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International Sanctions: Evolution, Policy, and Impact with Special References to the European Union and Syria

Abstract

The first chapter of this paper is mainly about the evolution of international sanctions in term of types and how they are connected to the Rule of Law. Examining the stages of this evolution, starting from ancient history, going through the keystones that affected international sanctions like the Pacifism Era and the International Court of Arbitration, and ending with the establishment of League of Nations then the United Nations, will serve to understand how the international sanctions reached their current theme and became a tool to maintain international peace and security.

The second chapter is about the case of the European Union sanctioning regime and its history, describing how this regime works by studying its legal mechanism (adoption, implementation, and enforcement), the main documents regarding sanctions, and the institutions which are involved in the European Union sanctioning regime. Also, this chapter describes the elements that support the European Union sanctioning regime and the obstacles that hinder their efficiency. This chapter aims to give a detailed review about the European Union sanctions regime with its developed features as part of the evolution of International sanctions.

The third chapter is studying the case of Syria under the European Union sanctions, giving a background about the pre-war relations between Syria and the European Union, and a background about the Syrian war, to follow with detailed description of the current European Union targeted sanctions against Syria. Finally, the paper describes the impact and the consequences of the sanctions on the Syrian population in order to figure out how effective they are with the related consequences on civilians.

1. Introduction

International sanctions are coercive measures imposed against states, individuals, or entities by other states, regional or international organisations. International sanctions are imposed in order to change specific conduct of the targeted entity that threatens international peace and security or violates international law and human rights (Florea & Chirtoaca, 2013).

The attempts of countries to control their neighbours' behavior or to seek privileges through imposing sanctions, is deep rooted in the history of civilizations. It is even related to our primates ancestors as we can observe in nature that some species of apes enforce other species to hunt in limited area of land or to drink from a certain part of the rever. Since the beginning of civilization, humans realized that controlling other tribes, villages and countries will result in many benefits in all aspects of life weather economic gain or humanitarian achievement. In modern day, when the term international sanctions is raised, the first thing that comes to mind is the new concept of international sanctions as that aimed against Iran, Syria, Sudan or Venezuela. It is then when the term international sanctions have started to be globally common concerning these countries and many other sanction subject countries (Friedman, 2012).

Understanding the deep roots of sanctions is important to understand some of the hidden motives behind imposing them, because no matter how civilizations socially evolve, humans will keep their basic attributes such us; greed and seeking dominance. These attributes might affect the neutrality of sanctions. Studying the history of sanctions also concludes that sanctions started as a tool of indirect war but with changes in objectives. Then they became parallel to

the stereotype wars, and finally they are a standalone conduct separated from the classical wars, where these sanctions are being used in peace to avoided armed conflicts. The European Union (EU) sanctions against Syria is an example of how sanctions can be standalone conduct. However, some philosophers like the Leviathan English philosopher Thomas Hobbes, do not differentiate classical wars from sanctions, as they don't consider sanctions as an international punishment due to the absence of public authority, thus for them it is an act of hostility (Nossal, 1989).

The norms and values of the EU such as democracy, human rights and fundamental freedoms alongside with maintaining international security and peace, are the main motives behind the EU sanctions regime which is currently the most developed one regarding the legal mechanism and the flexibility that keep any imposed set up to date. Yet, it failed to achieve its objectives in Syria even after 10 years of the first EU Council regulation concerning sanctions. Furthermore, it had socioeconomic consequences on the Syrian population.

2. The Evolution of International Sanctions

2.1. Ancient History

The concept of international sanctions has been around since the very beginning of human history when states and semi-state entities imposed a broad range of non-military forced strategies to control foreign policy since the establishment of ancient Greece. In the Greek coastal city of Aegina in 492 BC Aegina imposed a non-military forced action against Athens. They seized an Athenian ship and took the passengers as hostages. This action was a respond measure against Athenians, because Athene did not accept to release ten Aeginetans who had been taken as captives in Athene (Farrall, 2007). 60 years later in 432 BC Athens imposed a non-military forced action on Megara; trade embargo (Friedman, 2012). This incident became the first recorded example of economic sanctions. The goal of the action was outwardly to obtain the safe release of three Athenian women who had been kidnapped (Hufbauer, et al., 2007).

Furthermore, Athens set a law that worked as a written international sanction; If any Athenian citizen got killed without a justified reason in another state and this state refused to penalize the killer, the Athenian law allows the family of the victim to capture and hold three citizens from that state until compensation is paid or the killer gives up. Also, the same law was applicable in medieval Britain (Grover, 1933). Ancient Greeks imposed maritime blockades, and Italy applied the same procedure when in 1270s Venice imposed a trade blockade against Bologna to force it into buying wheat from Venice instead of buying it from Ravenna, which was the main source of wheat in medieval Italy. However, states during that time also allowed their citizens to capture properties or even citizens from other states, just like when Queen Elizabeth permitted in 1569 to a couple of English people to capture properties which belong to the King of Portugal or any Portuguese citizens as a recompense for their ship that was sunk by the Portuguese armada in 1565 (Grover, 1933).

During the crusade's era, the catholic church prohibited the Christian states from selling Muslims any goods that could be used in equipping armies like arms, ships or even lumber that is used to build vessels. In the fourteenth and fifteenth centuries, The Hanseatic League used the first example of multilateral sanctions when they imposed economic boycotts against enemy states (Nussbaum, 1947).

2.2. The Pacifism and International Court of Arbitration

As international sanctions are meant to be a tool for achieving peace, the pacifists played a significant role in the shaping of the modern concept of an international sanction. The modern concept of international sanctions existed alongside with the idea of creating an international court of arbitration. It started in the international peace movement debates. The use of arbitration was the core of these debates from 1889 to 1894 through many conferences, until American and British delegates proposed an establishment of international court of arbitration. But the exact meaning of international arbitration was not defined until 1894. Moreover, the Europeans accepted the proposal in a parliamentary meeting in Brussels in 1895 after a report by the Belgian law professor Henri La Fontaine.

In Europe two orientations came into the spot, the first one was the pacifism like Henri La Fontaine, who had a completely different view than Édouard Descamps who represented the second orientation of supporting the fundamental right of nations to go to war in the existing international system. Descamps was also a jurist and politician who was involved in international law. According to Descamps, international law has a unique attribute which is the acceptance of violence in respect of national defense, and this attribute cannot be found in domestic law (Cooper, 1991).

Later in 1899, the Permanent Court of Arbitration was established. However, skepticism towards this court became broader from the pacifist's point of view, based on the fear of imposing sanctions to enforce decisions against a recalcitrant state or threatening the sovereignty of other states. The pacifists also claimed that arbitration does not comply with international law due to lack of a common set of legal principles. Thus, according to their claims, the arbitration will not achieve its aim in maintaining international security as several advocates promised (Cooper, 1991).

When international peace topic is mentioned, the name Woodrow Wilson will come alongside because of his efforts and attempts in respect of international peace. He was the 28th US president in the time period between 1913 to 1921. Thus, he was in the office in World War I. Wilson is also known as an advocate for democracy and world peace, due to his participation in The Covenant of the League of Nations, and his specific plan for maintaining peace by his famous Fourteen Points speech in 1918 (History, 2009). He received a Nobel Prize for peace, even though the Senate did not approve US membership in the League of Nations (History, 2019).

“It is very interesting to me to observe how from every quarter, from every sort of mind, from every concert of counsel, there comes the suggestion that there must now be, not a balance of power, not one powerful group of nations set off against another but a single overwhelming, powerful group of nations who shall be the trustee of the peace of the world” (Wilson, 1918).

Woodrow Wilson's view was to replace wars with economic sanctions and to use this type of sanctions as a tool to bring global peace. He believed that the traditional wars as a resolution for international conflicts should be over and should be replaced by modern resolution which is economic sanctions. His view also raised a skeptic counter-opinion whether economic sanctions are effective alternatives for wars or not, especially when they are used unilaterally and imposed on weaker status countries. But Wilson's supporter argued that anything can work better than traditional wars regarding the casualties from civilians and soldiers, plus the destruction that is caused by the war in all aspect of life (Alexander, 2009).

2.3. The Interwar Period and League of Nations

The international sanctions during the period between 1918 to 1939 focused mainly on preventing military attempts since that era was considered a deluge of wars, mainly because two world wars broke out. In the present time, sanctions have a wider range of aims at least in theory like preventing war, applying democracy, environmental aims, defending human rights, and nuclear non-proliferation. However, an example of international sanctions in that period of time is the US sanctions against Japan in 1941, which were signed by the American President Franklin D. Roosevelt (Davis & Engerman, 2006). These sanctions were due to the Japanese army's advance towards Indochina and south-east Asia (Record, 2009). Some analysts claim that this set of sanctions against Japan were one of the factors that led to the attack on Pearl Harbor in 1941 (Higgs, 2006).

Another example is the sanctions that were imposed against Italy by the League of Nations in 1935, concerning the Italo-Abyssinian crises when the armed conflict ended up taking Ethiopia under Italian's army (Augustyn, 2018). The League of Nations and the United Kingdom imposed sanctions on Italy to prevent the act of aggression towards Ethiopia from carrying on. This incident was the first application of multilateral sanctions and a clarification of how effective these sanctions were in preventing militaries from going too far with their aggression. Unfortunately, the League of Nations failed to present itself as a peace-keeping organization and the skepticism towards this collective league started to become broader, which eventually led to the second World War (Ristuccia, 1997).

2.4. The United Nation and The Security Council

The League of Nations collapsed and led to the establishment of the United Nations (UN), which is now the only global organisation and the most important regarding international sanctions. The UN main definitions of sanctions are enshrined in Article 41, with an exclusion of armed force; *“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”* (Charter of the United Nations, 1945).

The establishment of the United Nations and its Security Council had a tangible role in the evaluation of international sanctions. This establishment has brought to the international community a wide range of different sanctions, starting from comprehensive measures that economically affect the flow of products and commodities, to the specific measures that target certain items like arms, timber or gems. These measures can also target particular activities, such as diplomatic relations or travel. The objectives of the UN Security Council were to impose series of sanctions to compel an invading state to withdraw its units, preventing weapons of mass destruction from being developed and owned by a state, fighting international terrorism, ceasing human rights violations and maintaining international peace (Farrall, 2007).

The time between 1946 and 1990 witnessed five occasions of imposing UN sanctions against North Korea, South Africa, Portugal, Rhodesia and Iraq. However, since the 1990s and primarily in Africa, the United Nations has become more active (Davis & Engerman, 2003). The UN Security Council Resolution on Iraq in 1990: *“We meet at the hinge of history. We can use the end of the Cold War to get beyond the whole pattern of settling conflicts by force, or we can slip back into ever more savage regional conflicts in which might alone makes right. We can take the high road towards peace and the rule of law, or we can take Saddam Hussein's path of brutal aggression and the law of the jungle.”* James Baker former U.S. secretary of

state, after the authorization of the Security Council to use force against Iraq in 1990 (Farrall, 2007).

International sanctions play an important role in international security, but the year of 1990 was crucial, because skepticism regarding sanctions started after UN Security Council Resolution on Iraq in 1990 due to the humanitarian consequences of these sanctions on Iraqis. However, the application of sanctions has been increasing since 1990, but without taking in consideration, or maybe with complete ignorance, of the harmful impacts of sanctions on civilians. Here lies a humanitarian dilemma, because these impacts lead to suffering in term of human rights in targeted states. Civilians are not subject to international sanctions, yet they are the most affected. So, modifications are needed in sanctions' regimes to reduce the impact on civilians and to protect human rights. These sanctions had humanitarian consequences, the sanctions on oil sector in Iraq decreased foreign exchange and increased inflation. In addition, sanctions led to poverty, unemployment and to an increase in the number of children dropping out of school in order to work (Shehabaldin & JR, 1999). Plus, Saddam Hussein's regime used this series of sanction to stay in charge for a long period of time; convincing the people that any change of regime during that time would cause more damage to the country. The sanctions against Iraq did not achieve the pre-planned goal of United Nations and Security Council, and they had a destructive impact on civilians (Arbuthnot, 1989). After 1990, the use of UN sanctions increased, many countries became targets to international sanctions such as: Iraq, Libya, former Yugoslavia, Haiti, Somalia, Angola, Rwanda, Liberia, Sudan, Cambodia, Afghanistan, Eritrea, and Ethiopia (Ascensio & Dixneuf, 2003). Between 1989 and 1991, the Soviet Union collapsed, Berlin Wall went down, the Cold War was ended, and the World started to have new gestures of change regarding international sanctions.

