

## Introduction

The topic of this research is concerned with the concept of economic sanctions as measures to achieve political aims against other countries and individuals and the uniformity that Member States (MS) of the European Union (EU) show in achieving those goals. Specifically, the current paper aims to examine the background behind the use of Common Foreign & Security Policy that the EU undertakes, as an external action to combat global threats and violations that go contrary to the aims of the EU. The policy presupposes a certain level of common governance within the EU, as MS are bound to impose sanctions on a targeted state. Research and practice suggest that the EU imposes sanctions only in areas that are harmonized inside the EU, under the concept of Common Commercial Policy. Like an individual state, the EU attempts to project contents of its internal constitutional mechanisms in its formation of external relationships and decisions, as well as when imposing extra-territorial sanctions. This paper argues that the EU has not achieved this specific level of uniformity (and unanimity) inside its internal relationships to act as a single entity in international law. The original position of sovereignty is discussed where real sovereignty presupposes the control of a state over its natural resources. This has its roots in the material interests of the people and by extension of a government to form and govern their future to their own accord. The EU, aiming to achieve a level of political unanimity, unites all states into a single entity, when these exact states have differences in the way that they use and dispose their natural resources. Combining that with the interdependency of world trade and the trade links that exist, different EU states have different consequences from the imposition of sanctions. This paper uses academic literature from the sanctions against Russia (and briefly Iran) to demonstrate that MS of the EU have been reluctant or inconsistent in their application of sanctions against the EU, mainly because the EU is not following the orthodox position of economic sovereignty in international law. The methodology used is that of doctrinal methodology and the paper discusses the use of CFSP in its first sections and how does it relate to the domestic harmonization of the EU under the CCP, as well as the governmentality that the EU is aiming to achieve. It then explains what the orthodox and traditional position of sovereignty in international law and mainly which economic aspects is it entails under the case of *Nicaragua*. It then discusses some preliminary research conducted on the consistency of sanction by EU MS against Russia and Iran. Finally, the paper makes its argument combining the position of international law against the position taken by the EU under CFSP to conclude what issues does this create for the issue of constitutionalism within the EU.

## Main Body

### *CFSP as a tool of external action and EU's common governance*

CFSP operates as a forefront legal and political measure of the EU that forms part of a larger toolbox through which the EU regulates its relationship with the globe.<sup>1</sup> Article 29 of the Treaty of the European Union(TEU) gives broad powers to the EU Council to adopt a decision to impose restrictive measures against non-EU countries, non-state entities or individuals.<sup>2</sup> The economic aspect of such decisions are implemented to Member States by regulations from the Council.<sup>3</sup> Such measures include arm embargoes, freezing of funds or restrictions of imports and exports. Logically, CFSP entails some forms of unanimity in combating an external state's policy and behaviour.<sup>4</sup> Furthermore, it also signals an effort to unify and strengthen the Union in acting as a 'cohesive force in international relations'.<sup>5</sup> Charlotte Betherston, John Vogler as well as Ian Manners and Richard Whitman suggest that for the EU Member States to act cohesively there needs to be some unity between external policies and the forms of polity.<sup>6</sup> However, the definition of polity can have multiple meanings. For the purposes of this paper we will assume that it entails forms of legal governance. In that sense, Marise Cremona excellently analyses the position of the legality of decisions taken under CFSP. She cites two reasons for the relationship between internal cohesion and CFSP. The doctrine of single legality and the aims and the objectives of the CFSP. After the Lisbon treaty, the court treats the different policies taken by the EU institutions under the logic of a single legal doctrine. Meaning that there is not legal and practical separation behind the reasons of internal and external decision-making of the EU, making it hard to challenge the legality of such decisions, both in terms of substance and procedures.<sup>7</sup> Secondly, the intentions behind a decision taken under the CFSP should be 'read in the light of the overall policy context, both the EU context (derived from other legal acts and strategic policy documents) and the international context,'<sup>8</sup> to determine its legality.

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<sup>1</sup> Article 3(5) TEU

<sup>2</sup> Article 29 TEU.

