TB • <5TB • <10TB • <50TB • >50TB • NA	
Academic literature	Academic literature (articles, books and book chapters, blogposts) on the topic of economic sanctions, countermeasures, human rights law, World Trade Organization law and EU law.	Reuse existing data	Primarily digital, complemented with physical copies of key books.	Other	pdf or html for the texts, Zoterofiles for metadata.	<1GB	/
EU legislation	Relevant EU legislation collected from EUR-Lex	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
EU preparatory documents	Drafts, recitals, and outcomes of public consultations collected from EUR-Lex and website of the European Institutions	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
EU case law	Case Law from the CJEU collected from EUR-Lex	Reuse existing data	Digital	Other	pdf for the texts, Zotero files for metadata.	<1GB	/
WTO legislation	Relevant agreements, Ministerial Decisions and Declarations and Understandings collected from the WTO website	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
WTO case law	Case law collected from the WTO Dispute Settlement Body on the WTO website	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
UN legislation and documents	Relevant legislation and documents from the UN digital library	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
ICJ case law	Case law from the ICJ collected from the ICJ website	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
Council of Europe conventions, guidelines, and reports	Relevant conventions, guidelines, reports, and publications collected from the online resources and online archives of the COE	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
ECHR case law	Case law from the ECHR collected from Hudoc	Reuse existing data	Digital	Other	pdf for the texts, Zoterofiles for metadata.	<1GB	/
Intermediate data	Analysis of legislation, case law, policy documents and relevant literature	Generate new data	Digital	Other	pdf or docx	<1GB	/

If you reuse existing data, please specify the source, preferably by using a persistent identifier (e.g. DOI, Handle, URL etc.) per dataset or data type:

- **EU-legislation, case law and preparatory documents:** https://eur-lex.europa.eu/
- **WTO legislation and case law:** https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S005.aspx
- **UN legislation and documents**: https://digitallibrary.un.org/, https://treaties.un.org/pages/Home.aspx?clang=_en
- **ICJ:** https://www.icj-cij.org/cases
- **CoE:** https://edoc.coe.int/en/, https://www.coe.int/en/web/documents-records-archives-information/
- **ECHR**: https://www.echr.coe.int/hudoc-database

Are there any ethical issues concerning the creation and/or use of the data (e.g. experiments on humans or animals, dual use)? Describe these issues in the comment section. Please refer to specific datasets or data types when appropriate.

- No

Will you process personal data? If so, briefly describe the kind of personal data you will use in the comment section. Please refer to specific datasets or data types when appropriate.

- No

Does your work have potential for commercial valorization (e.g. tech transfer, for example spin-offs, commercial exploitation, …)? If so, please comment per dataset or data type where appropriate.

- No

Do existing 3rd party agreements restrict exploitation or dissemination of the data you (re)use (e.g. Material/Data transfer agreements/ research collaboration agreements)? If so, please explain in the comment section to what data they relate and what restrictions are in place.

- No

Are there any other legal issues, such as intellectual property rights and ownership, to be managed related to the data you (re)use? If so, please explain in the comment section to what data they relate and which restrictions will be asserted.

- No

2. Documentation and Metadata

Clearly describe what approach will be followed to capture the accompanying information necessary to keep data understandable and usable, for yourself and others, now and in the future (e.g., in terms of documentation levels and types required, procedures used, Electronic Lab Notebooks, README.txt files, Codebook.tsv etc. where this information is recorded).

- The documentation of the collected documents will take place in Zotero.
- The collection and selection of legislation, preparatory documents, and caselaw will be documented in more detail by keeping a record of the keywords used when searching the relevant databases, the dates of the searches, and the criteria for inclusion/exclusion of relevant items. These records will be stored as stand-alone notes in Zotero.

Will a metadata standard be used to make it easier to find and reuse the data? If so, please specify (where appropriate per dataset or data type) which metadata standard will be used. If not, please specify (where appropriate per dataset or data type) which metadata will be created to make the data easier to find and reuse.

- No

- No metadata standard will be used.
- For all published materials and grey literature that will be collected, full bibliographic details will be kept.
- Findability will be ensured through the use of unique identifiers, including:
  - DOI for academic literature and other published documents (OECD materials all have a DOI).
  - ELI-codes and ECLI-codes for EU legislation and EU case law.
  - (when available) permalinks for online publications.
- Offline copies of online publications for which the longterm availability cannot be guaranteed will be kept in Zotero either as snapshots or as pdf.

