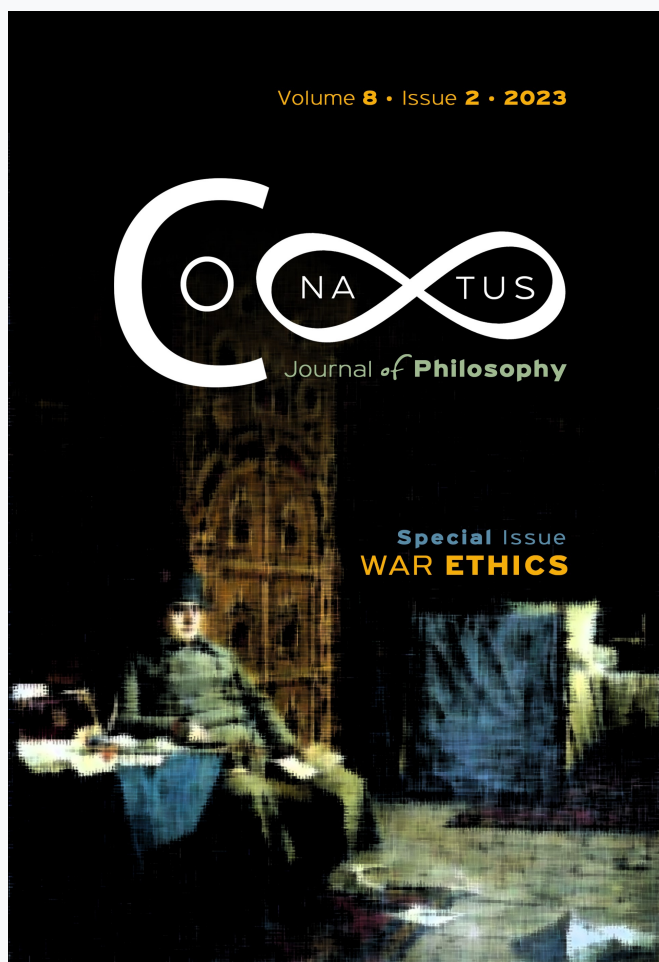


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# An Ethics of Sanctions? Attempt and Critique of the Moral Justification of Economic Sanctions

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## **Abstract**

*In this article, I raise the question of whether economic sanctions are morally legal. I present the jus ad bellum principles and the Doctrine of Double Effect (DDE) as the theoretical basis for analyzing the ethical foundations of this political instrument. I show that economic sanctions are an instrument of war, that can be morally legitimized through the DDE and the just war principles. Using the example of the EU-sanctions against Russia I show how proponents of the DDE justify the use of economic sanctions and what negative side effects result from their application. From a critical perspective, I want to show that this kind of moral justification is wrong. My critique is based on the assumption that the individual intention of an acting person/government can be misdirected by various external factors. As the groupthink concept illustrates, dissenting opinions are neglected in the consensus-building process. In addition, advisors, experts and employees influence the opinion of government officials to a considerable extent. This leads to the formation of specific moral concepts. This is particularly evident regarding the Russian war of aggression against Ukraine. The Russian government has created its own moral code based on historical events, individual opinions and fantasies of maintaining power. This is contrary to the moral codes of Western states. The difference in moral concepts also results in different intentions to act. These different views make it difficult to evaluate sanctioning procedures as morally good or bad. Consequently, the mere focus on intention is insufficient as an assessment standard for the moral status of an action.*

**Keywords:** economic sanctions; just war principles; doctrine of double effect; intention; European Union; Russia; Ukraine-war

## I. Introduction

Sanctions have always played an important role in the context of international politics. Political and economic sanctions are fundamental tools in the foreign policy behavior of states, the central actors in the sphere of international politics. States or governments use international sanctions<sup>1</sup> to criticize the political behavior of a state. This form of reprimand has a symbolic effect and usually serves to draw the attention of the public to a state's political misconduct. However, with the use of symbolic sanctions, a sender does not only demonstrate his critical attitude towards the political behavior of a state. He wants to flaunt the moral status of his own political actions to the public.<sup>2</sup> In the relevant research literature, little attention is paid to the symbolic impact of sanctions. Rather, international sanctions are characterized as an instrument of political action that serves, as a means of pressure for states to exert the greatest possible influence on the political actions of another state and, in this regard, to achieve that the sanction receiver is forced to change his behavior in favor of the ideas of the sanction sender due to the sustained pressure situation. This form of influence on the state's political actions presupposes the condition, that immense pressure is exerted on a sphere of action that is important for the sanction receiver, so that his room for maneuver is considerably restricted in this sphere. For example, the use of economic sanctions reduces a state's ability to act in an economic sector. These restrictions not only lead to negative economic consequences, but also have effects on the political course of action of the sanction receiver.<sup>3</sup> According to the argumentation of supporters of economic sanctions, the pressure situation on the economic and political sectors leads to an adjustment of the political actions of the sanction receiver, which corresponds the ideas of the sanction sender. However, what is forgotten in the context of imposing economic sanctions is the fact that the economic damage resulting from the use of these sanctions, not only affects the political elite of a sanction receiver (state), but also causes considerable suffering, especially on the side of his civilian

<sup>1</sup> In the following, I will use the term *international sanctions* to refer to both political and economic sanctions applied on the global political stage.

<sup>2</sup> Cf. Hossein G. Askari, John Forrer, Hildy Teegen, and Jiawen Yang, *Economic Sanctions: Examining Their Philosophy and Efficacy* (Westport, CT: Praeger Publishers, 2003).

<sup>3</sup> In South Africa, for example, severe economic sanctions and sports boycotts led society to criticize the Afrikaner government's political course. The Afrikaner government's room for manoeuvre was thus limited. Cf. Bruce Jentleson, *Sanctions: What Everyone Needs to Know* (New York and Oxford: Oxford University Press, 2022).

population due to the economic impairment.<sup>4</sup> Due to the infliction of suffering of innocent people, the use of such instruments constitutes an action that has both a positive and a negative effect. Accordingly, it is an action with a double effect. From a moral philosophical perspective, the question arises as to how such actions can be legitimized? Proponents of such actions point to the Doctrine of Double Effect, which makes such an action appear morally legitimate, insofar as the actor performs the action solely with a good intention and foresees any negative consequences but does not bring them about deliberately. Another attempt to justify the sanctions process as morally legitimate is the use of certain conditions taken from the just war theory. If the moral status of an action is examined based on the criteria of just war theory, then this action must be an act of war. Likewise, the tools of action used during the act must have a belligerent character. A sanctions procedure can be equated with siege wars, since the use of certain means generates suffering on the side of the sanction receiver. In this respect, economic sanctions can also be ascribed a warlike nature, since being a fundamental tool of sanctions processes, they play a significant role in bringing about suffering.