<sup>3</sup> Restrictive Measures(sanction) <[EUR-Lex - 12016M029 - EN - EUR-Lex](http://EUR-Lex - 12016M029 - EN - EUR-Lex)> (Access to European Union Law) accessed on 11/02/2025 ,

<sup>4</sup> *ibid*

<sup>5</sup> Article 26(1) TEU

<sup>6</sup> Charlotte Bretherton, John Vogler *The European Union as a Global Actor* (2<sup>nd</sup> edition, Routledge, London); Ian Manners, Richard Whitham 'The "difference engine": constructing and representing the international identity of the European Union' 10 *Journal of European Public Policy* 3 380

<sup>7</sup> M. Cremona, The Position of CFSP/CSDP in the EU's Constitutional Architecture, in Blockmans & Koutrakos *Research Handbook on the EU's Common Foreign and Security Policy*(Edward Elgar, 2018) 12-13

<sup>8</sup> *Ibid* 18

Specifically, the author sets the basis of understanding the relationship between the EU's constitutional framework and the aims of CFSP:

'The Treaty provisions on competence in both the TEU and TFEU therefore identify the CFSP/CSDP as a Union policy designed to further the Union's strategic interests and to operate alongside the continuing activity of the Member States, a policy which is singled out from the start as having a specific character which does not fit neatly into existing categories of Union competence.'<sup>9</sup>

Consequently, for a common external cohesive action, some form of internal constitutional unanimity must exist as to the aims, values and internal rules of governance between the Member States of the EU. Alina Carozzini and Lonardo Luigi attest to this saying that the CFSP has some 'rigid and almost capricious constitutional rules'.<sup>10</sup> Interestingly enough, they open the door through an important statement. Namely that, these rigid constitutionalism faces challenges when measured against the growing EU action on the field.<sup>11</sup> This can obviously have multiple meanings. But one of them is the shifts and changes that take place worldwide and that greatly affects the ability of the EU to act as a cohesive union in its external policy, as the material and therefore the legal needs of states differ. This is paper highlights this criticism.

#### *The position of sovereignty in international law and the right of states to dispose their natural resources.*

Precisely, this research examines how does this legal unanimity contrasts possible issues of sovereignty as they are entrenched in international law and more specifically, problems of economic sovereignty. A starting point here should be concepts of economic sovereignty and the right of permanent sovereignty over natural resources. After various debates, it has been concluded that the right has been bestowed upon states to 'freely use, control and dispose of natural resources.' The right has been present in a plethora of talks and resolutions. Some of them include the General Assembly resolution on the specific issue,<sup>12</sup> as well as attempts made during the New International Economic Order (NIEO) attempts as a tool that would combat inequality.<sup>13</sup> This right opens the door for the discussion between conceptions of economic aspects of sovereignty and their relationship with the EU and how does individual sovereignty can possibly affect external action. The case of *Nicaragua* helps us to shed some light into

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<sup>9</sup> Ibid 7

<sup>10</sup> Carozzini, A. and Lonardo, L. (2021) 'Non-contractual liability for EU sanctions: Towards the normalization of CFSP', 26 European Foreign Affairs Review 3, pp. 459-476, 476

<sup>11</sup> Ibid 476

<sup>12</sup> General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

<sup>13</sup> For an excellent discussion on this see: Umut Özsü, *Completing Humanity: The International Law of Decolonization, 1960–82* (CUP, 2024) ch. 3