2.5. Post-Cold War Sanctions

The Cold War is defined as a continues conflict between states or superpowers, without a direct arm conflict, but it is mainly through economic, political and diplomatic conducts. Cold War's tools are propaganda, acts of espionage and proxy wars (Chakrabarti, 2017). The termination of the Cold War and the internal conflicts in the countries, especially in Africa and Balkans played a role in changing sanctions policies. The diplomatic orientation has been shifted completely after the end of the Cold War, because the eternal battle between the capitalist camp and the communist camp ended, therefore other political goals emerged. The previous political actors disappeared and have been replaced by new ones. New actors now share the political power, from Washington and Moscow to Beijing, London and Paris, in addition to non-governmental organisations which appeared as political players with the power of changing policies (Hufbauer, et al., 2007). International sanctions have been changed and evolved. Not only the end of the Cold War did that increment but there are other factors which played a role in that, like the high cost of arm force, the different political views of the permanent members in UN Security Council, and globalization (Farrall, 2007). The world at that time was blessed with global peace for a short period of time, and the threats of international security decreased, which made it difficult for the industrial countries to find a common ground for their different strategies and priorities for using sanctions for the internal and civil regional conflicts. The American and Russian leaders set their new priorities, and they changed that previous strategy of blocking each other's initiatives in the UN Security Council (Hufbauer, et al., 2007). These changes resulted in a broader range of issues such as: ethnic strife, civil chaos, human rights and democracy, terrorism, and narcotics. In the case of the US, the entities that support sanctions have succeeded in crowding the congress orientation to support international sanctions which ended up with more sanctions imposed against Iran, Libya, Cuba, Burma, Nigeria, and Sudan (Hufbauer, et al., 2007). In the case of the Syrian conflict, Syria after 2011

became the complex international challenge for all the superpowers. Several critics like Noam Chomsky and Stephen Cohen believe that a new Cold War has started (Chakrabarti, 2017). However, the End of the Cold War and the establishment of the EU with its values, were among the factors that made countries lean more to use economic sanctions instead of military.

2.6. International Sanctions from Military to Economic

Sanctions can work as the least harsh measure for the UN Security Council to bring peace and reinstate the international security. In practice it is quite difficult to get the support for a joint use of force against a targeted country under Article 42 of the UN Charter which states that *“Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations”* (Charter of the United Nations, 1945). The Syrian issue represents this situation as the permanent members of the Security Council couldn't agree on the use of force against the Syrian regime. Thus, the governments do not likely prefer to use arm force especially after the superpowers have been drained because of the proxy wars during the Cold War. However, in the case of Syria, the proxy war has been re-ignited. There is another factor which increased the use of non-military sanctions after the Cold War, which is the harmful impact on the civilians of targeted counties, and the humanitarian consequences following that impact. Also, using non-military sanctions is cheaper, safer, and conclude less responsibility which is necessary for the governments to avoid (Farrall, 2007).

Moreover, the increased use of technology has its own fingerprint on reducing the use of military sanctions and in contrast, non-military ones are now used more often. The relation between sanctions and technology can be explained relying on globalization, communication and trade. These are crucial to any economy. Thus, non-military sanctions can achieve their purpose and even have the power to destroy the whole economic system in a targeted country and to restrain individuals or political groups (Farrall, 2007).

2.7. Different Types of International Sanctions

There are many different types of international sanctions. They differ according to the purpose and the reason for imposing them. They usually aim to change certain policy of the targeted state like in Syria, or to reduce the possibility of unwanted behaviour in the targeted state like the sanctions on technology against the Iranian nuclear sector (Government of The Netherlands, n.d.) Also, international sanctions can be imposed during the peaceful transition of a state to support that transition, or maintaining peace by countering terrorism and protecting human rights (UNSC, n.d.). However, the principles of international law, democracy and respect of human rights and fundamental rights are the base core of imposing any international sanctions. They should not be based on economic or political interests.

It is not just countries that are subject to international sanctions, but also natural persons like terrorists or individuals who are involved in human rights violations, legal persons, or non-state entities like terrorist groups. Moreover, the sanctions must be proportionate with the harmful conduct or the policy that is considered guilty according to the international community.

The multilateral sanctions regimes are slightly different from each other, but in general they have the same reasons and purposes like the EU sanctions regime or UN's. These are the most general types of sanctions regarding the sanctions themselves. To start with diplomatic

sanctions: they are sanctions imposed individually or collectively, where they reduce or terminate diplomatic relations like stopping embassies from work. Article 41 of the UN 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. mentioned one of the common measures of diplomatic sanctions which is the “severance of diplomatic relations”* (Charter of the United Nations, 1945). Other measures like; expulsion of diplomats, suspension of diplomatic relations and suspension of official visits (Mzv, 2019). Diplomatic sanctions have been imposed often in history and they are usually the first type of sanctions to be imposed (SanctionsAlert, 2018).

The most common type of sanctions is economic sanctions. It is When a country or an entity withdraw the economic and financial relations with the targeted country as a security measure in purpose of coercing, deterring, punishing that targeted country which threatens their interests or violate international security, democracy or human rights (Mzv, 2019). However, economic sanctions have a strong connection to international treaties and agreements (Kolodkin, 2019). Economic sanctions can be general like pausing the whole economic activities with a country, for example the long-term US embargo on Cuba. Sometimes they can also be imposed on specific types of business, groups or individuals (Masters, 2019). These sanctions have different forms like; freezing of assets or economic resources, this is when a state holds the financial assets of another state or individuals, and freeze the movement of those assets (Kolodkin, 2019). In addition to the prohibition of financial transactions, restrictions on export credits or investments (Mzv, 2019). Moreover, there are lesser punitive financial measures like: Tariffs on imported goods for the sake of domestic products, quotas; which is reducing the number of exported and imported goods, and non-tariff barriers; which is formed to make the imported goods more expensive by applying extra regulatory requirements (Kolodkin, 2019).

Military sanctions like arms embargos were mentioned in paragraph 2 of Security Council resolution 1390 (2002) and reiterated in subsequent resolutions, including paragraph 1 (c) of resolution 2161 (2014). These two resolutions are the perfect explanation for arms embargo. All Member States of the United Nations must implement these sanctions measures on arms and any materiel or services related to arms and weapons, and cut on direct and indirect supply, sale or transfer to the targeted entities, groups and individuals that are listed in these resolutions (Security Council, 2002). Also, these sanctions include ships, jets, military vehicles, weapons and ammunition. They even include any equipment related to military training or activities (Security Council, 2014). The abovementioned international sanctions are different from each other, but they all share the reasons and the aims behind imposing them. However, there is another type of measures that is also used under international law, but it differs completely than sanctions. This type is called countermeasures.

2.8.The Difference Between Sanctions and Countermeasures

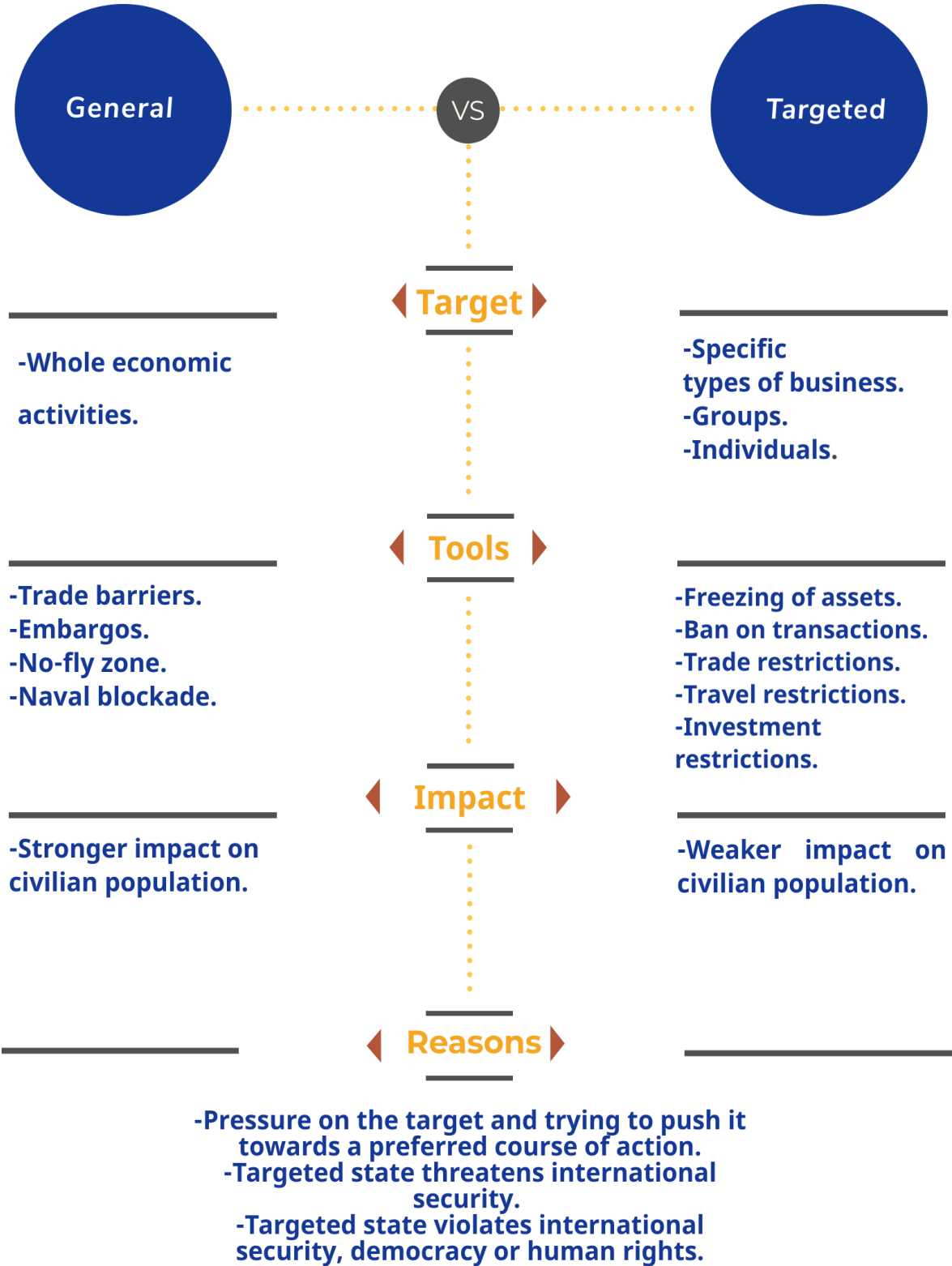
The term countermeasures was used by the arbitral tribunal for first time in 1987 regarding the “Air Services Agreement case”. Internationally, this term is used to refer to non-coercive measures as a response to international wrongful act (White & Abass, 2003). An “injured” state that is subject to an international wrongful act, can take countermeasures only against the state which carries out this act. These countermeasures should not contain threat or use of force and they should not be conflicted with fundamental human rights or “jus cogens”. Also, countermeasures must be proportional to the harm (ARSIWA Articles (49) (50) (51), 2001).

Sanctions and countermeasures are quite different from each other regarding tools, reasons, target, and nature. Sanctions are coercive measures that usually have punitive nature. They are imposed under a legal system to put pressure on the target to change its behaviour that threatens international security and peace, or violets human rights. The targets of sanctions can be states, individuals, groups of individuals, or non-state actors, and usually have multilateral form like the EU sanctions and the UN sanctions. On the other hand, countermeasures are non-coercive measures with no punitive nature. They work as a response against a wrongful act that is conducted by a state regarding international law. This response aims to achieve restitution (White & Abass, 2003). The tool of countermeasures that is used by the injured state is refraining from performing obligations toward the state which did the internationally wrongful act (ARSIWA Articles (49) (50) (51), 2001).