In the context of this article, I would like to show that sanctions procedures, understood as actions that generate civil suffering, can be morally justified with the help of just war principles and the Doctrine of Double Effect. However, these attempts are problematic. Problematic especially regarding the intention of an action. As will be shown, sanctioning procedures can be described as actions that have positive and negative consequences. The intention behind a sanctioning procedure can be morally good. However, the consequence that follows the action can be bad. What happens if the bad consequence is deliberately intended by the actor? From the standpoint of an absolutist view, intended harm cannot be morally justified. The intentional harm of a person constitutes a direct violation of his right to life. A nonabsolutist view expands the possibility to justify intentional harm morally. However, the moral justification of incidental harm proves to be much more difficult. This becomes particularly clear regarding the distortion of intentions by external factors. Consensus-based decisions that do not consider alternative interpretations of a problem generate distorted ideas about morally good behavior. Subsequently, this leads to misconceptions about the moral status of an intention. To explain

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<sup>4</sup> Cf. Joy Gordon, "A Peaceful, Silent, Deadly Remedy: The Ethics of Economic Sanctions," *Ethics & International Affairs* 13 (1999): 123-142.

the justification of the moral status of sanctions, especially economic sanctions, the EU sanctions against Russia serves as an empirical example. The second section briefly explains different types of sanctions. Here, a differentiation is made between symbolic and result-oriented sanctions. Economic sanctions which stay in the focus of my analysis are considered to be result-oriented sanctions. The third section explains their belligerent nature. The assumption is made that sanctioning procedures are equivalent to siege wars. Comprehensive and smart/targeted sanctions are tools of warfare. They violate a person's individual right to life. The fourth section briefly explains why the EU sanctions against Russia can be seen as acts which contain positive consequences as well as negative ones. Sections five and six set out the attempts to justify the moral status of economic sanctions. In the seventh section I set out my critique of the attempts to justify sanctions.

I assume that the intention of an action cannot be considered as a standard of valuation for the moral status of an action, because the intention is distorted by false moral concepts and external factors.

## II. Types of sanctions

According to Bruce W. Jentleson, there is a variety of sanctions that have divergent objectives depending on their motivation and scope. Following Jentleson, economic sanctions are the most frequently applied measures in the context of international politics.<sup>5</sup> The importance of economic sanctions can be justified by the fact that political/diplomatic sanctions tend to be of a symbolic type. In contrast to result-oriented sanctions,<sup>6</sup> symbolic sanctions are not primarily intended to exert influence on the political actions of the sanction receiver and to force him to change his previous behavior with the help of sufficient pressure. Symbolic (political) sanctions serve more as an expression of a protest attitude or as an act of self-assurance of one's own moral actions.<sup>7</sup>

A key aspect that stands out when considering international sanctions, especially economic sanctions, is that such sanctions processes have a punitive character. The basic structure of such procedures shows parallels to sanctioning processes which come into play in the legal

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<sup>5</sup> Cf. Jentleson.

<sup>6</sup> I consider economic sanctions as result-oriented sanctions, because with their use sanction senders want to achieve a concrete result. Political sanctions, however, are not result-oriented. Sanction senders use them to harmonize existing disagreements without having a defined goal in mind.

<sup>7</sup> Cf. Askari et al.

sphere. As Peter Wallensteen points out, sanctions are viewed from a legal perspective as measures designed to ensure compliance with specific legal norms.<sup>8</sup> The UN Charter – a central instrument of international law for the preservation and maintenance of a global peace order – considers international sanctions as appropriate measures to punish acts of state aggression which constitute a threat to international peace.<sup>9</sup> Such acts of aggression constitute a violation of the norms set forth in Article 1 of the UN Charter.<sup>10</sup> In order to counter this violation effectively, punitive measures in the form of sanctions are needed. The punitive character of international sanctions is revealed by the fact that non-compliance with a norm of international law entails considerable consequences for the rule-breaker. The punishment of a norm violation, however, is not the only goal that international organizations such as the United Nations (in the context of multilateral sanctions procedures) or states (in the context of unilateral sanctions procedures) associate with international sanctions. As David Cortright and George A. Lopez have noted, the use of sanctions is always linked to the intention that the sanction sender can exert considerable influence on the political behavior of the sanction receiver and in this respect force him to adapt his actions: “Both, the means of influencing the target and the criteria for lifting pressure are set in terms of demand, compliance, and ostracism.”<sup>11</sup> Johan Galtung specifies the punitive nature of international sanctions and the objectives associated with them in more detail and emphasizes that influencing the political actions of the sanction receiver and the accompanying intention to realize a change in behavior are nothing else than the enforcement of the national interests of the sanction sender. He assumes:

We shall define sanctions as actions initiated by one or more international actors (the senders) against one or more others (the receivers) with either or both two purpos-

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<sup>8</sup> Peter Wallensteen, “Economic Sanctions: Ten Modern Cases and Three Important Lessons,” eds. Miroslav Nincic and Peter Wallensteen, 87-130 (New York: Praeger Publishers 1983).

<sup>9</sup> Article 41 of the UN Charter defines economic sanctions as key measures that are decided by the Security Council and implemented by UN member states in the event of a threat to peace at the global political level. According to the Charter, however, such measures are only used if the diplomatic measures listed in Article 40 cannot contribute to end the threat situation; cf. UN-Charter, <https://www.un.org/en/about-us/un-charter/chapter-7>.

<sup>10</sup> Cf. Article 1.1 UN-Charter, <https://www.un.org/en/about-us/un-charter/chapter-1>.