the interconnectivity between constitutionalism attempts and international law. The ICJ in that case concluded that no state shall be forced to trade with another state as this would infringe their sovereignty.<sup>14</sup> This is also furthered up by Tom J. Frarer who states that sovereignty entails the actual sovereignty over the natural resources, the nationalization of industries and the free decision of what and with whom to trade, which means that a decision not to trade does not violate international law.<sup>15</sup> Consequently, the position adopted by international law through both hard and soft law, is that, subject to GATT provisions,<sup>16</sup> the right to trade and the right to not trade are key provisions which highlight the exercisable sovereignty of states. These provisions, however, have also been subject to plenty of criticism. The central issue here is that the decision to not trade with a state can be detrimental to both the sender and the receiver of sanctions. Specifically, during the NIEO a bloc of countries recognized that some materials and resources are so vital to the world economy that they could not be left to one state alone.<sup>17</sup> In other words, due to the global dependency and connections that modern states have, facilitated through the open trade routes by domestic and international laws, trade is a fundamental concept for the survival of states and for exercising their sovereignty independently and without restraints. Nicholas Moulder attests that the economic isolation of a state could and can be worse than war.<sup>18</sup> In other words then, if we are to take that legal sovereignty is strictly connected to the economic and material status of a state in the globalised world,<sup>19</sup> the position of international law with regards to sovereignty is one that creates a paradox. On the one hand, the decision to trade and the decision to not trade or the choice of the materials to trade or the state country that a state chooses to trade with are fundamental concepts of sovereignty, deeply entrenched in its exercise. On the other hand, any decision that can possibly leave a state isolated can deeply damage its material and consequently its legal status and its sovereignty. Although this paradox is created in international law, the concept of choice of trade has deep implications in EU

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<sup>14</sup> *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v United States of America) (Merits) [1986] ICJ Rep 14 (Nicaragua) 138, para 276: A State is not bound to continue particular trade relations longer than it sees fit to do so, in the absence of a treaty commitment or other specific legal obligation ; but where there exists such a commitment, of the kind implied in a treaty of friendship and commerce, such an abrupt act of termination of commercial intercourse as the general trade embargo of 1 May 1985 will normally constitute a violation of the obligation not to defeat the object and purpose of the treaty.; see also Antonios Tzanakopoulos, 'The Right to be Free from Economic Coercion'(2017) 4 CJCL 616, 621

<sup>15</sup> Tom J. Frarer-POLITICAL AND ECONOMIC COERCION IN CONTEMPORARY INTERNATIONAL LAW

<sup>16</sup> See GATT Article I

<sup>17</sup> Özsü(n 13); Frank Griffith Dawson, 'The Role of the Private Banker in the New International Economic Order', VJIL 16 (1976), 297, at 298–99.

<sup>18</sup> Nicholas Moulder, *The Economic Weapon: The Rise of Sanctions as a Tool of Modern Warfare* (Yale University Press, 2022) 49

<sup>19</sup> For an excellent discussion regarding the relationship of sovereignty and different factual concepts see: Nico Schrijver 'The Changing Nature of State Sovereignty' (2000) 70 *British Yearbook of International Law* 1, 65-98

law and the levels of constitutionalism that it is trying to achieve, as a supranational entity.

#### *The relationship between aspect of economic sovereignty and EU constitutionalism*

Specifically, that paradox and the position of EU law comes to greatly affect the influence and the effectiveness of measures taken under the CFSP, such as economic sanctions, with the EU acting as a unified entity and the position of each state both inside and outside the EU, exercising their individual sovereignty. Raffaele Bifulco and Alessandro Nato, through their wide research on the relationship of state sovereignty and the EU, state that MS willingly and freely give away their sovereignty or as the Italian Constitution states, put limits to their sovereignty when transferring certain competences to the EU.<sup>20</sup> The area of sovereignty which concerns this paper is the area of the negotiation and the conclusion of trade treaties. Bifulco and Nato provide a concise insight on the concept of trade policy and the competence inside the EU. They state that the ability to negotiate treaties with third countries (outside the EU) is subject to the harmonization of the internal market of the EU.<sup>21</sup> Consequently, most of the external actions taken, including measures under the CFSP, are subject to the Common Commercial Policy (CCP) inside the EU. Not only that, after the Lisbon Treaty the Union has the exclusive competence to negotiate and conclude deals with third countries on behalf of MS.<sup>22</sup> The area and the scope of this this commercial policy have also been widened by the CJEU.<sup>23</sup> Thus, just like the individual actions of a state which lives in international law, the EU projects its internal policies into the international arena for the conclusion and the negotiation of treaties. Consequently, there needs to be a harmonization of internal processes and issues so they can be externalized under the form of possible policies, such as sanctions. On the other hand, there are areas which do not fall under the CCP and to which the EU, does not have exclusive competence over. Article 207(6) of the TEU suggests that:

‘The exercise of competences ... in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States.’