<i>Sanctions</i>	<i>Countermeasures</i>
<ul style="list-style-type: none">• Coerciveness: Coercive measures• Nature: Punitive nature• Reasons: Put pressure on the target to change its behaviour that threatens international security and peace, or violets human rights.• Targets: Can be states, individuals, groups of individuals, or non-state actors.• Tools: Trade barriers, Embargos, No-fly zone, Naval blockade, Freezing of assets, Ban on transactions, Trade restrictions, Travel restrictions, Investment restrictions.	<ul style="list-style-type: none">• Coerciveness: Non-coercive measures• Nature: No-punitive nature• Reason: Work as a response against a wrongful act that is conducted by a state regarding international law, this response aims to achieve restitution.• Target: The state conducted an internationally wrongful act.• Tool: Refraining from performing obligations toward the state which did the internationally wrongful act

(ARSIWA Articles (49) (50) (51), 2001).

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(Kolodkin, 2019), (Mzv, 2019), (Security Council, 2002), (Charter of the United Nations, 1945).

2.9. Rule of Law and International Sanctions

Any legal system should comply with rule of law, so international sanctions are not an exception, and they should achieve the principles of rule of law.

“We are ushering in an epoch of law among peoples and of justice among nations. The UN Security Council’s task is a heavy one, but it will be sustained by our hope, which is shared by the people, and by our remembrance of the sufferings of all those who fought and died that the rule of law might prevail”. Vincent Auriol the former French Ambassador in the UN Security in January 1946 (S/PV.4833, 2003).

There are several issues related to Rule of Law in respect of international sanctions such as: the lack of “transparency, equality, consistency, and proportionality” which affect the civilians if this principle is disrespected. The permanent members of the UN Security Council should be clear with the principle of transparency in the decision-making procedures to the highest level possible. And the decision should be clear to the targeted country and to the whole globe with no different interpretations. In theory, the decision-making process should be transparent and public as much as possible, because it is a public decision and the whole world should be aware of every step in the decision-making process. However, in practice, there is a lack of transparency in the procedure because the council usually deliberates everything related to sanctions secretly. Also, the decisions themselves sometimes have a lack of transparency without a clear justification of the aims and the procedure of imposing a regime of sanctions (Farrall, 2007). The permanent members are required to work under the principle of consistency regarding the international sanctions, because in order to strengthen the rule of law, the decision should be taken in a predictable way, not in an arbitrary one. All the parties that are subjected to power or authority are treated equally before this authority, which is the principle of equality. In legal terms; no party should be above the law. Regarding the international sanctions, the principle of equality means that the same regime of sanctions should be imposed on similar cases. In respect of United Nations, the principle of equality is mentioned in Article 2(1) of the UN Charter; *“The Organization is based on the principle of the sovereign equality of all its Members”* (Charter of the United Nations, 1945). But this article is inconsistent with Articles 23 and 27, which are related to the Security Council and the permanent members and their veto right. This inconsistency weakens the principle of equality which in turn weakens the rule of law (Farrall, 2007).

“Sanctions, as is generally recognized, are a blunt instrument. They raise the ethical question of whether suffering inflicted on vulnerable groups in the target country is a legitimate means of exerting pressure on political leaders whose behaviour is unlikely to be affected by the plight of their subjects. Sanctions also always have unintended or unwanted effects”. UN Secretary-General Boutros Boutros-Ghali, 25 January 1995 (S/1995/1 General Assembly, 1995).

The principle of proportionality means that any sanction imposed on a party must be proportional to the damage or harm caused by that party, but this principle is not quite common in international law. In this regard, there is no certain conclusion whether the principle of proportionality is a standalone principle or basically enshrined in the general principles of international law (Cottier, et al., 2012). Moreover, EU was clear about this principle and mentioned it in Article 5 of the Treaty on European Union, and the application criteria are mentioned in the Protocol (No 2) (Eur-Lex, 2020).

In respect of international sanctions, the principle of proportionality means that the impact of the imposed sanction should be in proportion to the harm or the threat caused to the international security or human rights by the targeted country, individuals or entities. It is crucial to reduce the harmful impact of sanctions on civilians or alien state as much as possible,

otherwise another harm will be caused by the consequences of the sanctions (Farrall, 2007). However, the UN sanctions have been criticized by several critics because of the harmful impact on civilian populations. They have been called a “silent holocaust” (Arbuthnot, 1989). Others called them an indirect form of warfare, because they don’t achieve their political aims, and because they are anti-humanitarian, especially when they are imposed against the economy of the targeted states which gradually makes civilians suffer (Gordon, 1999). In the case of Syria, the UN was not successful in imposing sanctions on Syria, because of the Russian and Chinese vetoes. However, there are many unilateral sanctions against Syria by several states and entities such as: the US, EU, Japan, Canada, Australia, Switzerland, Norway, and Turkey (Lund, 2019). The UN sanctions regime is still biased, because of the veto system and the different interests of the permanent members in the Security Council. Also, rule of law should be applicable not only in theory but in practice as well, for the sake of civilian populations whom the sanctions are meant to save from any kind of harm in the first place. Rule of law is among the EU fundamental values alongside the respect of human dignity, human rights, freedom and democracy. These values obliged the EU sanctions regime to be tailored into more targeted sanctions in order to prevent consequences on civilians.

3. The European Union Sanctions Regime

3.1. History of the European Union Sanctions

Since its establishment, the European Union has been trying to be recognized as a supranational entity that has international relations superior to its members’ relations. The EU wants to rise with soft power which is the ability to control without using force (Joseph S. Nye, 2004). Until the 1980’s, the EU did not have its own sanctions regime, thus the member states adopted international sanctions that were already imposed by the UN Security Council since all the EU member states are UN members. There were two UN sets of sanctions that were adopted by the European Communities: Rhodesia in 1965 and South Africa in 1977. Yet, the end of the Cold War facilitated the way to set a common ground of imposing sanctions. So, the 1990’s was called a sanctions decade. The independent sanctions regime of the European Communities started in 1980 against the Soviet Union as a result of its invasion of Afghanistan. The Maastricht treaty came with the creation of The Common Foreign and Security Policy in 1992. This policy enhanced the collective efforts in respect of international sanctions. The Common Foreign and Security Policy gradually set the sanction regime as one of its main elements, because the number of states that became targets to the EU sanctions was progressively increasing, from six in 1991 to almost thirty-one now. Nonetheless, the EU has the second highest share with 36% of non-UN sanctions that are adopted by the EU individually between 1980 and 2014, and the US with 36.9% (Russell, 2018). Furthermore, the number of sanction sets has increased by the EU as an entity, and all member states involved in this new strategy of sanctions, just like the UN but on a smaller scale. The EU applied this strategy regardless of the high political and economic price. The EU imposed sanctions on both, neighbour states and non-neighbour states for aims related to security (Hörbelt, 2017).

The EU gradually started to apply more sanctions regimes until it became one of the main elements in the EU's common and foreign security policy. However, the sanctions ability to achieve their aims is still questionable, because in some places they probably lead to a great change, but sometimes they have a harmful impact on the civilians’ populations. The impact of sub-aim of sanctions is still useful (Russell, 2018), in the meaning of general deterrence, which means the impact of sanctions on a broader scale where states, entities, or individuals recognise

the threat of already imposed sanctions. This makes them re-think before initiating any action that may end up with them being targets of sanctions (Europa, 2020).

3.2. The Legal Basis and The Main EU Documents in Respect of Sanctions

The Treaty of Rome 1957 allowed the member states to impose sanctions as part of coordinating their trade policies, article 223(b) Treaty of Rome, “*Any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes*”. Also, article 224 of the treaty, “*Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the common market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security*”. For example, the UN sanctions against Rhodesia in 1965 were implemented by the Member States, and it was followed by a collective decision from the European Communities (Kreutz, 2005).

The EU sanctioning regime was strengthened by the Maastricht 1992 due to the creation of the Common Foreign and Security Policy (CFSP), Article J of the treaty. The Commission was the institution that implemented sanction with some exceptions regarding arms embargoes which were implemented individually by the Member States (Kreutz, 2005).

The Treaty on European Union 2007 gave a legal personality to the EU, so it allowed to impose sanctions autonomously without the UN, in order to achieve the aims of the Common Security and Defence Policy (CSDP). The Council can also impose sanctions by the mandate of the Security Council of the UN under the terms of the Partnership Agreement between the African, Caribbean and Pacific Group of States (APC), and the European Communities (Giumelli, 2013)

The definition of sanctions in the EU-level was not clearly explained in the European law, but the purposes and the mechanism are similar to the sanctions under the UN Security Council (Russell, 2018). The main purpose of sanctions is to maintain international security and achieve international peaceful atmosphere. They are penalties to stop harm or threat caused by a state or entity, to force this state to terminate the harmful behaviour. In the case of the EU, there are three main documents that explain the international sanctions from the EU perspective (Hörbelt, 2017);

“*Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy*”: It is mainly about specifying several main issues and explaining the legal language, terms and definitions that should be used when imposing international sanctions. But these guidelines do not refer to the political process of imposing or terminating the already imposed sanctions or restrictive measures (Council of the European Union, 2018).

“*The EU Best Practices for the Effective Implementation of Restrictive Measures*”: It is about implementation and evaluation of sanctions under the guidance of the (CFSP). It explains the benefits of having a certain Council body for monitoring and pursuing the imposed sanctions (Council of the European Union, 2018).

“*Basic Principles on the Use of Restrictive Measures (Sanctions)*”: It is the EU main document regarding sanctions. It indicates the general aims and reasons behind imposing the EU sanctions. However, sanctions imposing system became a useful policy as a result of this document with the goal of maintaining peace and security within the principles of the UN

charter and the EU (CFSP). The document mentions that the main institution which cast sanctions is the UN, but the EU also can impose sanctions under the EU common foreign policy and Article 11 TEU, preferably with international support to counter terrorism and weapons of mass destruction. The EU sanctions according to this document will work to support human rights, democracy, the rule of law and good governance with minimum impact on civilians and neighbour states to avoid causing a humanitarian crisis (Kreutz, 2005). They should also be flexible and specific to each case (Council of the European Union, 2004).

In respect of the objectives of the sanctions according to the 2004 document, they should be fully explained in the enabling legal instruments. Also, they should be reviewed and checked to make sure that they are still valid to achieve their potential aims. The EU must lift the imposed sanction when they achieve their aims fully or partially, and the termination should be under the supervision of the EU Guidelines (Council of the European Union, 2004). Moreover, in the document, the EU mentioned that sanctions will stay under the UN standards, but at the same time the EU aims to impose its own sanctions away from the UN. The EU sanctions have started to increase away from the UN and the US since 1990's. Therefore, the EU sanctions are now one of the main instruments in the European foreign policy (Hörbelt, 2017). They also have a wide range of types and themes which are described in the main EU documents in respect of sanctions especially the "Basic principles".

3.3.Types and Themes of the European Union Sanctions

The EU document "Basic principle" details the sanctions, their subjects, and the cases where the EU can impose them. The cases are: "terrorism, the proliferation of weapons of mass destruction, a violation against human rights, democracy, the rule of law and good governance" (Hörbelt, 2017). In the past, the EU used to impose trade embargos, but it changed into freezing assets and visa bans imposed on individuals and entities, in order to have an effect on governments keeping the lesser humanitarian impact possible on the civilian populations (Russell, 2018). The EU may impose sanctions related to the illegal annexation of a territory that belongs to another state, and any intentional act that affects the stability of a sovereign state, for example the 2014 EU sanctions on Russia regarding the illegal annexation of Crimea (Council Regulation (EU) No 833, 2014). The EU sets of sanctions might be imposed on certain area like diplomatic sanctions, including measures such as freezing of diplomatic relations with the targeted state, or the recall of diplomatic representatives of the EU and its member states out of the targeted state. The EU sanctions are also applicable inside the territory of the EU, like the EU nationals wherever they exist, companies and organisations that work under any Member state's law, branches of EU companies outside the EU, and on jets and vessels within the territory of the EU (Strategic Communications, 2016).