<sup>11</sup> David Cortright and George A. Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder, CO: Lynne Rienner Publishers, 2000), 28.

es: to punish the receivers by depriving them of some value and/or to make the receivers comply with certain norms the senders deem important.<sup>12</sup>

The application of international sanctions takes two different forms: comprehensive and smart/targeted sanctions. Since the 1990s, comprehensive sanctions have received less and little attention on the world political stage. Multilaterally imposed sanctions have been used considerably less by sanction senders such as the UN. Biersteker et al. point out that

[i]n only two instances (the former Yugoslavia in 1992 and Haiti in 1994), the Security Council imposed new comprehensive measures for a period (following targeted ones), but the last time a comprehensive trade embargo was imposed by the UN was in 1994.<sup>13</sup>

The reason for this were the humanitarian consequences that comprehensive sanctions had for the civilian population. While comprehensive sanctions aim to punish the political elite as well as the civilian population for political misconduct initiated by government officials, smart/targeted sanctions seek to avoid such an unbalanced punishment. Although their application requires more preparatory work and time, proponents of smart/targeted sanctions consider them more promising than comprehensive sanctions. The latter are significantly more time and cost-saving in their use. However, they are less successful than smart/targeted sanctions because of the existing negative consequences. Biersteker et al. explain the difference as follows:

[T]argeted sanctions are more complex than comprehensive sanctions. They entail decisions about whom to target, how to limit indiscriminate unintended consequences, and often, a strategy for how to suspend or lift them in an incremental manner as the situation on the ground changes.<sup>14</sup>

<sup>12</sup> Johan Galtung, "On the Effects of International Economic Sanctions: With Examples from the Case of Rhodesia," in *Dilemmas of Economic Coercion: Sanctions in World Politics*, eds. Miroslav Nincic and Peter Wallensteen, 17-60 (New York: Praeger Publishers 1983).

<sup>13</sup> Thomas J. Biersteker, Sue E. Eckert, and Marcos Tourinho, "Thinking about United Nations Targeted Sanctions," in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, eds. J. Thomas Biersteker, Sue E. Eckert, and Marcos Tourinho, 11-37 (Oxford: Oxford University Press 2016), 11.

<sup>14</sup> Ibid., 13.



Critics of smart/targeted sanctions emphasize, however, that the suffering caused by these measures on the side of the sanction receiver is not reduced and exists to a similar extent as in the case of comprehensive sanctions. Instead of the desired change in behavior, which is supposed to be brought about by targeted sanctions procedures, governments of sanctioned states reinforce domestic repression against the population when smart/targeted sanctions are applied.<sup>15</sup> Another criticism concerning the economic inefficiency of smart/targeted sanctions is that the restriction of economic trade resulting from the imposition of sanctions affects the sanction receiver far less than the sanction sender would hope. There are enough loopholes for sanction receivers to use the imposed sanctions to their advantage and thus be able to mitigate the effectiveness of the sanctions directed against them. Sorpong Peou is clearly right in saying that

[a]s one market closes with the imposition of sanctions [...] the target nation can simply shift its economic focus to new markets and trading partners, bypassing sanctions, and maintaining a healthy level of trade.<sup>16</sup>

Since international sanctions, whether comprehensive or targeted, are always associated with the creation of suffering, their application appears problematic from a moral philosophical perspective. This aspect becomes particularly clear regarding the use of economic sanctions, because comprehensive or targeted economic sanctions resemble siege wars in their design and *modus operandi*.

### III. Comprehensive and smart/targeted economic sanctions as instruments of warfare

The application of comprehensive economic sanctions is so broad in its form that the extent of the damage not only affects individual sectors of the economy, but also leads to untold suffering within the civilian population of the sanctioned state. The economic consequences resulting from trade restrictions affect, among other things, the job security of the working population and lead to a shortage of domes-

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<sup>15</sup> Sorpong Peou, "Why Smart Sanctions Still Cause Human Insecurity," *Asian Journal of Peacebuilding* 7, no. 2 (2019): 272.

<sup>16</sup> *Ibid.*, 270.



tic food supplies, which in further consequence leads to famine.<sup>17</sup> Instruments of comprehensive sanctions – understood as a fundamental component of an act of war – violate international humanitarian law by punishing not only the political elite of a sanctioned state but also the civilian population for political misconduct. Comprehensive economic sanctions not only affect those who are responsible for bringing about the conflict, but also those who are completely uninvolved in bringing about the conflict situation. Michael Gross and Tamar Meisels point out that this serious disregard of the duty to protect innocent civilians is not unusual in the context of comprehensive sanctions procedures:

Civilians are not legitimate wartime targets and must not be targeted directly. When states resort to economic warfare, however, civilians are at the forefront and often the first to suffer.<sup>18</sup>

The same can be said regarding the application of smart/targeted sanctions. Although targeted sanctions are aimed at a specific group of individuals or institutions, they can still cause extensive damage. This is the case when the political elite affected by smart/targeted sanctions diverts the negative sanctions consequences onto the population. The causation of civilian suffering resulting from the use of comprehensive or targeted economic sanctions proves to be difficult for their moral legitimization. Difficult in this case because the disregard of the difference between those causing the conflict and those not involved in it is a violation of the individual right to life.

Based on the historical process of establishing the right to life as an essential and universally valid human right at the global political level, there arise two essential prerequisites for the validity of this right, which Pierre Emmanuel Dupont characterizes as protection against the arbitrary deprivation of individual life and as a state duty to preserve and respect the right to life. According to Dupont, protection against deliberate deprivation of life claims validity at both national and international political levels for all socioeconomic concerns and also implies an unqualified obligation of respect for this right, which states must comply with by all conceivable means. The imperative to preserve and respect the individual right to life of every person implies for states the task to analyze the consequences of their actions on a national and international level in order to recog-

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<sup>17</sup> Cf. Gordon.