Eventually, this suggests that the external action of the EU does not change and does not have any effect on the policies and the competence areas which exist inside the EU

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<sup>20</sup> Raffaele Bifulco, Alessandro Neto, *The concept of sovereignty in the EU – past, present and the future* (RECONNECT, Work Package 4, Deliverable 3, 2020) 18

<sup>21</sup> Ibid 42

<sup>22</sup> TEU Article 3(1)(e); Villalta Puig, G. and Al-Haddab, B. (2011), The Common Commercial Policy after Lisbon: An Analysis of the Reforms, European Law Review, 36(2) 290

<sup>23</sup> (n 20) 42

between the MS and the Union.<sup>24</sup> Rather, it is the internal harmonization which points out the areas that the EU negotiates treaties, essentially, leaving some areas of trade to the competence of states. One can trace, therefore, that the EU functions just as any state in international law, by externalizing its constitutional principles to form foreign affairs and conclude agreements and treaties.<sup>25</sup> The issue with the formation of the EU is that it has not yet achieved a decent level of constitutionalism to be able to project identifying notions and common interests between its MS in its external relations. The changing relationship of states around the world and the continuous use of sanctions in an interconnected globalized community come to affect the levels of governance that the EU is trying to achieve, as the interests differ and change. As an example of this, this paper uses the sanctions against Russia and how did they affect levels of harmonization within the EU.

### *The use of sanctions against Russia*

Through Council Decisions, the EU has imposed a wide array of bans into the Russian energy sector. The key sectors of the Russian economy targeted by EU sanctions that concern this paper are the sanctions on gas and oil. Specifically, the EU has imposed a total ban to any imports of LNG that are not connected to the EU terminal system and a prohibition of investments on the LNG sector.<sup>26</sup> Furthermore, EUs ban on oil cover 90% of EU current oil imports on Russia and affect the import of seaborne crude oil and refined petroleum products from Russia.<sup>27</sup> These sanctions were adopted as measures against the continuing Russian aggression in Ukraine to thwart Russian revenues from its two main exporting materials. Scholars do agree that the EU has managed to have a certain amount of cohesion when imposing sanctions against Russia.<sup>28</sup> The EU has been able to act universally in imposing sanctions against Russia despite the fact that there are differences and disagreements in place.<sup>29</sup> However, research has come to suggest that ‘the impact of these policies on the economies of individual countries is another matter entirely. If there is to be real cohesion between EU member states on matters of foreign policy, we should expect members to be cohesive in bearing the costs of those

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<sup>24</sup> Villalta, Al-Haddab (n 22) 296

<sup>25</sup> See for more info: Christian Tuschoff ‘From Internalization to Externalization: The Impact of State-Society Relationships on US Foreign Policy’ in Florian Boller and Welf Werner *Hegemonic Transition: Global Economy and Security Orders in the Age of Trump* (Palgrave Macmillan, 2021) 21-42; Catherine Frost and Rebekah K Pullen ‘In the eyes of all mankind: Interests and Independence in Vattelian Statehood (2021) 18 *Journal of International Political Theory* 3

<sup>26</sup> EU adopts 14th package of sanctions against Russia for its continued illegal war against Ukraine, strengthening enforcement and anti-circumvention measures ([EU adopts 14th package of sanctions against Russia](#)) accessed on 17/02/2025

<sup>27</sup> Sanctions on energy ([Sanctions on energy - European Commission](#)) accessed on 17/02/2024

<sup>28</sup> Clara Portela, Paulina Pospieszna, Joanna Skrzypczyńska & Dawid Walentek (2021) Consensus against all odds: explaining the persistence of EU sanctions on Russia, 43 *Journal of European Integration* 6, 683-699.; Eva Vila Sánchez, ‘The European Union’s sanctions regime on the Russian Federation from 2014 to 2022’(2023) 2 *Quaderns IEE: Revista de l’Institut d’Estudis Europeus*, 1, 25-60