The EU sanction regime, which is quite similar to the UN sanctions, requires a specific base in the EU treaties (Council of the European Union, 2019). Thus, the EU applies all the sanctions sets, which are imposed by the UN Security Council. The EU also opens a continues dialogue with the UN to enhance the coordination of the EU sanctions that are imposed by the member states (Council of the European Union, 2019). However, the EU is able to impose sanctions individually. the EU can impose its own sets of sanctions equivalently to the UN sanctions. The EU has adopted sanctions sets against states that are not subject to UN sanctions, like Russia and Venezuela for example. In addition, the EU can reinforce already existed UN sanctions by applying stricter and additional measures (Strategic Communications, 2016) under the supervision of the UN Security Council, which is called mixed sanctions regime, like North Korea (Russell, 2018).



Sanctions imposed jointly EU + UN.
02.04.2020

Source: <https://www.sanctionsmap.eu>



Sanctions imposed by the EU.
02.04.2020

Source: <https://www.sanctionsmap.eu>

The first figure indicates the sanctions that are adopted jointly by the UN and the EU; North Korea, Libya, Iran, Sudan, South Sudan, Democratic Republic of the Congo, and Guinea-Bissau.

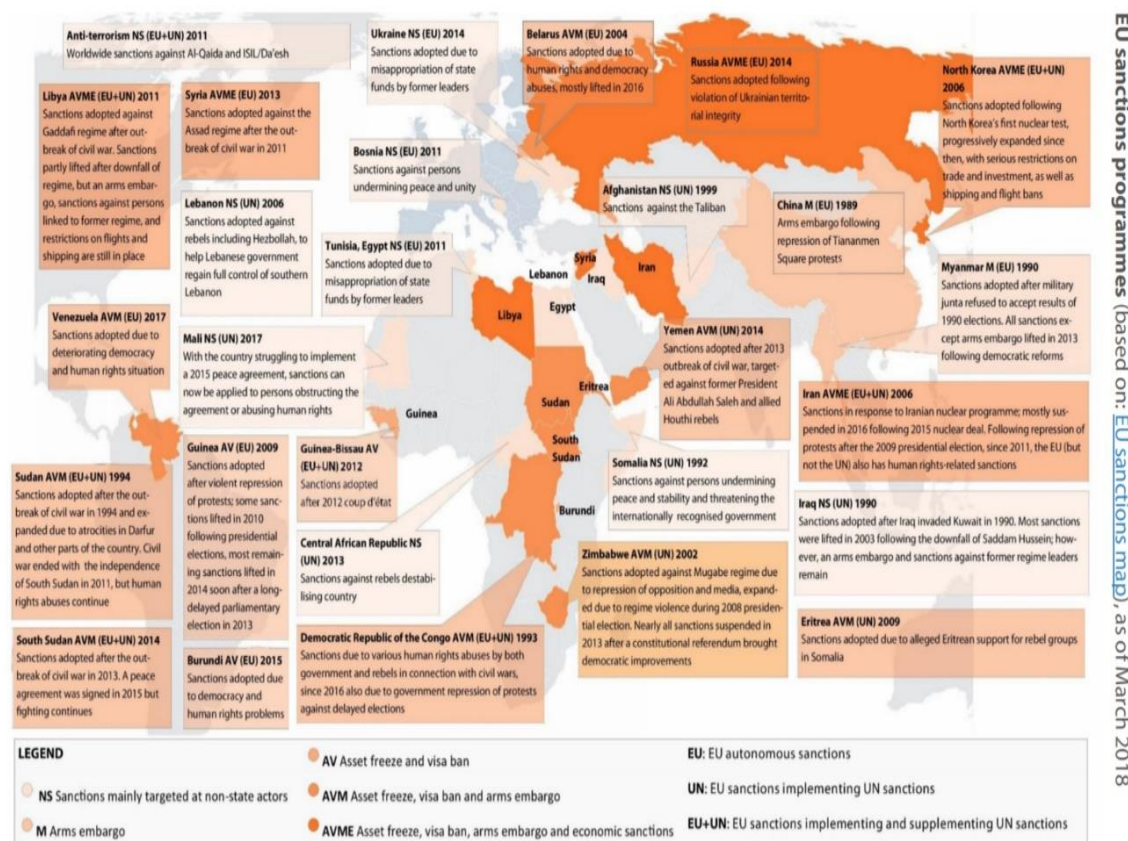
The second figure indicates the sanctions that are adopted by the EU unilaterally; Russia, Ukraine, Syria, Turkey, Iran, Bosnia and Herzegovina, Belarus, Burma, Egypt, Guinea, Tunisia, Burundi, Zimbabwe, Nicaragua, and Venezuela (EU Sanctions Map, n.d.).

The EU sanctions have different themes like arms embargoes: it means blocking the exports of arms and any related weaponry materials to the targeted states like in China, Sudan and Yemen. Some sanctions include “dual-use goods” that might be used in both military and civilian causes (Russell, 2018).

Restrictions on admission on specific individuals which is also called travel ban, where individuals who are listed are not allowed to enter the EU, but in case they are EU citizens, they cannot leave their member state. For example, travel bans are related to freedom of movement, and it might cause in extreme cases inability to seek medical treatment abroad, which can be considered a human right violation (Magnusson, 2008). Freezing of assets belonging to specific individuals or entities, which means that The EU freezes all the assets that are located in its

territory and belong to the listed individuals or entities. If the listed person is an EU citizen, he cannot make any profit out of the frozen assets. According to economic sanctions or restrictions that are imposed on a certain economic sector or venture, these set of sanctions contains restrictions on goods or a major ban on imports or exports, prohibition of investment and prevention on supplying listed services (Council of the European Union, 2019). Other financial measures may also contain bank transfer ban like the major ban from and to North Korea, and bans of investment in North Korea, Crimea and the Syrian petrol industry, where imports petrol from Syrian is banned too. But, there is a limitation on exporting petrol to North Korea. This can be extended to include loans to specific sectors like Russian banks and energy companies. Furthermore, shipping and flight are completely banned from Syria and North Korea (Russell, 2018).

These targeted sanctions might be imposed wrongfully against individuals and cause human rights violations. Therefore, lack of seeking remedies would violate the right to access to court and the right of a fair trial (Biersteker & Eckert, 2006). In this case, bringing a suit against the UN Security Council resolution in front of domestic courts is not that effective, because of article 105(1) of the UN Charter that gives the UN immunity against lawsuits (Magnusson, 2008), *“The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes”*. The UN emphasizes promotion of human rights, so access to remedies is still possible, especially when there are human rights violations. The remedies go under the principles of “jus cogens”. These kinds of cases can be observed from the cases related to the European courts, and now courts lean more to question the targeted sanctions under the norms of “jus cogens” (Biersteker & Eckert, 2006), with respect of right to a fair trial, right to an effective remedy, rights of defence and right of effective judicial protection. An example for that is the European Court of Justice (ECJ) decision in favour of Yassin Kadi which is a case called “Kadi II”, and previously “Kadi I” (Rushton, 2013).



(Russell, 2018)

This figure indicates the theme and the type of each sanctions set adopted by the EU, the UN, or jointly EU and UN.

3.4. The Actors That Are Involved in The European Union Sanctioning Process

The right to undertake initiatives lies with any member state and with the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) who can also act with the support of the European Commission. The EU sanctioning system is not simple and it is under (CFSP) scope. So, it requires a number of actors to be part of the sanctioning process. Articles 30 and 31 of the TEU are the ones that regulate EU sanctions (Giumelli, 2013). So, in the sanction process, there are the (VP/HR) and the commission preparing the proposals and the Council of the EU adopting them. This means that the Council, the Commission and the (EEAS) are the actors that must be involved in sanctions process (Russell, 2018). And the initiatives can be taken by the member states as well (Giumelli, 2013).

The EU Common Foreign and Security Policy (CFSP): The Maastricht Treaty of 1993 established The Common Foreign and Security Policy (CFSP) as the second pillar of the three-pillar system that has been introduced by the treaty of EU (Legrand & Turunen, 2020). Having the EU member states acting collectively will give the whole EU an international weight. Thus, the main goal of the (CFSP) is to involve the EU members states into the international sphere. This policy gives the EU member states a more effective role in the world than acting individually. In addition of its main purpose of achieving international peace and security, (CFSP) aims to support “democracy, the rule of law, respect for human rights and freedoms” around the globe (EUR-Lex, 2020).

Four years after the treaty of EU, an enhanced decision-making process was established by the treaty of Amsterdam of 1997, then the treaty of Nice of 2003 added more changes in the process of decision-making. This process includes two parts: the constructive abstention and the qualified majority voting system. In December 1999, the High Representative was established by the European Council for the (CFSP). Regarding the political control and strategic direction of crisis management operations, the Political and Security Committee (PSC) was established then it became a permanent body in the EU, then it was mandated by the treaty of Nice. In 2009 the treaty of Lisbon gave a legal personality to the EU which added new (CFSP) actors. The first is “the High Representative of the Union for Foreign Affairs and Security Policy who is also the Vice-President of the Commission (VP/HR)”, and the second is the new permanent President of the European Council. The treaty also created the “European External Action Service (EEAS) and upgraded the Common Security and Defence Policy (CSDP) which is part of the (CFSP)” (Legrand & Turunen, 2020).

The Council of the EU: The Council is responsible for all the decisions regarding sanctions from adopting and amending, to lifting and renewing sanctions (Strategic Communications, 2016). The Council and the Committee of Permanent Representatives are forming the Foreign Relations Counsellors Working Group which allows the representatives of the member states in the EU to discuss the specific terms of all restrictive measures before accepting the decisions (Giumelli, 2013). These decisions should be implemented by the EU member states, each within its own jurisdiction (Strategic Communications, 2016). The central actor regarding sanctioning process is the Council because it is the place where the decisions are adopted.

The European External Action Service (EEAS): (EEAS) was established by the Treaty of Lisbon. Its goal is to strengthen the EU international influence by making the EU external actions more effective (ILO, n.d.). (EEAS) also assists the EU in constructing and applying foreign and development policies like coordinating the external activities of the EU. In addition, (EEAS) can work as a diplomatic service by the request of the EU member states. It descended partially from the directorate general for external affairs of the European Commission and elements of Council's secretariat. It is supported by staff from the EU Member States. It is a separated body and it has its own budget in the EU, and The European intelligence services is part of it (EU Monitor, 2020).

(EEAS) has a tangible role regarding preparation, maintenance and review of sanctions. It also plays a role in communications and activities between the EU member states, EU delegations and the European Commission. Moreover, during the sanctions legislative process in the Council, the (EEAS) prepares proposals on behalf of the HR, and it prepares proposals collectively with the European Commission (Strategic Communications, 2016). Furthermore, the (EEAS) is involved from the beginning of the process in each procedure. It suggests the preferable measures, lists the targets of the sanctions and drafts the new legal rules in order to negotiate them in details in The Working Party of Foreign Relations Counsellors (Giumelli, 2013).

The European Commission in Respect of External Actions: The executive power regarding sanctions decisions used to be authorized to the Commission, but now it is a prerogative of the Council. Besides, the Lisbon Treaty emphasized this role (Giumelli, 2013). The Commission creates proposals jointly with the (HR/VP). After the adaptation of the action, the Commission eliminates the obstacles facing the implementation and lists the questions related to the interpretation. Finally, it works on maintaining the uniformity of EU sanctions (Strategic Communications, 2016). Thus, The Commission supports the process by suggesting drafts. The Commission's view maintains the uniformity of implementation of the new sanctions and the regulations in the whole EU, but the Commission has nothing to do with the final decision as it is the responsibility of the Council. However, when the economic and financial sanctions have

impacts on the internal market, then the Commission is directly involved in these sanctions (Giumelli, 2013).