<sup>18</sup> Michael L. Gross and Tamar Meisels, "Soft War: The Ethics of Unarmed Conflict," in Michael L. Gross and Tamar Meisels, eds., *Soft War: The Ethics of Unarmed Conflict* (Cambridge: Cambridge University Press, 2017), 22.

nize possible negative effects on political and social spheres, which subsequently lead to difficulties regarding the individual life of a person. An act carried out by a state must therefore be designed in such a way that the preservation and respect of the individual right to life applies not only to the area in which the act is carried out, but also to spheres that are not directly affected by this act.<sup>19</sup>

With regard to economic sanctions, Dupont comes to the conclusion that their application at the level of international politics is a violation of the two conditions mentioned above – protection against arbitrary deprivation of individual life and preservation and respect of this essential human right. Accordingly, the use of economic sanctions is an act of deliberate disregard of the right to life of any person. Dupont assumes:

[I]t can be argued that the effective realization of the right to life requires States implementing economic sanctions to refrain from deliberately enacting measures, the effect of which would be the deprivation of individuals of food, or worse, their subjection to hunger or starvation.<sup>20</sup>

The fact that economic sanctions, either in the form of comprehensive or smart/targeted sanctions, are measures which violate the individual right to life underlines the assumption that such foreign policy instruments are tools of war that can be compared to siege wars in terms of their nature and objectives. For Joy Gordon, a siege is a particularly cruel instrument of a warfare because it seeks to change the behavior of the enemy by imposing massive restrictions on vital supplies and, by doing so, deliberately intends the suffering of the population which comes as a result of these restrictions.

Gordon states that [s]iege operates by restricting the economy of the entire community, creating shortages of food, water, and fuel. Those who are least able to survive the ensuing hunger, illness, and cold are the very young, the elderly, and those who are sick or injured. Thus, the direct consequence of siege is that harm is done to those who are least able to defend themselves, who present the least mil-

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<sup>19</sup> Cf. Pierre-Emmanuel Dupont, "Human Rights Implications of Sanctions," in *Economic Sanctions in International Law and Practice*, ed. Masahiko Asada, 39-61 (London and New York: Routledge, 2020), 43.

<sup>20</sup> *Ibid.*, 43.

itary threat, who have the least input into policy or military decisions, and who are the most vulnerable.<sup>21</sup>

Although comprehensive as well as targeted economic sanctions in their form as instruments of war produce civilian suffering, there are nevertheless possibilities that prove the moral status of such measures.

Such attempts of justification, on the one hand, incorporate the basic tenets of just war theory. On the other hand, the Doctrine of Double Effect also serves as a theoretical basis to justify the moral status of economic sanctions. The economic sanctions imposed by the European Union against the Russian Federation are an ideal empirical example to illustrate how sanctions procedures causing civilian suffering can be considered in line with moral principles. Before going into detail on the respective justification attempts and their empirical application, it is first necessary to take a closer look at the sanctions example, including the objectives of the sanction sender and the negative effects that the use of such measures entails.

#### IV. The EU sanctions against Russia: Good intentions, bad consequences

As has already been made clear, when imposing economic sanctions, the sanction sender not only pursues the goal of punishing political misconduct created by the sanction receiver, but also pursues the goal of exerting influence on the political actions of the sanctioned state. By inflicting considerable damage in the economic sphere, the sender induces the receiver to correct his behavior.

The fact that economic sanctions are an instrument of foreign policy which pursue a mixture of punishment and influence is illustrated by the sanctions against the Russian Federation imposed by the European Council in the case of the Ukraine war. Combined with financial sanctions that force the exclusion of Russian banks from the global financial system, EU economic sanctions aim at inflicting significant damage on the Russian economy. Among other things, a ban on the import and export of Russian and European goods is intended to significantly limit the productivity of the Russian economy. The export restrictions on European goods to Russia as well as the import ban of Russian goods to Europe serve not only as a punitive measure against the aggressive actions of the Russian government. By imposing such measures, the EU (European Council) is also pursuing the goal of stop-

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<sup>21</sup> Gordon, 125.

ping the war of aggression on Ukrainian territory, the continuation of which is essentially financed by Russia's economic output.<sup>22</sup> The end of the war is also indirectly associated with the hope that a collapse of the Russian economy and the ensuing negative consequences for the political elite will lead to unrest and bring about a change in the political system.<sup>23</sup> Since the collapse of the Soviet Union, the interconnectedness of politics and economics has fostered the system of oligarchy. The Russian economy is basically used by this system to promote private interests. Economic sanctions, especially in the form of smart/targeted sanctions, target oligarchs accordingly. This measure is combined with a specific hope: if companies of Russian oligarchs incur financial losses due to trade restrictions, then oligarchs will take a more critical stance towards the war initiated by the Russian government. The same can be expected if their assets abroad are frozen due to targeted sanctions regulations.

Since governments are a collective of rationally acting individuals, they are aware of the negative effects of sanctions and initiate counter-measures to prevent possible subversion initiated by backbenchers who want to use the situation for their own profit. Such a circumstance considerably reduces the punitive function of economic sanctions. Accordingly, if a sanction sender wants to initiate a successful sanctions process, he must increase the pressure on the sanction receiver. This is usually done by mixing comprehensive and smart/targeted sanctions.

For example, the first EU sanctions package (February 23, 2022) included personal smart/targeted sanctions against members of the Russian parliament as well as comprehensive measures that significantly restrict the Russian state's access to European capital and financial markets and the use of related services.<sup>24</sup> However, the targeted and comprehensive nature of such financial and economic restrictions has also a considerable impact on the everyday life of the Russian population. The exclusion of Russian banks from the international SWIFT system and the discontinuation of the provision of euro banknotes to Russian banks<sup>25</sup> make it difficult for Russian citizens to obtain financial assistance from family members living in Europe. Small businesses

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<sup>22</sup> Cf. "EU Sanctions against Russia Explained," European Council, accessed July 30, 2023, <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/>.

<sup>23</sup> Cf. Jentleson, 10.

<sup>24</sup> Cf. "EU response to Russia's invasion of Ukraine," *European Council*, accessed July 30, 2023, <https://www.consilium.europa.eu/en/policies/eu-response-ukraine-invasion/>.

<sup>25</sup> Ibid.

which have relations with European companies no longer receive orders from them, resulting in job losses and bankruptcies.