<sup>29</sup> Germany blocks first-ever sanctions on Russian gas ([Germany blocks first-ever sanctions on Russian gas – POLITICO](#)) accessed on 17/2/2024

policies as well.<sup>30</sup> This important assertion comes to connect the bridge between political discourse and material damage that influences notions of sovereignty. While therefore the decision to ban imports is a decision taken under the auspices of a harmonized internal market, the cost and the level of exposure to Russian exports greatly varies. A wide statistical analysis conducted under the *Vienna Institute of Economic Studies* highlights the contrasting dependencies that EU countries have and had on the Russian market. Specifically, the study highlights that exposure to concentrated mineral fuels and energy was highly uneven when the imposition of sanctions started to take place.<sup>31</sup> The paper further highlights the different impact that this has had for the citizens of various EU countries, driving up the prices of household spent in energy.<sup>32</sup> The existing issue here is that members of any supranational organization who decide to take economic arms against a state for the sake of changing its policy or as a punishment, their impact can vary and be very heterogeneous across the sanctioning states.<sup>33</sup> And indeed this can impact a lot the success and the failure of sanctions. The obvious difference being here that an individual state has the competence and the persistence to unify its institutions to implement sanctions that would minimize their backlash on it. On the contrary, relying on the common cohesion of wilful states, with different competing interests not only undermines the foundations of their sovereignty, but by extension also damages the success of those sanctions. This is further addressed when we are to measure the success of governance and constitutionalism reflected in the sanctions in their consistent action.

‘Specifically, although the EU is the most integrated regional international organization in the world, it is not an international organization that is above the national sovereignty of its member states, making its collective decision-making not forceful and binding. Therefore, some EU member states often do not really implement the sanctions that have been reached through an agreement, but which harm their own interests, making it difficult for sanctions to have any real impact on the energy security of target countries.’<sup>34</sup>

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<sup>30</sup>Beatrice Nicolle, Christian Năsulea, Diana Florentina Nasulea, ‘How Sanctions on Russia Impact the Economy of the European Union’ (2015) 10 Studies in Business and Economics 3

<sup>31</sup>Vasily Astrov, Richard Grieveson, Artem Kochnev, Michael Landesmann and Olga Pindyuk, ‘Possible Russian invasion of Ukraine, scenarios for sanctions, and likely economic impact on Russia, Ukraine and the EU’ 2022, Policy Note Report No. 55, 18

<sup>32</sup>Ibid 16

<sup>33</sup>See for example; Gabriel Felbermayr, T. Clifton Morgan, Constantinos Syropoulos, Yoto Yotov ‘Understanding economic sanctions: Interdisciplinary perspectives on theory and evidence’ (2021) 135 European Economic Review, C

<sup>34</sup>Jun Wen, Xinxin Zhao, Chun-Ping Chang ‘The impact of international sanctions on energy security’ (2020) 32 Energy and Environment 3; This is not to say that every scholar agrees with that. The level of cohesion achieved by the EU countries cannot be found anywhere else, especially for a supranational, regional organization. See for instance: Clara Portela, Paulina Pospeszna, Joanna Skrzypczyńska, Dawid Walentek (n 28)

*Economic aspects of sovereignty as its foundation and the model of EU governance and constitutionalism*

Keeping that into consideration, the paper moves on to its last section to form its argument. Namely, to assess the position taken by the EU in its efforts to achieve unanimity and a common constitutional future for its MS against the dissenting opinion of specific member states highlighting their discontent in imposing economic sanctions. It is true that the EU's institutional model has achieved a much greater level of unanimity than any other regional mechanism, where all states, in theory, hold equal or a sharing amount of power in the decision-making process within the Council.<sup>35</sup> It is also true that the domination of political power and the reliance in one institution(e.g. the Commission) allows dissenting member states room for greater disagreement(e.g. Cyprus, Greece, Hungary etc.).<sup>36</sup> Perhaps, this is how the EU has managed to achieve a specific level of unanimity when it comes to the power-dynamics inside of it, through its complex, but effective bureaucratic model of checks and balances. One can also attest that pressing matters and needs have been more constant than ever,<sup>37</sup>leading to challenges and conflicts which affect the unanimity of states and decision-making. The issue that this paper highlights is that the basis of sovereignty in international law, which entails economic control over resources by a state, comes into conflict with the CFSP, if we consider that a state uses its resources for its own interest, to dispose as it sees fit. If that is the basis of the argument, it is logical that the weaponization of trade entails a suppression of the interests of a state when the EU uses its economic relationships to achieve political goals,<sup>38</sup>even in areas of a harmonized internal market as we saw above. Consequently, is it possible to transfer powers of economic sovereignty to a supranational organization, to achieve legal and political forms of governance when economic and material interests, that form the basis of sovereignty, differ among that organization?