High Representative of the Union for Foreign Affairs and Security Policy (HR/VP): The position was established by the Amsterdam Treaty, and the Lisbon Treaty kept the function of (HR/VP). The (HR/VP) manages the (CFSP), and the Common Security Defence policy (CSDP). He (Josep Borrell) is the chairman of the Foreign Affairs Council and he is also one of the vice-presidents of the European Commission. He guarantees the uniformity of the EU external action. He has responsibilities in the commission related to external relations. The (HR/VP) is selected by the European Council by a qualified majority. The approval of the President of the Commission is required and the position is authorised for 5 years (EUR-Lex, n.d.). In respect of sanctions, the (HR/VP) incites a proposal to the council either autonomously or jointly with the European Commission.

The Role of the EU Member States: They discuss the sanction proposal in The Foreign Affairs Council which is made up of Member States ministers for Foreign Affairs, Defence and Development. The Political and Security Committee discusses the proposal again intensively, then the geographical working groups of the Council scrutinise the proposal. Finally, by consensus and after the negotiations between The Member States, they decide on the targets and explanations of reasons (Giumelli, 2013).

The European Parliament: When the Council decides on a trade or financial sanctions concerning (CFSP) within the Chapter 2, Title V of TEU, only the Council regulation according to Article 215 of TFEU is required to implement the decision (Giumelli, 2013), and the Parliament is only required to be informed in this case about the decision, without having a formal role in making it (Hörbelt, 2017). However, there is an exception under Article 75 of TFEU in case of terrorism and its related activities, that the Council and the Parliament jointly work to adopt a regulation through normal legislative procedure in order to stop or prevent these activities (Giumelli, 2013). *“Where necessary to achieve the objectives set out in Article 67, as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall define a framework for 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” (Article 75 of TFEU) .*

Clearly, the Parliament has a limited role regarding foreign policy decision-making, but it has been supporting the (CFSP) from the beginning and helping to extend its international scope. In addition, the involvement of the European parliament in the (CFSP) plays a role in strengthening the policy’s democratic accountability (Legrand & Turunen, 2020).

The Actors That Are Involved in The EU Sanctions Process



The Council of The EU

- Responsible for all the decisions regarding sanctions from adopting and amending, to lifting and renewing sanctions.



The European Commission

- Creates proposals jointly with the (HR/VP).
- Eliminates the obstacles facing the implementation.
- Lists the questions related to the interpretation.
- Maintains the uniformity of EU sanctions



The EU Member States

- Discuss the sanction proposal in The Foreign Affairs Council.
- Decide on the targets and explanations of reasons.



- Assists the EU in constructing and applying foreign and development policies.
- Role in preparation, maintenance and review of sanctions.
- Role in communications and activities between the EU MS's, EU delegations and the EC.



(HR/VP)

- Manages the (CFSP) and (CSDP).
- Guarantees the uniformity of the EU external action.
- Responsibilities related to external relations.



The European Parliament

- Has no formal role in decision making.
- It should be informed about the decision.
- In case of terrorism and its related activities, it works jointly with the Council to adopt a regulation through normal legislative procedure in order to stop or prevent these activities.
- Role in strengthening the policy's democratic accountability.

(Giumelli, 2013), (Russell, 2018), (EUR-Lex, 2020), (Legrand & Turunen, 2020), (Strategic Communications, 2016), (EU Monitor, 2020).

3.5. The Legal Mechanism of Adopting the European Union Sanctions

Adopting (CFSP) Sanctions: There is a two-step procedure to adopt the majority of (CFSP) sanctions: A decision and a detailed provision regulation. Firstly, the (HR/VP) proposes to the Council of the EU, the latter unanimously adopts the decision. The same method applies to all the (CFSP) decisions unless it is mentioned otherwise or it is a decision about a legislative act (Russell, 2018) *“Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously, except where this Chapter provides otherwise. The adoption of legislative acts shall be excluded”* (Article 31, TEU). Thus, the proposals of the (HR/VP) helps to develop the (CFSP). However, the (HR/VP) and the Council collectively maintain the unity, consistency and effectiveness of any EU’s measure regarding the (CFSP) (Strategic Communications, 2016).

Secondly, based on a collective proposal from the (HR/VP) and the European Commission, the Council of the EU uses the qualified majority voting system to adopt a regulation with detailed provisions for implementation; *“Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the 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”* (Article 215 TFEU). The two steps differ in theory, but practically they are adopted simultaneously. So, at the same time, the Council of the EU is adopting the (CFSP)’s decisions and regulations (Russell, 2018).

Implementing of EU Sanctions: As it is mentioned previously, the adoption of sanctions legislation is EU competence, but vice versa the member States are responsible for implementing these sanctions. However, the EU sanctions legislations specify the rules which cover the cases that might have exceptions. Exemptions procedure that is given to private operators is related to the entity which has imposed the sanctions. It is either the UN Security Council or the EU only. The UN Sanctions Committee is responsible for giving exemptions if the sanctions are implemented by the EU under the mandate of the UN Security Council. The UN Sanctions Committee is responsible for proceeding the exemptions requests from the EU Member States. The national governments of the EU Member States are responsible for giving exemptions if the sanctions are imposed autonomously, and the decision is made for each case separately. Moreover, the national governments are responsible for assuring that the exemptions are not granted for circumventing the aims. The commission should be informed of the given exemptions as well as the Member States should notify each other (Portela, 2020).

Furthermore, arms embargo and visa bans are beyond the EU competences. Thus, Member States should apply their own domestic rules regarding implementing these regulations (Russell, 2018). However, these two types of sanctions do not require more legislations after the decision of the Council is made. There are exceptions regarding specific items, they go under arms embargoes but they have a dual use. These items can be gathered in an ad-hoc regulation set by the Council. The unique nature of Arms embargoes came from the article 346 TFEU, which is related to national security; *“The provisions of the Treaties shall not preclude the application of the following rules: (a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security. (b) Any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the internal market regarding products which are not intended for specifically military purposes”*. However, the EU Member States can implement visa bans after the

Council's decision, because the mobility of persons from and to the EU is supervised by the national governments of Member States (Giumelli, 2013). Finally, the Member states are obligated to directly apply the Council's decisions, which in turn are obligated on individuals, entities and economic operators (Strategic Communications, 2016).

The Enforcement of EU Sanctions: Respecting the "*Principle of Solidarity*" in the EU, the enforcement of sanctions is within the Member States competence, the EU urges its member states to enforce penalties regarding any violation of the sanctions. Member States are required to implement the sanctions legislations, enforce them by setting penalties, appointing the responsible authority of implementation, and enforcement with specifying its powers. The Commission should check the sufficiency and uniformity of the domestic laws and penalties to enforce EU sanctions legislations. And when the Commission finds any mistake, it should send a request to the Member State responsible for the mistake, asking it to correct that mistake. However, when a Member State fails to implement and enforce EU legislation, the Commission can initiate an infringement procedure against that Member State. Member States should notify each other when there are: frozen assets with specified amounts, granted exemptions or derogations, the applicable judgments by their domestic courts, and the measures that have been done regarding implementation, breaches and enforcement difficulties (Portela, 2020).

3.6.The Support Elements Regarding the European Union Sanctions

The EU has several attributes that work to increase the effectiveness of its sanctions regime, like the global political weight of the EU and its fundamental values which are "respect for human dignity and human rights, freedom, democracy, equality and the rule of law".

Higher international support means better sanctions' results, because It becomes difficult for the target countries to avoid the imposed sanctions or to appeal if the sanctions enjoy broad international support. For example, sanctions that are imposed against Iran have better results because of global support. Vice versa, Burma was able to avoid the EU sanction for a long time due to the lack of international support. However, some EU sanctions such as arms embargos have little effect despite the international support, because the target countries find other markets for military supplies such as Russia and China in the case of Syria and Burma.

The tendency towards targeted sanctions instead of general sanctions: Since the 90's, EU sanctions have started to favour targeted sanctions to the general ones. Thus, the EU starts to impose targeted sanctions that are usually imposed on specific people, like visa ban and freezing of asset more than the general economic sanctions. However, general economic sanctions may lead to a humanitarian crisis especially in developing countries. But some experts go with the greater good and argue that in case of a broader threat, these sanctions can be justified and the humanitarian cost is acceptable in these cases. For example, North Korea regarding the Nuclear case.

Stronger democracy means a better result of sanctions: The goal of international sanctions is to change the current situation in the target county, either by targeting the whole economy like in general sanctions where the whole population is affected, or by targeting the elites like in the targeted sanctions. Thus, in countries where democracy is respected, people can pressurise on the leaders to change the policy that triggered international sanctions against their country. Anyway, the affected population from international sanctions may still support their country's foreign policy despite the economical downswing. In 2017, a poll in Russia ended up with 70% of Russians still supporting their country's foreign policy, versus 19% wanted their government to make concessions in order to lift the sanctions. However, in countries where there is no full democracy but the alternation of power, international sanctions may still get a better result, Iran for example. Vice versa, in the countries that suffer from dictatorships, the success of sanctions is restricted. These regimes don't allow their people to express their

opinion towards the country's policy that triggered the international sanction, nor to express the public discontentment with the economic situation resulted by the sanction. North Korea is an example where the economic sanctions do not get the potential result.

Closer relations between the target country and the imposing country: international sanctions will get a higher chance of success where there are stronger ties between the target and the imposing countries. North Korea is an example of this element because the country spent years in economic and political isolation, so it became invulnerable against the international sanctions (Russell, 2018). Moreover, sanctions are even more effective when they enjoy more factors like: adequate aims, flexibility in application and transparency in the sanctioning system. Also, the local cost of imposing sanctions should be compatible with the potential outcome of the sanctions. Besides, setting higher aims may affect the outcome. The goals are successfully achieved when a large number of countries share imposing sanctions on the same target. Thus, the effectiveness of the result is proportional and directly related to the number. For example, sanctions adopted by EU and UN together have a better outcome.

Considering human rights as a priority to a successful result: any measures that may cause negative humanitarian impact should be avoided. For the best outcome, The EU should be careful in monitoring the humanitarian situation, and highly consider humanitarian exemption applications. As for the most threatening cases, sanctions are supported by other measures like covert action, quasi-military measures or military operations (Drulakova, et al., 2010).

3.7. The Obstacles of The European Union Sanctions Policy

Despite the elements that strengthen the EU sanctions, there are some obstacles hinder the full effectiveness of these sanctions. The impact of political and economic interests on this policy: Even though the foreign policy regarding sanctions has a clear aim of flourishing human rights, democracy and maintaining international peace and security, but sometimes it might be inconsistent and give specific countries some privileges. For example, the EU is taking a role in the sanctions against Iran and North Korea regarding nuclear weapons, but it does not strongly act against India and Pakistan. Also, there are human rights abuses in both Iran and Saudi Arabia. In Saudi Arabia the abuses are more than Iran, but the EU imposes sanctions against Iran only (Russell, 2018).

Major powers have their political weight that affects the sanctions: In 2008 the international community did not adopt any sanctions on Russia regarding the Russian aggression against Georgia (Russell, 2018). *“Unfortunately, after six months of the aggression against Georgia, business with Russia went back to normal,”* David Bakradze Georgia's ambassador to the United States. And still after twelve years, the international community is just arguing Russia to retreat from Abkhazia and South Ossetia even though the human rights situation is decreasing there according to Georgia (Detsch, 2020).

Different interests of the EU Member States and actors: The EU Member States should agree on adopting sanctions decisions with the involvement of the European Commission, the Council of the EU and the (EEAS). However, this unanimity might be difficult sometimes due to the different interests of each member state (Russell, 2018).