Consequently, the EU's economic sanctions against Russia are a direct violation of the individual right to life. The Russian population cannot be held responsible for the annexation of Crimea in 2014 and the outbreak of the Ukrainian war in 2022, as they lack any political decision-making authority in this regard or have been deprived of it by the government through corresponding legal regulations. However, the European Union, as sanction sender, equates the Russian population with the conflict perpetrators sitting in the Kremlin. This is evident, among other things, in the tightened entry regulations for Russian citizens. So far, the European Council has imposed travel sanctions on more than 1.800 people, mostly Russian politicians and businessmen. Since September 2022, the visa facilitation agreement between the EU and Russia has been suspended. For Russian citizens travel visa applications to EU member states are now associated with higher costs, additional bureaucratic work and longer waiting times.<sup>26</sup> Although at first glance travel restrictions cannot be directly assigned to the catalog of measures of economic sanctions procedures, they are nevertheless to be understood as a sanctions instrument of economic nature. The unrestricted possibility to travel is an essential part of the realization of a free and happy life and thus part of an individual right to life. If this possibility is made more difficult by means of bureaucratic hurdles, individuals can no longer freely decide how and where they can contribute their labor. The increasing globalization of the economy and the labor market make it possible for people to freely decide which profession they want to take up and in which country they want to practice it. The freedom of movement of workers stipulated in the EU treaties is the best example of how the unrestricted possibility to travel can contribute to the development of a person's professional and private life.<sup>27</sup> If, due to travel restrictions, Russian society is deprived of this element for freely shaping one's own life, it is a violation of the individual right to life. Russian citizens are not only deprived of the opportunity to educate themselves through cultural exchange and to contribute to the realization of an open society, but they are also prevented from using their professional skills elsewhere. Consequently, the EU sanctions against Russia represent a concrete disregard of the individual right to life and a violation of the unrestricted development of one's professional life.

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<sup>26</sup> Ibid.

<sup>27</sup> Cf. "EU Regulation on the Free Movement of Workers within the Union," EUR-Lex, accessed July 30, 2023, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011R0492>.

At the beginning of this analysis, sanctioning processes which take place at the international political level were declared to be acts of war. Economic sanctions, understood as central instruments of sanctions processes, must consequently be understood as tools of war. According to just war theory, wars can be morally justified if they fulfill certain conditions. Thus, insofar as there is a way to examine whether acts of war are morally justified, this approach can also be applied with regard to examining the moral content of economic sanctions. In this context, the *jus ad bellum* principles – the rules which clarify whether the initiation of an act of war can be regarded as morally justified – appear to be suitable. As already stated, the EU sanctions against Russia serve as an empirical example.

#### V. Justification of economic sanctions from the perspective of Just War Theory

According to Joshua Stuchlik, just war theory represents a middle ground between pacifism and political realism.<sup>28</sup> While the theoretical concept of pacifism regards morality as a fundamental criterion for evaluating acts of war and consequently prohibits any act of war, since it can never be in conformity with moral principles, political realists relativize the position of morality. For them, moral standards are irrelevant in the context of foreign policy.<sup>29</sup> Just war theory considers war to be fundamentally problematic from a moral point of view. However, the theory also allows assumptions, which do not fundamentally label an act of war as morally illegitimate. *Jus ad bellum* specify concrete conditions that must be all fulfilled in order to morally justify an act of war.<sup>30</sup> The number of criteria, however, appears variable. While Helen Frowe names seven concrete *jus ad bellum* principles,<sup>31</sup> Robert L. Holmes names eight principles.<sup>32</sup> In the context of this analysis, the number of conditions is reduced to four. The principles of just cause and proportionality are considered as one condition. The principles of reasonable chance of success and last resort form together also one condition. Legitimate authority represents the third condition. The principle of right intention is classified as the fourth condition.

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<sup>28</sup> Cf. Joshua Stuchlik, *Intention and Wrongdoing: In Defense of Double Effect* (Cambridge: Cambridge University Press 2022), 15.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> Cf. Helen Frowe, *The Ethics of War and Peace: An Introduction* (London and New York: Routledge, 2015).

<sup>32</sup> Cf. Robert L. Holmes, *On War and Morality* (Princeton, NJ: Princeton University Press 1989).

The condition *legitimate authority* means that the authority to act in a war embodies a person or group with political responsibility. This means that private individuals or businessmen do not have the authority to declare war, wage war or end war.<sup>33</sup>

As for economic sanctions imposed by the EU against Russia in the case of the Ukraine war, proponents of such a sanctions policy see the EU measures as legitimate, since they were issued by a legitimate authority. Among the general public, the European Union is often named as the sanction sender. In general, the EU represents a political entity composed of various institutions. The EU sanctions process is a multi-layered procedure involving several actors. The European Council, an EU body composed of the government leaders of the 27 member states, plays an important role in the sanctions process. “All decisions to adopt, amend, lift or renew sanctions are taken by the Council following examination in the relevant Council working groups.”<sup>34</sup> The EU Member States, in their turn, are responsible for the domestic implementation of the provisions adopted by the Council. The High Representative of the Union for Foreign Affairs and Security Policy and the European Commission also have important roles in the sanctions process:

For its part the European Commission presents proposals, jointly with the High Representative for regulations. Once regulations are adopted the Commission works to facilitate their implementation in the EU and addresses questions of interpretation by economic operators. The European Commission is responsible for ensuring the uniform application of sanctions.<sup>35</sup>

The *just cause* principle states, that an act of war must be based on a reasonable and just foundation. Thomas Aquinas assesses the *just cause* principle as closely linked to the principle of proportionality.

According to this, war should only be waged against those who have played a decisive role in bringing about war. Referring to the connection between the principle of just cause and the principle of proportionality Thomas Aquinas states: “[A] just cause is required, namely

<sup>33</sup> Cf. George Lukas, *Military Ethics: What Everybody Needs to Know* (New York: Oxford University Press, 2016), 71.

<sup>34</sup> “European Union Sanctions: How does the EU Impose Sanctions?” *European Union: External Action*, accessed July 30, 2023, [https://www.eeas.europa.eu/eeas/european-union-sanctions\\_en#10705](https://www.eeas.europa.eu/eeas/european-union-sanctions_en#10705).

<sup>35</sup> Ibid.



that those who are attacked, should be attacked because they deserve it on account of some fault.”<sup>36</sup>

The self-defense of a state against an unlawful attack by an aggressor constitutes a just cause in this respect. From the perspective of international law, this is regulated in Article 51 of the UN-Charter.<sup>37</sup>

The condition of proportionality, however, includes another factor. Thus, the response to an act of war must be the result of a balancing process of negative action consequences and intended objectives associated with the declaration of war. The evil caused by a belligerent action must be always consistent with the intentions of the involved actors. The EU sees the sanctions packages that it has adopted as morally justified and links its justification to the political misconduct created by the Russian government:

The EU and its member states strongly condemn Russia’s brutal war of aggression against Ukraine and the illegal annexation of Ukraine’s Donetsk, Luhansk, Zaporizhzhia and Kherson regions. They also condemn Belarus’ involvement in Russia’s military aggression.<sup>38</sup>

The Russian war of aggression, which contradicts international law, implies not only that the Ukrainian state has a right to self-defense, but it also assumes that actors which are not directly involved in the conflict perceived this war as a threat to their own national existence.