The position of this research is that it is highly unlikely that this will happen and that the complex issues in the adoption of economic sanctions clearly show that. The position taken in international law, as mentioned, is that under the umbrella term of sovereignty, a state may decide to trade and to not trade. International law also considers economic coercion not an interference with the sovereignty of a state, even though this might have grave consequences for the sanctioned state.<sup>39</sup> The justification of unilateral

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<sup>35</sup> Ekin Sanus, Sinem Akgül-Açıkmeşe, H. Emrah Karaoguz 'The EU's Autonomous Sanctions Against Russia in 2014 Versus 2022: How Does the Bureaucratic Politics Model Bring in the Institutional 'Balance of Power' Within the EU?' (2024) 62 *Journal of Common & Market Studies* 5, 1291

<sup>36</sup> *ibid*

<sup>37</sup> e.g. see: Francesca Batzella 'Slowly but surely? Assessing EU actorness in energy sanctions against Russia' (2024) 192 *Energy Policy* 1

<sup>38</sup> For a greater discussion on the globalization of trade see: Yong-Shik Lee 'Weaponizing International Trade in Political Disputes: Issues Under International Economic Law and Systemic Risks' (2022) 56 *Journal of World Trade* 3, 405-428

<sup>39</sup> See: Antonios Tzanakopoulos 'The Right to be Free from Economic Coercion' (2017) 4 *Cambridge Journal of International and Comparative Law* 3, 616-633

sanctions, meaning sanctions not adopted by the UN, entails a far greater conversation, but Julia Schmidt adds an interesting point to that discussion. Namely that, states do have the right to create law and enforce that law through executive decisions, something that is tightly linked to their sovereignty.<sup>40</sup> Essentially then, that a state may choose to weaponize its trade, to freely dispose of natural resources, as part of their sovereignty and through the domestic laws. This, Schmidt suggests, becomes even trickier when it comes to entities like the EU which confer legislative competence.<sup>41</sup> The point here is that territorial jurisdiction, which is almost unanimous to the sovereignty of each state, can be projected into international relations, creating policies of extra-territorial jurisdiction (e.g. the decision not to trade) in international law as long as this is permitted, under the *Lotus* principle.<sup>42</sup> One can determine then, that domestic law, internal executive decisions, as well as constitutional foundations are the ones that are expressed concomitantly in international law, when a state exercises part of its sovereignty in international relations. The model of the EU aims to achieve a similar discourse, however disregarding the fact that the basis of constitutionalism elements is economic sovereignty and the freedom to trade or not to trade. Namely, to act as a single political entity in international relations, something which is recognized from the globe, without giving regard though to the different economic relations and dependency that some of its Member States have with a possible sanctioned country. The Union truly aims to achieve normalization through its institutions and through the intergovernmental communication of its Member States who give their consent to transfer certain issues of their sovereignty to the Union.<sup>43</sup> It also imposes sanctions considering the harmonized internal market of the Union itself.<sup>44</sup> Consequently, the EU does attempt to unify both political and economic issues in its external decision-making. However, Professor Dani Rodrik has pointed out that we cannot have 'deep economic integration, democratic politics, and national sovereignty, because one of the three must give'.<sup>45</sup> Essentially, the political integration and the appearance of the EU as a single entity in international law does not coincide with the basis of the foundation of sovereignty of each of its member states, which entails forms of economic sovereignty, which presupposes that to avoid any adverse effects on that state, the decision not to trade should remain within the competence of the State, as it is the latter that determine its interests and has full control over its natural resources. To shed further light to that, Ellen M. Woods has remarkably stated that under capitalism, policies and the way states communicate with each other