The role of the UK in the (CFSP) was tangible and influential as it took the leading role regarding sanctioning policy. Its sanctioning experience is recognised internationally. Recently, the Brexit has happened and the consequences regarding the sanctioning system might accrue in the post-Brexit era. Brexit is considered as an obstacle facing the EU sanctioning system due to the UK's policies and influence regarding this matter. However, the EU can technically fill the space Brexit left, but the effectiveness regarding the sanctioning policy might be affected in the future. Moreover, the EU and the UK have no considerable differences in their foreign and security policy interests. These similar views might keep the cooperation in respect of

sanctions for now, but the future might reveal technical disagreements according to how the post-Brexit relations are going to be. Despite the measures that have been taken by the UK to carry on the EU sanctions regimes, Brexit is still considered as an obstacle because the interests of the UK might differ from the EU's in the future. Both the EU and the UK are working collectively to minimise the consequences after the Brexit, but in any case, it will never be the same as post-Brexit especially, the UK created its own sanctioning policy in 2018. They also established a new framework to keep most of the already existing EU sets of sanctions within this framework. This new system provides the UK with the possibility to keep the EU sanctions and also imposing its own sets without involving the EU (Helwig, et al., 2020).

After detailing the legal mechanism of the EU sanctions regime in theory, the case of Syria is the practical example of these sanctions and how effective they are, not to forget the indirect impact they caused on the Syrian population.

4. The Case of Syria

4.1. The European Union-Syria Pre-War Relations

During the Cold War, Syria was a supporter of the Soviet Union and an ally to post-revolution Iran as well. Besides, Syria was emerging as the main actor in the Middle East competing with Israel. It established the Federation of Arab States with Egypt and Libya in 1972. After the Federation collapsed in 1977, the relations between the EU and Syria started through a cooperation agreement (Kreutz, 2005). It was established and signed in 1977 with the aim of creating a wide range of cooperation between the EU and Syria in order to support the Syrian economy, social development and investment in the main infrastructure like roads and power supplies. The agreement was unlimited to achieve stability of the framework between the EU and Syria through a long-term plan. The agreement also covered trade, economic and technical and financial aid (Commission of European Communities, 1978). However, the legal text of the Cooperation Agreement between the EU and Syria is an old text, it is also on hold in respect of trading crude oil, petroleum products, gold, precious minerals and diamonds. It was suspended once before because of the Syrian intervention in the Lebanese conflict. Even with the EU attempts to restore peace in the Middle East, Syria did not cooperate and kept its military presence in Lebanon in the early 80's. The Syrian government was accused of supporting terrorism in 1985 and 1986 by the US which called for sanctions against Syria. Thus, the ambassadors of the UK and the US were recalled from Syria, but the EU acted economically and stopped exporting its agricultural subsidies to Syria. At the end of the same year, the EU imposed trade sanctions against Syria. These sanctions were trading sanctions including arms embargo on future deals because the already existing deals were out of this embargo, and all the EU member states participated except Greece. After the Lebanese Civil war had ended in 1989, Syria participated in and supported the UN mission in Iraq in 1990, led by the US. Despite the Syrian support to the operation in Iraq, the EU sanctions were not cancelled until November 1994. Then the EU Cooperation council with Syria was recommenced (Kreutz, 2005).

On 27 and 28 November of 1995, the EU held a conference in Barcelona which was called The Euro-Mediterranean Conference of Ministers of Foreign Affairs (Euromed). It was the beginning of a broad scope of political and economic relations between the 15 member states at that time with 12 partners in the Mediterranean region; Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, the Palestinian Authority, Syria, Tunisia and Turkey (European Commission, 2003).

Euromed is an important part of the European Neighbourhood Policy. Through this Policy, the EU establishes relations with advantages with its neighbouring countries. These relations should be based on the EU values; *“democracy and human rights, rule of law, good*

governance, market economy principles and sustainable development". Furthermore, Euromed is a tangible initiative to achieve higher economic integration between the EU and the Mediterranean region, and between the Mediterranean countries themselves (Europa, 2020), because it aims to establish a Free Trade Area between the EU and the Mediterranean region with the attempts of removing barriers to trade and investment. Currently, the initiative is related to agreements regarding trading goods, but the future plan is to increase the range of this initiative to trade in agriculture and in services (Europa, 2020).

In July of 2008, Euromed has been launched again in Paris Summit where the partnership became broader, and Syria became one out of other 43 partners. Since that time, the relations between the EU Member States and Syria have flourished, and in 2009 they considered Syria as an important actor in the issues concerning the Middle East. This reconciliation of the relations and the harmony between the EU and Syria resulted in several diplomatic visits between the two entities. All Because of the noticeable positive change in the Syrian regional policy; like initiating a diplomatic relation with Lebanon, indirectly participating in peace initiatives with Israel in 2008, and reconciliation of the relations with Arab countries like Iraq and Saudi Arabia. However, the EU-Syria cooperation agreement and the partnership of Syria in Euromed was launched again in 2008 and signed in 2009, with the EU member states focusing on technical and financial cooperation (Europa, 2014), But, in 2011 the Syrian partnership in Euromed was suspended (Europa, 2020).

4.1. Background of The Syrian Conflict.

The Syrian issue began in the southern city of Daraa on 15th of March 2011. According to opposition activists, it started with a protest against the arrest and alleged beating of 15 schoolboys for painting anti-government graffiti on the walls of a school (Macleod, 2011). Government supporters claimed that they did not see any photos that prove the incident.

The regime claimed that many invitations encouraging people to protest were posted on the social media before the schoolboys' issue, by unknown activists going with the flow with what they called Arab Spring. According to the regime, the protests had their Islamic conservative theme, because they are all started from Mosques with high Islamic religious discourse, which give the doubt to a ghostly connection to the uprising of the Islamic radical groups later on the Syrian's conflict (Syrian Ministry of Foreign Affairs, 2013). After about two weeks of protests and suppression from the government's side, President Bashar Al- Assad accepts his government's resignation in a move to tackle the unrest, which sweepingly spread out of Daraa to other cities, like Baniyas, Homs and the suburbs of the capital, Damascus.

As part of wide-ranging reforms promises, President Al-Assad promised to end the state of emergency that was imposed for almost 50 years, and release hundreds of political prisoners. But these promises failed to stop the unrest, and the demands raised from political freedoms to overthrow the Syrian regime, with few cases of arms conflicts at the beginning. Rapidly the Syrian issue evolved into a complex multi-layered war. Domestically, opposition militants captured some cities from the government early on. Then opposition militants and radical groups stated fighting each other, allowing the government to slowly reclaim some of the lost areas. Over time new militant, radical rebels, and extremist groups emerged to evolve the Syrian issue into bloody conflicts. Syria's Kurds formed an armed group and joined the fight as did the extremists. Both fought the opposition, the government and each other to capture and hold Syrian territory. Because of the important geopolitical role of Syria and the sensitive Syrian alliances, the involvement of the foreign powers escalated, playing a big role in the Syrian conflict. Russia and Iran stood by the government from the beginning. They provided diplomatic, economic and military support, then they sent troops, air and naval power. The EU, Turkey, Saudi Arabia, the Arab Gulf States, the US and others, supported the opposition

offering them political and economic support. The US also supported The Kurdish forces in their fight with ISIS, including air support (Al-Mayadeen, 2019).

The media usually gives simplified narratives of the conflict. Some clips that appeared on social media reduced the Syrian conflict to a battle between Sunni Muslims who are affiliated with the opposition groups backed by Saudi Arabia and the US, and the Shia and Alawites Muslims affiliated with the Syrian government and backed by Iran and Russia. This gives the impression of a regional war between Saudi Arabia and Iran, and a global war between the two superpowers, which is true. But the reality is more complicated (Al-Mayadeen, 2019).

For more than nine years, the Syrian conflict has escalated from street protests faced by suppression, to armed conflicts, to end up with civil war resulted in thousands of civilian deaths. It also caused the destruction of the Syrian infrastructure, in addition to millions of refugees who flooded the EU, energising the right-wing populism across the continent. The horrible impact of this humanitarian disaster did not affect only Syria but the whole world. Four out of five UN Security Council permanent members were involved directly and physically in the conflict. Regional powers poured billions of dollars into what has become a proxy war. The radical extremists appeared and brought chaos and violence around the world. Not to mention the enormous inflations and economic crisis that placed Syria in the extreme poverty list with 80% of Syrians are within extreme poverty. If the Syrian conflict continues, the only possible political outcome is that Syria which was once a regional power in the Middle East would be weakened forever. Even if the internal factions decided to stop the conflict, it would still be no end in sight for the conflict until the external actors also decide to stop it.

4.3.The European Union Sanctions Against Syria

The EU imposed sanctions on Syria separately from the UN, because the latter failed with this measure after facing Russian and Chinese vetoes in the Security Council many times. Clearly, these sanctions are more targeted than any other set the EU has ever imposed, because they target specified persons and entities like the Commercial Bank of Syria and the Syrian energy industry (Palmer & Wilson, 2011). Despite the arms embargos, visa bans and freezing assets, the sanctions apply restrictions between Syrian banks and credit institutions and the EU banks. These restrictions prohibited the trade of Syrian public bonds and the provision of insurance or reinsurance to Syria as a country including the government, the public bodies, corporations or agencies (Martin & Woolich, n.d.). However, the sanctioned equipment and items can be listed according to the Council regulations as follow: “Chemical and biological weapons, equipment that can be used for suppression, equipment that can be used in monitoring and interception, luxury goods, gold, precious metals and diamonds, crude oil and petrol products, jet fuel, banknotes and coinage, cultural goods and energy sanctions” (Department for International Trade and Export Control Joint Unit, 2020).

In response to the Syrian conflict and to the suppression the Syrian regime had committed against the protests, the UK, the USA, Saudi Arabia, Qatar, and Turkey started to supply the opposition with weapons. The EU did not interfere with this conduct, even though some European politicians wanted that. But the EU asked the president Bashar Al-Assad to stop the suppression and to find a common ground with the opposition. The EU increased its demands by asking Al-Assad to step out from August 2011 (Portela, 2012).

Alongside the US, the EU imposed a series of sanctions against Syria starting with Council Regulation 442/2011 of 10th of May 2011. This regulation contained sanctions against Syria. The Council of the EU adopted the regulation in respect of The Treaty on the Functioning of the European Union, especially Article 215, the Council Decision 2011/273/CFSP of 9 May 2011 which is related to restrictive measures against Syria that has been adopted under Chapter 2 of Title V of the Treaty on European Union. It is a non-legislative act. Moreover, this

regulation is adopted according to a collective proposal from the (HR/VP) and the European Commission (The Council of the EU No 442, 2011). The regulation is consisted of 18 articles and 3 annexes; Annex I “*List of equipment which might be used for internal repression as referred to in Article 2 and Article 3*”, Annex II “*List of natural and legal persons, entities or bodies referred to in Article 4*” and Annex III “*List of competent authorities in the Member States referred to in Articles and address for notifications to the European Commission*”.

Article 2 is the prohibition of direct or indirect selling, supplying, transferring or exporting, any equipment that could be used for internal suppression against Syrian population “Dual-use goods”, regardless of its origin and orientation whether it is a person, an entity, or a body. Being involved in circumventing, in regards to these actions knowingly and intentionally is also prohibited. “Protective clothing like flask jackets and helmets” that are exported to Syria from the UN or the EU for the personal use of media or humanitarian and development workers and associated persons, are excluded from this prohibition. However, if the equipment that might be used for internal suppression will be used only for the humanitarian or protective purpose, the EU Member States may authorize to sale, supply, transfer or export this equipment.

Article 3 is the prohibition of direct or indirect providing of technical support related to the goods and technology in the EU Common Military List, or the equipment that is listed in Annex I of the regulation. Furthermore, it prohibits even the provision, manufacture, maintenance and use of these goods of the same list. Financing or financial support (grants, loans and export credit insurance for sale, supply, transfer or export) of the items in “Common Military List of the EU” or Annex I is prohibited as well. Same as in every article, being involved in circumventing these actions knowingly and intentionally is prohibited. This Article excludes the technical support that will be used only for the “UN Disengagement Observer Force, equipment or non-lethal military equipment and Non-combat armoured vehicles” that might be used for suppression. This exclusion is only applied for humanitarian or protective purposes.

