

The EU's Normative Nature and Its Sanction Regime Against Russia: An Oxymoron?

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LEONARD SCHUETTE, DEC 29 2015

In a speech before the Bundestag on March 13th 2014, Chancellor Merkel, in reference to the tensions between the Russian Federation (Russia) and Ukraine, said that “we’re experiencing a conflict that we know from the 19th and 20th centuries and one we’d have thought we’ve overcome” (2014A). Her remarks demonstrate the clash of narratives and conceptions of power which has been a leitmotif of recent relations between Russia and the European Union (EU; Haukkala, 2015). Scholars like Shevtsova or Schwarzer explain the EU-Russian tensions as epitomizing the clash between a self-prescribed normative and realist actor (2014: 74; 2015: 1). Indeed, Merkel implicitly invoked the self-proclaimed normative nature of the EU; she advocated that the crisis may only be resolved by acting according to the peaceful “principles and means of our time [...] coordination and cooperation [...] respecting the principles of the United Nations [...] in unity” (Merkel, 2014A, see also Barroso, 2007; TEU Art. 21). The arguably most preponderant response to the alleged Russian violations of international law was a comprehensive sanction regime progressively imposed upon Russia. However, various scholars regard sanction regimes as mere material coercion and hence irreconcilable with normativity (Gebert, 2013; Martin, 1992; Portela, 2010; Sakwa, 2015). Consequently, the purpose of this essay is to investigate whether indeed an EU normative sanction regime imposed on Russia is an oxymoron, which will provide valuable indications pertaining to the nature of the EU as an external power today.

In order to provide clarification, some definitions and concepts need to be specified. Whilst acknowledging the diversity of actors in the EU's decision making procedures, the EU, represented by the Council who has the competence to impose sanctions, is considered a unitary decision-making body vis-à-vis Russia (TEU Art. 30-1). Furthermore, the focus will lie on the sanction regime imposed only by the EU and only on Russia[1]. Neither do the spatial limitations allow for an analysis of the justifications for sanctions, their effectivity nor a narrative of the conflict. The key concepts of normativity and sanctions will be elaborated upon below.

The first part of the analysis will establish a theoretical framework of normative norm diffusion and consequently propose a categorization of diverse purposes of sanction regimes. The second part will briefly present the EU's sanction regime towards Russia and thereafter examine it in light of the pre-established framework in order to address the problematique. A discursive analysis[2] of 36 EU and national officials' public statements will support the argument. Throughout, the analysis will go beyond a materialist ontology to consider social forces.

The essay shall reach the conclusions that sanctions per se are not irreconcilable with normative behaviour, as they may perform the function of conveying a normative argument rather than merely coerce. The sanction regime imposed upon Russia presents a complex picture. The early diplomatic sanctions were arguably of normative nature, whereas the subsequent targeted and indiscriminate economic sanctions performed the purpose of punishment and coercion. The discursive framing of the sanction regime was largely coercive too. However, on a higher abstraction level, the unity of the EU in enacting sanctions may be regarded as a normative message in itself.

Normative power is a distinct typology of different and evolving conceptions of power; the latter is broadly defined as “the capacity to direct the behaviour of others” (Oxford Dictionary). The means and processes, however, differ starkly according to the respective understanding. Rather than addressing the neorealist focus on hard power or

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Duchêne's on civilian power, this essay will engage with normative power, as coined by Manners, because it is widely used to characterize the nature of the EU (Mearsheimer, 2001; Waltz 1979; Duchêne, 1972; Diez, 2005; Manners, 2002). Manners defines normative power as the "ability to define what passes for normal in world politics" (2002, p. 236). The concept relies on the constructivist premise of the significance of norms in influencing actors' behaviour (Wendt, 1992). It assumes that a normative power influences others by "setting the standard of appropriate behaviour" and hence operates on a cognitive and ideational level (Finnemore and Sikkink, 1998: 892; Lenz, 2013: 214).

