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DOI

[10.17176/20181005-170917-0](https://doi.org/10.17176/20181005-170917-0)

Publication date

2014

Document Version

Final published version

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[Link to publication](#)

Citation for published version (APA):

Eckes, C. (2014). EU sanctions against Russia - Halfhearted or best response?. Web publication or website, Verfassungsblog. <https://doi.org/10.17176/20181005-170917-0>

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EU Sanctions against Russia – Halfhearted or Best Response?

VB verfassungsblog.de/eu-sanctions-against-russia-halfhearted-or-best-response/



Christina Eckes

25 März 2014

Much has already been written about the European Union's sanctions against a number of Russian officials following the actions of the Putin government in the region of Crimea. One main point of criticism is that they are unlikely to have any effect because the measures are too weak and the circle of targets is too limited. However due to the lack of better alternatives, the EU's targeted sanctions may be the best response. This is perhaps not an argument that can win hearts but it should certainly win minds.

No one in Europe is in favour of a military response. Angela Merkel has excluded such a response and the minister of defence, Ursula von der Leyen, was criticised for emphasising that that NATO does not only exist on paper but could also lead to real life consequences. Hence, what are realistic alternatives? These seem to cover a range of non-military actions from diplomatic efforts and targeted sanctions to more comprehensive sanctions. It should be added that diplomatic efforts will continue, with or without sanctions.

Targeted sanctions are the EU's strong suit within its Common Foreign and Security Policy (CFSP). They are generally supported by a broad political consensus, quickly deployable, relatively effective, and entail limited collateral damage. At present, the EU operates 29 targeted sanctions regimes, the majority of which are autonomous EU sanctions and hence not adopted to give effect to UN lists of targets. Some, such as for example sanctions against Iran, are hybrid systems; here both the UN and the EU identify the appropriate targets. EU sanctions against Russia are for obvious reasons autonomous sanctions.

So far, the Union has formally adopted economic sanctions and travel bans against 33 Russian officials (21 were listed on 17 March 2014 and another 12 added on 21 March 2014), who are 'responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine', and those associated with them. The list comprises for example the Commander of the Russian forces in Crimea, as well as the Deputy Prime Minister of the Russian Federation.

By contrast with US sanctions, EU sanctions are limited to those who have in some way or other supported the annexation of Crimea. This may not immediately hit those who are economically most powerful in Russia and this is a point of criticism. Yet, in light of the *Rechtsstaatsprinzip* there is much to say in favour of closely linking targeted sanctions to the

political objectives of the sanctions regime, rather than allowing these forceful executive measures, imposed with very limited procedural guarantees for those targeted, to be deployed on the simple assumption that any successful business person in Russia must support Putin's Crimea policy. This is indeed an argument that the EU Courts have accepted in the context of sanctions against Syria. In the context of other sanctions regimes and in particular in the area of counter-terrorist sanctions, we have seen how the insufficiently controlled use of sanctions can undermine the legitimacy of the measure, the credibility of the imposing institution, and ultimately the political aim of the measure. Targeted sanctions are a *political* tool that *immediately targets individuals*. As such, they should be strictly imposed and closely monitored, but only extended to those whose actions justify them.

Comprehensive sanctions are a blunter tool, have proven very costly in terms of human rights, and should be deployed with great caution. In their current form – the times of the sweeping state sanctions of the 1990 are over – comprehensive sanctions would target the Putin regime and those associated with it. This could extend to an extensive list of strategic targets, both political and economic, that support the Putin regime. The core difference is that such sanctions are no longer related to support for Putin's Crimea policy but only to the Putin regime as such.

Incrementally, sanctions are and probably should be stepped up; however, we should not lose sight of the fact that the European Union and its Member States are committed to the rule of law and that this places limits on freezing someone's assets without making a link to their personal behavior, only because they conduct their business in a country governed by an illegitimate regime. The EU should impose strict and credible measures in line with accepted human rights standards. Much has already been written about the European Union's sanctions against a number of Russian officials following the actions of the Putin government in the region of Crimea. One main point of criticism is that they are unlikely to have any effect because the measures are too weak and the circle of targets is too limited. However due to the lack of better alternatives, the EU's targeted sanctions may be the best response. This is perhaps not an argument that can win hearts but it should certainly win minds.

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SUGGESTED CITATION Eckes, Christina: *EU Sanctions against Russia – Halfhearted or Best Response?*, *VerfBlog*, 2014/3/25, <https://verfassungsblog.de/eu-sanctions-against-russia-halfhearted-or-best-response/>, DOI: [10.17176/20181005-170917-0](https://doi.org/10.17176/20181005-170917-0).

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