Article 4 is freezing of funds and economic resources of people and entities that are listed in Annex II. Making any funds or economic resources available directly or indirectly to the listed persons or entities, is also prohibited. Being part knowingly and intentionally of any activity that ends to circumvent the measures is prohibited as well (The Council of the EU No 442, 2011).

Entry and Transit Bans: The Council decision 2011/273/CFSP of 9 May 2011 includes entry and transit bans for the listed persons in Annex II of the Regulation and for anyone related to them. Article 3 of the decision obliged the EU member States to work on preventing the persons who are listed in Annex II, and anyone who associates with them in the suppression against civilians from entry or transit into their national territories. But the Member States are not obliged to ban their own nationals’ entry or transit. There are some exclusions where the Member States can give permissions for entry or transit; When the purpose of travel is an urgent humanitarian need, or it is for attending inter-governmental assemblies. These assemblies include the ones that are promoted by the EU, or one of its Member States as Chairman in office of the Organization for Security and Co-operation in Europe to enhance democracy, human rights and the rule of law in Syria through political dialogues (The Council of The EU /273/CFSP, 2011).

Crude Oil and Power Plants: On 19th of August 2011, a proposal from the EU political security committee came with expanded sanctions against Syria. The most important additional sanction is an embargo on Syrian crude oil and adding 15 persons and 5 companies to the Annex II (Snyder & Wolff, n.d.). Following the Council decision 273, on 23rd October 2011, the EU imposed additional sanctions against Syria, as the suppression of civilians were still happening. The additional sanctions are based on the Council Decision 2011/782/CFSP of 1 December 2011. The sanctions were imposed against importing and transporting of crude oil and petrol products from Syria, this can be observed in Article 4 of the decision 782. Article 6 is the

prohibition related to equipment and technology that are used in the oil and natural gas industry in Syria or outside Syria, if the projects are involved in these sectors by nationals or citizens of EU member states (The Council of the EU /782/CFSP, 2011).

In the past, most of the Syrian crude oil was exported to the EU. Thus, the EU intended to stop the regime from practising suppression against civilians by sanctioning the crude oil sector. According to that, the listed entities and persons are not able to do any trading actions like transporting, purchasing, importing or exporting Syrian origin crude oil or the exported oil from Syria. The sanctioned entities and persons also are not able to finance directly or indirectly any of the latter activities (Palmer & Wilson, 2011). Moreover, Article 9 imposes a limitation related to the investment in Syrian oil industries, where the sanctioned entities and persons are prohibited from getting loans or credits, increase involvement, or establish a new collective project with a Syrian entity that is exploring, producing, or refining crude oil (Palmer & Wilson, 2011). Article 9 also targets the Syrian power plants and electricity by prohibiting giving loans or credits to any project in Syria that is involved in establishing a new power plant for the production of electricity in Syria. Article 11 prohibits involvement and offering technical or financial support regarding establishing new power plants for the production of electricity in Syria (The Council of the EU /782/CFSP, 2011).

According to Articles 6 and 16 of Council Regulation 36/2012, there are several exceptions in respect of crude oil measures which are being applied automatically without a specific licence. But in order to apply these exceptions, there are requirements that should be fulfilled first. Only public bodies, legal persons, entities, or bodies “EU agency or body, Member State agency or body, or NGO” are granted public funding from the EU or one of its Member States or from the UK. These bodies can buy or transport petrol products only for the humanitarian purpose to Syrians. If the requirements have been fulfilled, buying and transporting petrol products in Syria is allowed. Giving finance or offering financial support regarding buying or transporting petrol products in Syria is allowed as well. Facilitating acquiring funds and economic resources to specific entities that are part of buying and transporting petrol products in Syria (Department for International Trade and Export Control Joint Unit, 2020).

Financial and Bank-Related Sanctions: According to the Council Decision 2011/782/CFSP of 1 December 2011, Article 8 targets the Central Bank of Syria by prohibiting the delivery of Syrian denominated banknotes and coinage to this bank. Article 12 obliges the EU Member States to act with restraints in respect of making commitments for public and private entities that financially support the trade with Syria, with an intention to avoid any financial support related to the suppression of civilians in Syria. Article 13 prohibits grants, financial support, or concessional loans offered by the EU Member States to the Syrian government, even those which are offered through international financial institutions, unless the financial support is solely for humanitarian and developmental purposes. (The Council of the EU /782/CFSP, 2011).

Arms Embargo: Starting from the Council Decision 2011/273/CFSP which provides for an arms embargo against Syria, many EU Council decisions were lunched like Council Regulation EU No 36/2012 18 January 2012 and Council Regulation EU No 509/2012 16 June 2012. The regulations added more individuals and entities to the sanctioned list, and gave several details to the equipment and services that were related to the arms embargos like telecommunications, monitoring and interception equipment and specific items that can be used in creating equipment that might be used in the suppression of civilians in Syria. In regard of Council Decision 2012/420/CFSP 23 July 2012, and in order to make the arms embargo more effective by solving the issue of weapons and other prohibited equipment that are being transported to Syria through the EU, the Member States started to check out all the containers and jets which are heading to Syria through the EU. The full arms embargo was reached in Syria from May 2011 to the end of May 2013, but on first of June 2013, the EU member states did not reach an

agreement on supplying the Syrian rebels and armed opposition with weapons. Thus, arms embargo was decreased and some sections were removed (Stockholm International Peace Research Institute, 2013). In the case of Syria, the arms embargo imposed by the EU has no impact in practice, because arms supply from the EU was terminated in the early nineties. In addition to this, Syria is importing arms from Iran, Belarus, North Korea, and Russia. The latter tripled its exports of weapons to Syria during the conflict. The embargo on software might have a small effect, because the other suppliers can still provide technology but not as advanced as the EU's (Portela, 2012).

The European Union Sanctions Against Syria

**Council
Regulation
442/2011
Article 2**

The prohibition of direct or indirect selling, supplying, transferring or exporting, any equipment that could be used for internal suppression against Syrian population "Dual-use goods".

**Council
Regulation
442/2011
Article 3**

The prohibition of direct or indirect providing of technical support related to the goods and technology in the EU Common Military List, or the equipment that is listed in Annex I of the regulation.

**Council
Regulation
442/2011
Article 4**

Freezing of funds and economic resources of people and entities that are listed in Annex II.

**Council
Decision
2011/273/
CFSP**

Entry and Transit Bans for the listed persons in Annex II.

**Council
Decision
2011/782/
CFSP
Articles
4,6**

The prohibition of importing and transporting of crude oil from Syria and petrol products.

The prohibition related to equipment and technology that are used in the oil and natural gas industry in Syria or outside Syria, if the projects are involved in these sectors by nationals or citizens of EU member states.

**Council
Decision
2011/782/
CFSP
Articles
8,12**

The prohibition of delivery of Syrian denominated banknotes and coinage to the Central Bank of Syria.

EU Member States must act with restraints in making commitments for public and private entities that financially support the trade with Syria.

The prohibition of giving grants, financial support, or concessional loans offered by the EU Member States to the Syrian government.

**Council
Decision
2011/273/
CFSP**

Arms Embargo The prohibition of trade military equipment and services that are related to the arms embargos like telecommunications, monitoring and interception equipment, and specific items that can be used in creating equipment that might be used in the suppression of civilians in Syria

(The Council of The EU /273/CFSP, 2011), (The Council of the EU /782/CFSP, 2011),
(The Council of the EU No 442, 2011).

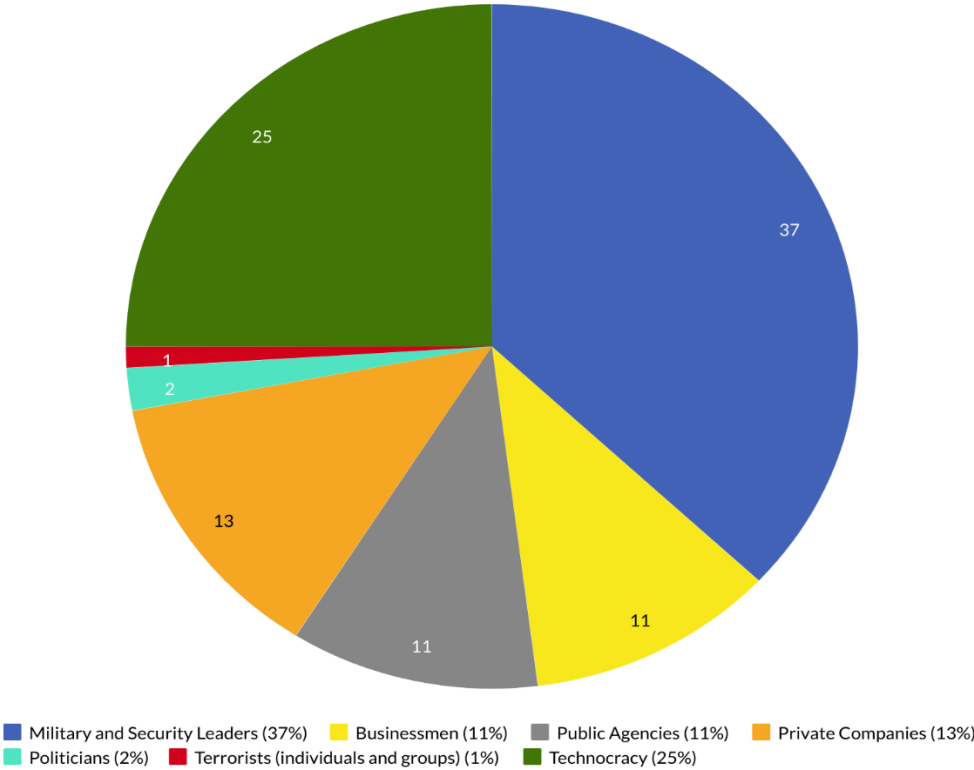
4.4. The 2020 Extended European Union Sanctions Against Syria

10 years after the Syrian conflict has begun, Syria suffered a catastrophic situation, destroyed infrastructure, displacement of 11 million Syrians; 5 million immigrated outside the country and 6 million suffered from internal displacement (UN News, 2020). 13 million Syrians need humanitarian assistance and close to 8 million cannot reach the basic food requirement. 80% of Syrians suffer from extreme poverty with less than 100 USD per month. Syria witnessed catastrophic economic crisis and the Syrian currency has collapsed leading to a huge increment of price of the primary commodities (The Associated Press, 2020).

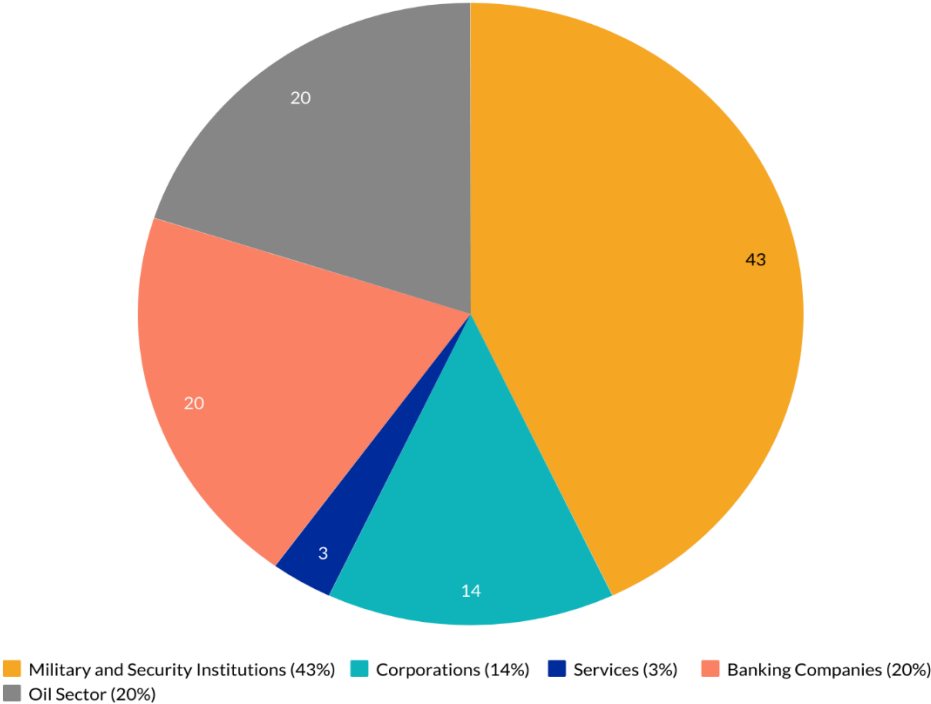
“The Syrian people have had to draw on extraordinary reserves of resilience in the course of the conflict. The EU’s sanctions target those responsible for their suffering, members of the Syrian regime, their supporters and businesspersons who finance it and benefit from the war economy. The EU is determined to continue its support to the Syrian people and remains committed to use every tool at its disposal to push for a political solution to the conflict that would benefit all Syrians and put an end to the ongoing repression.” -EU High Representative for Foreign Affairs and Security Policy Josep Borrell.