From the perspective of the EU, the Russian war of aggression constitutes a concrete violation of territorial sovereignty. The Russian annexation of Ukrainian territory is a clear disregard of Ukraine’s state independence. All acts of war on Ukrainian territory constitute a violation of territorial integrity. This is already mentioned in an EU Council Regulation of 2014 as a legitimate reason for imposing sanctions on Russia:

[T]he Heads of State or Government of the Union’s Member States strongly condemned the unprovoked violation

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<sup>36</sup> Thomas Aquinas, “Question 40: On War, Article 1: Whether it is always Sinful to Wage War?” in *The Ethics of War: Classic and Contemporary Readings*, eds. Gregory M. Reichberg, Henrik Syse, and Endre Beby (Malden, MA, Oxford, and Victoria, TX: Blackwell Publishing, 2016), 177.

<sup>37</sup> Cf. Lucas, 72.

<sup>38</sup> “EU responses to Russia’s invasion of Ukraine,” *European Council*, accessed July 30, 2023, <https://www.consilium.europa.eu/en/policies/eu-response-ukraine-invasion/>.

of Ukrainian sovereignty and territorial integrity by the Russian Federation and called on the Russian Federation to immediately withdraw its armed forces to the areas of their permanent stationing, in accordance with the relevant agreements.<sup>39</sup>

However, the EU itself considers these violations as an indirect disregard of its own sovereign independence and territorial integrity, which is why a reaction to them seems justified from a moral point of view. In terms of the principle of proportionality, the imposition of economic sanctions is an appropriate action on the part of the EU. Although the Russian war of aggression is not directed at the EU and does not take place on European territory, Ukraine is nevertheless an immediate geographical neighbor whose loss of sovereignty and territory also indirectly poses a threat to Europe.

Accordingly, economic sanctions also represent the last resort before a military confrontation. As just war theory assumes, war as *ultima ratio* means that political (diplomatic) attempts to resolve the conflict have failed. Notwithstanding, war also represents a continuation of the negotiation process. However, the protagonists at the negotiating table have switched places, politicians and diplomats are now being replaced by the military as negotiating partner. Instead of intensive rounds of talks, the focus is now on the use of armed force as a central means of conflict resolution.

Regarding sanctions, the principle of last resort diverges somewhat from the course. Economic sanctions represent a kind of middle ground between diplomacy and armed force. However, since sanctions procedures resemble siege wars by their very nature, sanctions can already be seen as a breeding ground for a future armed conflict. If economic sanctions are deemed insufficient to resolve a conflict, their ineffectiveness provides the argumentative basis for the use of armed force.<sup>40</sup> Since all diplomatic negotiations to resolve the Russia-Ukraine conflict have failed since 2014 and no direct Russian attack on European territory has taken place, the EU considers the imposition of economic sanctions as a last resort to end this military conflict. President of the EU Commission Ursula von der Leyen describes this course of action as follows:

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<sup>39</sup> “Council Regulation (EU) No 269/2014 of 17 March 2014,” EUR-Lex, accessed July 30, 2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014R0269>.

<sup>40</sup> Cf. Jack T. Patterson, “The Political and Moral Appropriateness of Sanctions,” in *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World*, eds. David Cortright and George A. Lopez, 89-96 (Boulder, CO: Westview Press, 1995), 90.

For almost one year now, Russia's war of aggression has been sowing death and destruction. Putin is not only waging a brutal war on the battlefield but he is also viciously targeting civilians. The aggressor has to pay for this.<sup>41</sup>

The use of economic sanctions, as the statement shows, is also associated with a reasonable chance of success.

The principle of right intention takes up an essential aspect that also forms a central standard of valuation for the moral status of actions within the framework of the Doctrine of Double Effect. According to the classical interpretation of the just war theory made by Thomas Aquinas, the principle of right intention must always have the good in view and must take up the avoidance of evil. An action that pursues something bad as its goal is considered morally reprehensible. George Lucas writes in this regard: "Only the desire to restore peace and establish justice under the rule of law constitute right intentions on the part of the declaring authority."<sup>42</sup>

Regarding the imposition of economic sanctions on Russia, the EU justifies its approach with the fact that the use of these measures is linked to the intention to massively restrict Russia's technical as well as infrastructural possibilities to continue the war of aggression against Ukraine: "The measures are designed to weaken Russia's economic base, depriving it of critical technologies and markets and significantly curtailing its ability to wage war."<sup>43</sup> Consequently, by imposing economic sanctions, the European Union is pursuing the goal of exerting considerable influence on the political actions of the Russian government with the help of economic restrictions and, by exerting pressure in the economic sphere, to persuade the political leaders to correct their political misconduct.

The attempt to morally justify the EU economic sanctions against the Russian Federation with the help of generally accepted principles of just war theory reaches its limits when applying the condition of right intention. With the outbreak of the Ukraine war and Europe's disengagement from Russia as a primary energy supplier, the governments of

<sup>41</sup> "Statement by President von der Leyen on the 10<sup>th</sup> Package of Sanctions against Russia," *Delegation of the European Union to Ukraine*, accessed 30 July, 2023, [https://www.eeas.europa.eu/delegations/ukraine/statement-president-von-der-leyen-10th-package-sanctions-against-russia\\_en?s=232](https://www.eeas.europa.eu/delegations/ukraine/statement-president-von-der-leyen-10th-package-sanctions-against-russia_en?s=232).

<sup>42</sup> Lucas, 74.

<sup>43</sup> "Sanctions Adopted following Russia's Military Aggression against Ukraine," *European Commission*, accessed 30 July, 2023, [https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/sanctions-adopted-following-russias-military-aggression-against-ukraine\\_en](https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/sanctions-adopted-following-russias-military-aggression-against-ukraine_en).

EU member states had to take swift action to prevent a rise of energy prices which could become a burden for their economy and civilian population.