Manners accentuates that normative power implies the duality of normative institutional composition and normative diffusion of power (2008: 45). The sui generis character of the European Union as "less than a federation, [but] more than a regime" changes the normality of international relations by promoting "norms which displaces the states as the centre of concern" (Wallace, 1983; Manners, 2002: 236). The focus here, however, lies on normative diffusion. The central objective of the latter is to redefine the intersubjective understanding of normality in a process that implies the replacement of one set of dominant norms by another, rather than changing the material utility calculations (Checkel, 2005: 804; Finnemore and Sikkink, 1998: 904; Lenz, 2013: 214). Lenz and Manners establish partly divergent forms of norm diffusion. Lenz maintains that norms are promoted by socialisation and emulation. The former encapsulates a "discursive engagement" which aims to persuade, teach, and name and shame the other actor to adopt the respective norms (2013: 214-5). Emulation denotes a process of learning from a successful actor's norms and practices which implies merely the passive existence of such normative actor (2013: 215). Largely, these categories are compatible with Manner's framework[3]. However, Manners' diffusion channel of Transference may involve the "carrot and stickism of financial awards or economic sanctions" (2002: 245). Lenz disagrees with such classification as he outlines that material rewards are a form of civilian rather than normative power, which is supported by Diez (2013: 214; 2005: 616). The dividing line here is that Manner advocates that the promotion of norms as an objective suffices to qualify actions as normative, whereas Diez and Lenz stringently maintain that the nature of promotion itself has to be normative. It would seem that Manners' consequentialist stance appears to be somewhat subverting the emphasis on the ideational attempt to convince rather than incentivise, but that interpretation depends on the discretion of the reader.

As aforementioned, in the academic literature sanctions are oftentimes reduced to a coercive instruments to aimed to dictate a policy change and therefore categorically incompatible with normative diffusion. However, Crawford and Klotz as well as Giumelli challenge such a monolithic view (Crawford and Klotz, 1999; Giumelli, 2013). The former present three different purposes of sanctions. The compellance model implies that sanctions aim to influence the cost-benefit analysis to change behaviour (1999: 26). The resource denial model entails the withholding of certain resources required for an action the sanction imposers aim to prevent (28). Finally, the normative communication model, in congruence with Giumelli's concept of signaling, understands sanctions as a discursive tool to persuade the other actor of the wrongness of its actions by normative arguments in order to change its respective worldview (2013: 19). Within such a framework, the "act of sanctioning becomes more important than the costs to the target state" (28). Thereby, sanctions are understood as an intersubjective institution, the purpose and effects of which are shaped by the shared understanding of both parties (Adler, 1997: 323). Henceforth, the compellance and resource denial model may constitute a form of coercion, whilst the normative communication model, or signaling, aims to replace the set of dominant norms of the opposing party by another. This nuanced perspective on sanctions may allow some forms to be in congruence with the normative emphasis of diffusion by discursive persuasion.

Embedded in the pre-established framework, the forthcoming section shall examine the EU's sanction regime against Russia by means of evaluating the specific content, procedure and recipients as well as accompanying discourse of EU and national officials[4].

In response to the increasing violence and invasion of Crimea by Russian hybrid troops[5], on March 6th 2014 the EU adopted a three-stage sanction mechanism consisting of diplomatic, targeted and economic sanctions (Van Rompuy, 2014A). An immediate suspension of EU-Russia negotiations on visa regime liberalization was enacted, while cancelling the EU-Russia summit (EU Newsroom). On March 17th, the EU imposed the first targeted sanctions in form of travel bans and asset freezes. As of September 2015, 151 individuals and 37 entities are subject to these restrictive measures, based on allegations of actions against Ukraine's territorial integrity or providing support to

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Russian decision-makers (EU Council C, D). Diplomatic sanctions were imposed by not attending the G8 summit in Sochi, instead holding a G7 meeting in Brussels on June 4th-5th 2014, excluding Russia. Moreover, the EU suspended negotiations on Russian membership to the Organisation for Economic Co-operation and Development and International Energy Agency (EU Newsroom). As a response to further escalation in Eastern Ukraine and accelerated by the shooting down of Malaysian Airlines flight MH17, the EU enacted broad economic sanctions on July 29th 2014 targeting key sectors of the Russian economy, including an arms embargo on the sale of dual use and sensitive technologies, a restriction of access of state-owned Russian banks to European capital markets, and restricting the sale of production and exploration technology in the oil sector (EU Newsroom). These sanctions have been extended until at January 2016 and are contingent upon Russia's actions vis-à-vis Ukrainian territorial integrity and sovereignty (EU Council D).