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<sup>40</sup> Julia Schmidt 'The Legality of Unilateral Extra-territorial Sanctions under International Law' (2022) 27 *Journal of Conflict and Security Law* 1, 65

<sup>41</sup> Ibid; also C Staker, 'Jurisdiction' in MD Evans (ed), *International Law* (5th edn, OUP 2018) 289, 289

<sup>42</sup> For more information on this see: J Crawford, *Brownlie's Principles of Public International Law* (9th edn, OUP 2019) ch 21.; hence also the name of sanctions as 'extra-territorial sanctions'

<sup>43</sup> Anneli Albi\* and Peter Van Elsuwege, 'EU Constitution, National Constitutions and Sovereignty: An Assessment of a "European Constitutional Order'" (2004) 29 *European Law Review* 1, 741-765

<sup>44</sup> Villalta Puig, G. and Al-Haddab (n 22)

<sup>45</sup> See Dani Rodrik, *The Globalization Paradox: Democracy and the Future of the World Economy* (Nortonn, 2012) 200

tend to separate their political from their economic aspects.<sup>46</sup> Similarly, this goes on with aspects of sovereignty.

This gap is followed by the dangers which this has on constitutionalism and political integration of Member States comes at risk at the point that the EU is aiming to achieve external decision making through separating economic and political components of sovereignty. Hence, without paying close attention to the interdependence of the world and that each state might have separate agreements or different needs from specific trade flows, the EU, as a supranational body elevates the political decision of punishing a state through unleashing the economic aspects of sovereignty of its member states towards that state, holding that the Union should be acting politically as one. This separation is also evident from the position taken by the German Constitutional Court which characterizes fundamental spheres of sovereignty defence and internal affairs, but not aspects of economic competency, which remain with the Union's competences,<sup>47</sup> highlighting that economic sovereignty can be separated from its political counterpart. Moreover, in discussing constitutionalism and forms of governance, Eric Stein, in a Working Paper suggested that the EU is not just a mere economic union, but a 'constitutional polity'.<sup>48</sup> But the problem here is that supranational organizations cannot form that polity and act as one in their external decisions if they do not achieve a level of economic uniformity. The ability to act as a coherent state in the pursuance foreign policy entails that socio-economic conditions within that state will not generate a great variety of competing interests.<sup>49</sup> As crisis and deepening financial diversion keeps taking place in such an interconnected world, it is without a doubt, a challenge for the EU to act as a cohesive political entity, balancing its political identity and the competing economic interests of its Member States.

## Conclusion

To sum up, this research has talked about issues of sovereignty which exist inside the EU by using the CFSP and what has scholarship said regarding the issue of sanctions against Russia. The issue here is not the sanctions themselves, but whether the legislative and political framework inside the EU has been ready to face challenges that

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<sup>46</sup> Ellen M. Woods, *Empire of Capital*(2005, Verso) 46

<sup>47</sup> 7 Brunner, Constitutional Court of Germany, BVerfGE 89, 155 (1993), [1994] C.M.L.R., 57–108 [hereinafter "German Maastricht decision"]. 80, 90–91

<sup>48</sup> Eric Stein, 'The Pitfalls of (Comparative) Constitutionalism for European Integration (2009) Working Paper No. 1/008

<sup>49</sup> Christian Joerges,\* Vladimir Bogoeski,\*\* Lukas Nüse: Economic Constitutionalism and the "European Social Model" Can European Law Cope with the Deepening Tensions between Economic and Social Integration after the Financial Crisis 'ontribution to the conference "The Metamorphosis of the European Economic Constitution" at the University of Luxembourg, 21-22 September 2017' 8; This contribution shows that the fragility of the Maastricht Treaty as well as the EU's political aims are not ready to combat and compete with the deepening crisis taking place, especially after the Financial Crisis of 2008.

have been happening quite rapidly in an inter-connected and changing world were trade isolation practically means disaster. It is with great interest to understand whether EU's effort to form a common constitutional future will suffice or whether countries will gradually return to more unilateral approaches in their external relations.