EU sanctions against the Russian energy sector initially focused on a ban on imports of Russian coal (fifth sanctions package, April 8, 2022) and an import restriction on crude oil and refined petroleum products (sixth sanctions package, June 3, 2022). However, these import restrictions include exceptions for Bulgaria and Croatia, which continue to rely on oil products from Russia due to their geographic location and technical deficiencies, respectively. These exceptions are temporary.<sup>44</sup> It was also not possible to enforce a comprehensive ban on imports of Russian gas, as some EU countries, such as Germany, were significantly dependent on its purchase. An immediate halt to the supply of Russian gas would have had a significant negative impact on the German economy due to the lack of alternative sources of supply. These problems with the imposition of sanctions make it clear that the EU's intention to act has a good aim in mind (ending the war by weakening the economy through sanctions), but at the same time its intention works against the realization of this positive aim and bring about a prolongation of the war. As Julian Walterskirchen et al. point out, the economic sanctions generated a significant increase in energy prices, which resulted in a current account surplus for the Russian budget in 2022. Moreover, the sanctions did not cause a significant drop in the Russian energy market in the first months:

In the first 100 days of the war, Russia gained 93 billion euros from energy exports, of which the EU imported 61%. Even though import volumes fell, export prices are 60% higher on average than 1 year ago, and fossil fuel revenues are estimated to exceed Russian spending on the invasion of Ukraine.<sup>45</sup>

The economic sanctions imposed by the EU with the purpose to influence the war in Ukraine have produced a negative effect of action. Instead of a quick end to the war through massive damage to the Russian economy, the sanctions have produced the opposite. Thanks to high energy prices, the Russian budget has been able to reap rich profits, thereby further replenishing the war chest.

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<sup>44</sup> Ibid.

<sup>45</sup> Julian Walterskirchen, Gerhard Mangott, and Clara Wend, *Sanctions Dynamics in the Cases of North Korea, Iran, and Russia: Objectives, Measures and Effects* (Cham: Springer, 2022), 62.

The justification of such an action with positive and negative consequences appears problematic from a moral philosophical point of view. The question arises as to how the action as a whole is to be judged morally if the respective parts of the action, however, have different evaluations.<sup>46</sup> Thus, as in the case of the EU sanctions against Russia, the intention of the sanction sender (EU) can be evaluated as morally good. The action consequences, however, can be all in all morally reprehensible or some of them can be good, some of them can be bad. The Doctrine of Double Effect is a conceptual approach that attempts to resolve this problem and to subject an action – despite divergent evaluations of the respective parts of the action – to moral scrutiny in its entirety.<sup>47</sup>

The Doctrine of Double Effect is based on the attempt to morally justify an act of self-defense described by Thomas Aquinas. The conditions contained in this attempted justification are essentially identical to the above listed principles regarding the legitimacy of a just war. In this respect, the Doctrine of Double Effect offers a complement to the previously described attempted justification of the moral status of economic sanctions. The doctrine starts with its justification where the just war principles attempt fails: Namely the actor's intention.

In the following section, the Doctrine of Double Effect is briefly explained. Subsequently, the EU sanctions against Russia will be used to show how sanctions processes with positive and negative action consequences can be morally justified.

## VI. The Doctrine of Double Effect

The basic assumption of the Doctrine of Double Effect is that an action with a conscious evil intention cannot be permitted because it violates moral principles, such as the individual right to life. This includes actions that have the realization of something good in mind, however, intend to achieve this goal with the help of a bad intention. As Kamm argues, “[i]f we intend an evil (even as a means), bringing about the evil would give us a reason for action and this is thought to be wrong.”<sup>48</sup> An exception to this rule exists if the actor has the realization of something good in mind and a good as well as a bad side consequence de-

<sup>46</sup> Cf. Dietmar von der Pfordten, “Moralisches Handeln und das Prinzip der Doppelwirkung,” in *Handbuch Handlungstheorie: Grundlagen, Kontexte, Perspektiven*, eds. Michael Kühler and Markus Rüther, 334-340 (Stuttgart: J. B. Metzler Verlag, 2016), 334.

<sup>47</sup> Ibid., 334.

<sup>48</sup> Frances Myrna Kamm, *Intricate Ethics: Rights, Responsibilities, and Permissible Harm* (New York, Oxford: Oxford University Press, 2007), 21.

velops within the framework of his action. If the actor does not have an evil intention from the outset and the negative action consequence can be interpreted as a collateral damage that occurred by chance, an action with a double effect can be regarded as morally justified. In his work *Summa Theologiae*, Thomas Aquinas describes the self-defense of a person against an attacker who seeks to end the life of the defender as an act of double effect. The defense against the attacker constitutes a good intention because it is an act against an unjust action. The death of the attacker resulting from the self-defense represents a negative consequence of this act of self-defense.<sup>49</sup> The same applies to the example of a fugitive horse-rider whose life is threatened. To escape his attackers, he is forced to ride through a narrow alley. In this alley, however, a child is lying on the ground. When the horse-rider rides down that alley the child will be trampled by the horse's hooves and as a result will die. If the rider escapes through the alley where the child lies, his action is morally permissible, even if the child is killed. The condition for the moral legitimacy of the action is that fleeing from the pursuers is the rider's basic intention. Killing the child is a side effect that he does not consciously intend and thus does not willfully bring about.<sup>50</sup> This reading of the Doctrine of Double Effect is absolutist, since it regards consciously intended negative intentions to act as morally reprehensible in the context of an act of double effect.

But as Joshua Stuchlik notes [s]ome contemporary proponents of double effect prefer a nonabsolutist version of the principle. On this view, the constraint against intentional harm is more stringent than the constraint against incidental harm, but is not the case that intentional harm is categorically prohibited. Instead, the prohibition against intentional harm is capable of being overridden by consequentialist considerations when a great enough good is at stake.<sup>51</sup>

In order to reconcile the Doctrine of Double Effect with the attempt to justify sanctions by just war principles, I consider the Doctrine of Double Effect to be non-absolutist. In this regard I refer to Stuchlik who designs a special version of the Doctrine of Double Effect "that includes at least a very strong presumption against intentional harm, leaving open the question of whether the constraint against intentional harm is ab-

<sup>49</sup> Cf. Thomas Aquinas, "Question 64: On Murder, Article 7: Whether it is Permissible to Kill a Man in Self-Defense?" in *The Ethics of War: Classic and Contemporary Readings*, eds. Gregory M. Reichberg, Henrik Syse, and Endre Beby (Malden, MA, Oxford, and Victoria, TX: Blackwell Publishing, 2016), 190-191.