The multitude of forms of sanctions deserves individual analysis in light of the pre-established criteria. As the first stage measures, the diplomatic sanctions should arguably be considered symbolic and non-material means to convey disapproval of Russian actions and calling for dialogue. In Crawford and Klotz's words, the act of sanctioning seemed more important than its associated costs. However, these were framed by the accompanying discourse as merely a pre-stage to further sanctions, and subsequently joined after only eleven days by targeted sanctions (EU Council, 2014B). Whilst it appears that the nature of these diplomatic sanctions may well be normative, one may derive that the EU had little conviction in enacting those. The subsequent targeted sanctions were imposed against individuals and entities whom the Council considered "responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine" (*ibid*). It seems that visa bans and asset freezes are attempts to punish individuals and entities and to change their cost-benefit calculations. The discursive framing corresponded to the coercive nature of these targeted sanctions, which were again accompanied by threats to impose wider economic sanctions (Merkel, 2014E). The British foreign minister Hammond stated that "the cronies of Mr. Putin [...] are the people who have to bear the pressure" (2014). The sanction spiral culminated in the imposition of economic sanctions. Unlike the previous rounds, these also addressed entities and industries without direct relationship to the allegations, which was framed by explicit references to "economic damage" and "heavy costs" (Merkel, 2014B; Barroso and Van Rompuy, 2014). Given the non-discriminatory nature as well as rhetoric, these seem to constitute a clear form of material coercion.

This analysis suggests that the sanction regime was predominantly in discord with the normative attempt to replace the behaviour of Russia by replacing her set of norms by another. Further research should analyse the discursive framing of the sanction regime. Due to its nature as an intersubjective institution, the shared understanding of sanctions is considerably influenced by the way they are conveyed. However, on a more abstract level, the unity of the EU in imposing sanctions may be regarded as a strong normative message. The collective action of 28 countries, despite heterogeneous interests and costs involved, lends the overall message of disapproval of Russian violations of norms credibility, manifesting a norm-guided behaviour (Speck, 2015).

In conclusion, the analysis has portrayed that in principle, normative sanctions may not be an oxymoron, due to the potential purpose of signalling. The EU's sanction regime, however, is only partly in congruence with such framework, as the targeted and economic sanctions was aimed to change the utility calculations of Russia, rather than engage with her normatively. Yet, the early diplomatic sanctions and particular the unity of EU member states represent normative diffusion of power. In the context of the scholastic disagreement notably between Manners and Lenz, one may apply a less stringent definition of normative sanctions which would alter the analysis. To further substantiate the argument, the discourse analysis should be extended, the concept of unity in the sanction imposition elaborated upon, and the member states' role differentiated.

Some central lessons of wider importance may be derived from the essay. Sanction regimes may be normative if aimed and framed to persuade the opposing actor, which is an important theoretical clarification. The fact that the EU's sanction regime had distinct coercive elements reveals the depth of EU-Russian tensions. Haukkala identifies them as the "culmination of crisis" (2015: 25) and Sakwa as epitome of "Worlds in Collision" (2015: 183), both recalling Huntington's "Clash of Civilisations" (1996) dystopia. On the other hand, Nitoiu highlights that the EU has adopted an overdue strategic outlook (2015). Thereby, the sanction regime imposition may be a caesura not only in the EU's relationship with Russia, but also in its development towards a more multifaceted external actor.

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Endnotes

[1] Not by the United States or others, neither upon Crimea or Eastern Ukrainian individuals and entities.

[2] Appendix (in electronic version)

[3] Contagion mirrors emulation, whilst socialisation is represented in Manners' Informational, Procedural and Cultural Filter (2002: 244-5).

[4] Appendix

[5] The EU justified the sanction regime by Russian violations of international law, in form of the UN Charter, Conference on Security and Co-operation in Europe, and the Budapest Memorandum among others (EU Council Press Release, 03.03.2014). The Council has the legal capacity to impose sanctions enshrined in article 215 of the Treaty of the Functioning of the EU.

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