As the EU believes that civilians are still being suppressed by the Al-Assad regime in Syria, and in respect of the EU strategy and aims of ending the suppression, the Council extended the EU sanctions against Syria until 1st of June 2021. The last regulation removed two persons from sanctions list. They are Hayan Mohammad Nazem Qaddour and Maed Rizk Allah Haykal, in addition to and one company, Developers Private Joint Company, because they stopped being involved in the suppression. Another two expired persons have been removed which make the current list with 273 persons under assets freeze and travel ban, with 70 entities under assets freeze (Lester, 2020). However, the EU sanctions regime is targeted design, and has been tailored to avoid any obstacle facing humanitarian support and preventing humanitarian impact on civilians. Thus, the export of food, medicines or medical equipment are not part of the EU sanctions regime, plus there are plenty of exceptions that are made for humanitarian aims (Europa, 2020).

The Syrian Targeted Groups Under the EU Sanctions



The Syrian Targeted Sectors Under the EU Sanctions



(Nusuh, 2017)

4.5. The Impact of the Sanctions on Syria.

The sanctions that have been imposed against Syria caused several humanitarian consequences for the Syrian population. The whole Syrian economy witnessed a significant drop, where sanctions contributed in weakening different sectors in the economy like mining, finance, trade and transportation sectors (Nasser, et al., 2013).

To start with, sanctions alongside with other different actors played a role in increasing the extreme poverty percentage in Syria, given that the Syrian government wants to compensate the loss in funds that accrued by sanctions especially the oil-related sanctions, by increasing the prices of basic commodities and services. This procedure impacted all the Syrians and the most affected ones are the poor (Turkmani & Haid, 2016).

Due to the war conditions, most of the funds and resources have been redirected to the military and security sectors, because the Syrian government started to invest more in these sectors for two reasons. First, to fight the armed opposition and militias. Second, to be prepared for any hostile missions against Syria. This heavy investment in these sectors has affected the other primary sectors like education and health.

In order to reduce the impact of sanctions, the government started to depend more on private sectors and entities that usually cost more than public ones. The Syrian government now relies on support from Iran and Russia which affected the national economic security. Furthermore, the black market started to be an important element in the new war economy, and the warlords found a suitable ground to control resources and fund. They are taking advantages of the economic and humanitarian situation, and the international sanctions to keep their power and profits. So, they are trying their best to prevent any peaceful solution. The poor living situation, in addition to the decreased dependence on the public sector alongside with the increment in the Syrian Pound exchange rate and the severe inflation, caused the unemployment rate to be increased. Thus, some people joined the armed opposition and militias, or started to participate in illegal acts in order to afford the basic goods and commodities.

The evolution of the Syrian conflict to become a civil war and the international sanctions, created a replacement to the economy, that is called “war economy” which in turn created broader obstacles facing the solution (Turkmani & Haid, 2016). According to foreign trade, sanctions have affected the foreign trade sector in Syria to the extent where it is quite difficult to export surplus. Meanwhile, the import has increased leading to a deficit in the trade balance, especially since the EU and Syria are trading partners.

Regarding the oil sector, this sector transformed from a successful sector that supports the economy and the general budget, to a losing sector which drains the resources, since Syria started to import petrol products. Also, foreign oil companies started to withdraw their business from Syria. As for banking, public and private banking business have been significantly reduced because of sanctions that target Syrian banks. Gradually, it affected the central nerve of the Syrian economy because of lack of deposits, suspension of loans, and the decrease in the value of bank capital as a result to the collapse of the Syrian pound.

The GDP recorded a negative growth rate, which has an impact on consumption and capital formation. As a result, many factories and industries became out of service. This negative growth rate of GDP had catastrophic socioeconomic results, where the purchasing value of the Syrian pound deteriorated, the inflation and unemployment rate increased, poverty rates increased, and most of the infrastructure of the national economy witnessed near total destruction.

The import of diesel and home gas has been decreased due to the sanctions on financial transfers, insurance and transportation. These vital commodities started to be more available in the black market with higher prices that burdened the population. The sanctions and the

suspension of flights alongside other factors such as the poor security situation, decrease in demand and lack of energy sources, all have affected mining and tourism sectors.

Furthermore, The EU imposed sanctions against goods which may be used in internal suppression “dual-use goods”. Health and utility sectors suffered from the impact of these sanctions, like the prohibition on exporting “chemical manufacturing facilities, such as reaction vessels and storage tanks” and “chemicals that will be used as precursors for toxic chemical agents”. Chemicals might be used in the internal suppression, but on the other hand, banning them might affect other sectors. The case of Iraq is a clear example of the destructive effect that might happen by using the “dual-use goods” prohibition.

Even though medicines and basic commodities are not part of the sanctions, but the sanctions still put several obstacles against importing these services and goods like medicines, energy sources, equipment and parts of civil aviation and services like insurance (Nasser, et al., 2013).

4.6. The Impact of Sanctions on Medical Sector

The Syria pharmaceutical industry is remarked as one of the most successful and growing investments since the early 90’s until the beginning of the Syrian crisis. The local products used to cover 93% of the local market. The imports used to be cancer drugs, vaccines, and some other medicines that are not locally produced, where hospitals used to provide them to the patients for free. In respect of Syrian exports of drugs, they have been exported to more than 44 countries around the world. However, pharmaceutical industry suffered the same fate as other sectors. This industry suffered from both war and sanctions. The war affected its infrastructure, equipment and production lines. More than 19 industries became out of service (Ghisn, 2020).

The sanctions have also left their direct and indirect effect on this industry in terms of the production of drugs, the sources of raw materials and pricing according to “Dr Rajwa Jbeili, university professor and former Deputy Minister of Health, and Dr Zuheir Fadloun, the head of the Scientific Council for National Pharmaceuticals” (Ghisn, 2020).

The local market witnessed a huge shortage of several medicines, especially medicines for chronic diseases like heart, hypertension, and diabetes. The coverage of the market decreased to less than 70% during the war. This shortage led to the import of alternatives that might not be internationally approved. Not only this, but sanctions also casted many difficulties on supplying the Syrian market with raw materials whose prices have been increased as a result of increasing shipping costs, insurance, fees and monopolisation of materials. Not to mention that coronavirus pandemic has placed more obstacles on importing and pricing of raw materials. Moreover, sanctions on bank transactions and money transfer have stopped supplying companies that offer materials like spare parts, machines, and equipment for laboratories, from dealing with Syrian companies. It is worth noting that some raw materials are impossible to purchase as they are listed in “dual-use goods”.

Restrictions on the ports of Latakia and Tartus, and on the airports of Damascus and Latakia made the route of Beirut the only way for importing goods, which in turn made delivery costs much higher. Shipping companies started to require more security and insurance, so Syrian companies became forced to pay the shipping costs in advance which might lead to a severe loss if the shipping company reconsidered the transporting or if the shipment was being delayed.

Sanctions have also resulted in a shortage of some packaging materials like vials and ampoules that are not manufactured in Syria, plus chemical references that are important to test the quality and purity of medicines. In all, 58 Syrian pharmaceutical companies lost their granted licenses from foreign companies. As a result of terminating the licenses grants, Syrian companies now have no option except looking for alternatives.

As a result, the pharmaceutical exports have been reduced to only 10% of the total exports in 2010, and the number of countries importing from Syria has decreased from 44 countries before 2011 to 10 countries now. The lost funds should have been used in research and development (Ghisn, 2020).

5. Conclusion

Despite the unique nature of international sanctions, they are close to the domestic regulations in some of their attributes, like the purpose of changing a harmful behaviour or as punishment to human rights violations. However, it is not quite accurate to call sanctions as punishments, because internationally there is no public authority that has the ability to make laws and cast punishments (Nossal, 1989).

Observing the stages that the international sanctions have been through, will give a clear understanding of how their purpose changed from a tool which was used to enforce dominance upon weaker states, or a way to get unfair privileges just to fulfil the human greed and hunger for power, to become nowadays a protective tool against any breach or violation regarding human rights, and a tool to maintain international peace and security, and achieve other objectives that can be found in the EU “Basic Principles” (2004). In practice, the international sanctions sometimes are still used as a tool to achieve privileges, while most of the time cannot achieve the objectives they are set for.

Like in all kinds of laws and regulations, flexibility is considered as one of the positive attributes, and the EU sanctions regime enjoys this flexibility. In case of Syria, the flexibility can be observed from the number of council regulations and decisions that have been made to keep the sanctions up to date with any positive or negative change of behaviour from the targeted persons or entities. Moreover, the EU sanctions are clear especially the aims and how the sanctioned targets can get the sanctions lifted by changing a certain behaviour. According to the “Basic Principles” (2004), the EU Member states should keep monitoring the behaviour of the sanctioned entities or persons in order to consider any progress that requires terminating the measure or at least reduce it (Emre, 2019).

Even though the EU sanctions are well developed and more targeted sanctions than any other sanctions regime, but in reality, most of the cases ended up with unsuccessful results in respect of the objectives of the sanctions. There are some factors that indicate the efficiency of sanctions: How the economy works in the country subject of sanctions, the geopolitical influence it has, and the higher international support of the sanctions. Regarding the consequences of sanctions on the national population, the case of Syria is quite similar to the UN sanctions on Iraq in 1990 regarding the consequences on the national population which were catastrophic. Regardless of the similarities between both of the cases, Syria depends more on its national resources to cover the requirement of food. It still has regional support from Iran and Russia, and the most significant difference is that the sanctions on Syria are not UN-based (Nasser, et al., 2013).

In addition to the consequences that have been mentioned in Chapter 3 of this paper in details, the EU sanctions haven't achieved their objectives in Syria. Al-Assad is still in the office, the regime is not weakened, the conflict continues, and the cost on the Syrian population is massive, which made them struggle to have all basics of life. The EU gradually lost the influence in Syria, because they highly stressed on dismissing the Syrian president from the office without being open for other solutions. Syrians started to feel the impact of the sanctions on different sectors, thus the EU could not play a tangible role in solving the crisis (Turkmani & Haid, 2016). However, since the Russian intervention in the Syrian's conflict in September

2015, it took the lead regionally and achieved strategic advantages in the area, and internationally Russia has become a major player in the Middle East again (Rodgers, 2019).

Unfortunately, in practice, the humanitarian impact on civilians is certain and cannot be avoided completely for many reasons like the complicated nature of how the economy works in Syria, as most of the targeted persons and entities have a tangible role in the Syrian economy. As well as the foreign companies are now stricter in giving licenses and assistance to Syrian companies because the latter might be a subject in the targeted list someday. In the end, the current EU sanctions regime requires further scrutinization in the targeted country by closely tracking the humanitarian situation there, and using specialized monitoring missions to measure the humanitarian impact of sanctions to completely avoid the consequences on the national population. This scrutinization will help to achieve the objectives without threatening human rights. Despite excluding several goods and services, the degradation in the humanitarian situation might still occur, because the impact is mostly indirect. For Example, medical supplies are not subject to the EU sanctions against Syria, but even with this exemption, the humanitarian consequences happened due to other factors indirectly related to the sanctions, as it is described in Chapter 3 of this paper.

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