3. Data storage & back-up during the research project

Where will the data be stored?

- Collected data will be kept in Zotero (laptop hard drive and cloud).
- Intermediate data will be kept on the KU Leuven One Drive for Business network drive, which is protected by multifactor identification.

How will the data be backed up?

- Back-ups on OneDrive are automatic.
- Separate manual back-ups of the Zotero library (which is locally stored) will be made on a weekly basis.

Is there currently sufficient storage & backup capacity during the project? If yes, specify concisely.
If no or insufficient storage or backup capacities are available, then explain how this will be taken care of.

- Yes

The standard offer provided by OneDrive is 2TB, which is sufficient for this project.

How will you ensure that the data are securely stored and not accessed or modified by unauthorized persons?

The data is stored on the secure OneDrive for Business network drive of KU Leuven. To access the data, multifactor authentication is required. Because of the personal nature of OneDrive, files that are not explicitly shared are not accessible to other researchers. As no storage services from the ICTS Service catalogue of non-European cloud suppliers are used, no additional security measures are necessary.

What are the expected costs for data storage and backup during the research project? How will these costs be covered?

- KU Leuven has signed a license agreement with Microsoft for OneDrive for Business for staff and students as part of the Microsoft 365 Education plan. As a result, it is free to use for both students and staff.
- Zotero cloud storage: 20$ per year to be covered by the FWO-grant.

4. Data preservation after the end of the research project

Which data will be retained for at least five years (or longer, in agreement with other retention policies that are applicable) after the end of the project? In case some data cannot be preserved, clearly state the reasons for this (e.g. legal or contractual restrictions, storage/budget issues, institutional policies...).

All data will be retained for 10 years according to the KU Leuven RDM policy. After 10 years the researcher will decide, in consultation with the supervisor, whether it is necessary to store the personal data for a longer time. If it is necessary to keep the data, a reminder date will be set at which the researcher will again decide whether the data still need to be kept. When further storage is no longer necessary, the personal data will be deleted.

Where will these data be archived (stored and curated for the long-term)?

The data will be stored on the KU Leuven's central archive servers for at least 10 years, in line with the KU Leuven RDM policy. It will be managed by the supervisor, in order to ensure access to the data for 10 years.

What are the expected costs for data preservation during the expected retention period? How will these costs be covered?

The costs depend on the size of the datasets, starting from 100GB. The bench fee will be used to cover the costs of the storage.

5. Data sharing and reuse

Will the data (or part of the data) be made available for reuse after/during the project? In the comment section please explain per dataset or data type which data will be made available.

- Yes, in an Open Access repository
- Yes, in a restricted access repository (after approval, institutional access only, …)

The intermediate data will be made available where relevant.

If access is restricted, please specify who will be able to access the data and under what conditions.

N/A

Are there any factors that restrict or prevent the sharing of (some of) the data (e.g. as defined in an agreement with a 3rd party, legal restrictions)? Please explain in the comment section per dataset or data type where appropriate.

- No

No issues arise for the sharing of meta-data of published materials.

Where will the data be made available? If already known, please provide a repository per dataset or data type.

The intermediate data will be made available in RDR, KU Leuven's Research Data Repository.

When will the data be made available?

The data will be made available upon publication of the research results.

Which data usage licenses are you going to provide? If none, please explain why.

For the intermediate data, data licenses will be selected in collaboration with KU Leuven RDR-staff with a preference for CC-BY-SA.

Do you intend to add a PID/DOI/accession number to your dataset(s)? If already available, you have the option to provide it in the comment section.

- Yes

For intermediate data deposited in the KU Leuven RDR, a DIO is added.

What are the expected costs for data sharing? How will these costs be covered?

None.

6. Responsibilities

Who will manage data documentation and metadata during the research project?

Marie Terlinden (researcher)

Who will manage data storage and backup during the research project?

Marie Terlinden (researcher)

Who will manage data preservation and sharing?

Marie Terlinden (researcher)

Who will update and implement this DMP?

Marie Terlinden (researcher) in consultation with Prof. Wouters (promotor) and relevant support staff at KU Leuven.