<sup>50</sup> Cf. von der Pfordten.

<sup>51</sup> Cf. Stuchlik, 11-12.

solute.”<sup>52</sup> On this point how strict the presumption against intentional harm is, is in the end decided on a case-by-case basis. With reference to the question in which way incidental harm is morally permissible, Stuchlik stresses that the Doctrine of Double Effect “does not say that it is always morally permissible to act in a way that brings about incidental harm,”<sup>53</sup> but in comparison with the absolutist condition of prohibition of intentional harm the doctrine emphasizes “that incidental harm is permissible in a wider range of circumstances than intentional harm.”<sup>54</sup>

As Stuchlik points out, whether a negative consequence of action is intended or not can be determined with the help of the *Principle of Proportionality* and the *Principle of Due Care*. The *Principle of Proportionality* states that an action which includes an unconsciously created harm as a side effect is morally permissible if the harm that occurs is not disproportionate to the aspired goal.<sup>55</sup> In contrast, the *Principle of Due Care* states that an action is morally permissible if the actor has tried to limit the foreseeable but unintended harm resulting from his action from the outset. Stuchlik states this more precisely: “It is permissible to pursue a course of action that brings about incidental harm only if all reasonable steps are taken to avoid or minimize that harm.”<sup>56</sup> In the context of the EU sanctions against Russia, growing poverty due to rising food prices and living costs as well as job losses within the Russian society due to the withdrawal of Western companies from the Russian market can be interpreted as negative consequences that follow the use of economic sanctions. Due to the abandonment of the visa facilitation agreement, it is no longer possible for Russian citizens to escape easily domestic repression conducted by the Russian government. This primarily affects opposition figures and citizens who are critical of the Putin regime but are unable to leave Russia due to their financial situation or family reasons. The rate of poverty in Russia has risen in the wake of the annexation of Crimea and the resulting sanctions against the Russian economy. A significant part of the Russian population, regardless of their political orientation, lives in poverty:

According to official Russian statistics, the percentage of the population living under the poverty line has grown

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid., 13.

<sup>56</sup> Ibid., 14.



from 10.8% in 2013 to 13.8% in 2016 – which means that nearly 20 million Russians now do not have enough money to live on. Perceived poverty is even higher – according to one survey, 20-23% of the population considered itself poor in 2017, up from 15% in 2014.<sup>57</sup>

The mobilization of male civilians carried out by the Russian government is another factor that silences critical voices, especially among the young population. Well-educated academics who can financially afford to move to other countries and quickly find a job there have an advantage over those ones who are less educated and have less financial chance to lead a life for themselves outside Russia.

The disconnection of Russian banks from the SWIFT system, significant restrictions regarding the issuance of work and travel visas, and the damage to the Russian economy, which means significant losses in cost of living and job security for Russian civilians, are all factors that foster the so-called rally around the flag problem. The population of a sanctioned state rallies behind the government's political decisions because the sanctions and the suffering generated by the sanction sender are perceived as an act of war. Such an act of solidarity between the civilian population and the government becomes particularly problematic when there is a one-sided propagandistic media coverage in the sanctioned state.

In this regard Robert Gold, Julian Hinz, and Michele Valsecchi argue that

sanctioning countries should think about ways to minimize the rally around the flag effect resulting from economic sanctions. In the Russian case, economic sanctions nicely fit into the Kremlin's narrative of a hostile Western World interfering with the Russian way of living. Obviously, it is difficult to counter such propaganda in a country where the government controls the media.<sup>58</sup>

All these factors make it clear that economic sanctions are actions that involve negative consequences in addition to a positive effect. An absolutist reading would regard such actions as morally repreh-

<sup>57</sup> "Socioeconomic Inequality in Russia," *European Parliament*, accessed 30 July, 2023, [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_ATA\(2018\)620225](https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2018)620225).

<sup>58</sup> Robert Gold, Julian Hinz, and Michele Valsecchi, "To Russia with Love? The Impact of Sanctions on Regime Support," *Kiel Working Papers* 22/12 (2023): 19.

sible insofar as the negative consequences are deliberately brought about by the actor taking the action. Based on Stuchlik's assumptions, the EU economic sanctions against the Russian Federation can be seen as morally justified, since the consciously induced suffering of innocent people serves the realization for the greater good. This consequentialist interpretation of the Doctrine of Double Effect states that economic harm resulting from the imposition of economic sanctions may also lead to further harm within Russian civil society, as this all serves the purpose of bringing the Russian war of aggression in Ukraine to a swift end. In a statement of the European Council, it becomes clear that the use of economic sanctions and the resulting damage to the Russian economy is intended to stop the belligerent activities of Russia in Ukraine. Creating suffering among the Russian population is explicitly emphasized as an undesirable intention: "The export and import restrictions exclude products primarily intended for consumption and products related to health, pharma, food and agriculture, in order not to harm the Russian population."<sup>59</sup> If suffering nevertheless occurs within the population, this is not due to the deliberate creation of it on the part of the actor. However, since the economic sanctions against Russia and the resulting negative consequences serve the purpose of bringing the war in Ukraine to a rapid end, the existence of suffering within the Russian population is permissible, since this serves the realization for the greater good. In accordance with the Principle of Proportionality, the economic sanctions imposed by the EU are in proportion to the countersanctions imposed by Russia. Citizens from EU member states must accept stricter regulations when entering Russian territory than was previously the case.

The import of European goods to Russia is also subject to strict prohibitions, with exceptions only in rare cases. The Principle of Due Care is also observed within the framework of the EU economic sanctions against Russia, as the EU has created various exemptions in imports and exports of European goods from and to Russia in order to minimize possible negative consequences for the Russian population.<sup>60</sup> The attempt to justify the moral legitimacy of the EU economic sanctions against Russia based on the Doctrine of Double Effect, explains the moral status of such measures as given, since the EU as a central actor did not consciously intend the negative consequences for the Russian population within the framework of the sanctioning process. According to Stuchlik's nonabsolutist concept, deliberately induced

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<sup>59</sup> "EU Sanctions against Russia Explained."

<sup>60</sup> Ibid.

suffering would not be judged morally reprehensible from the outset, provided that corresponding conditions are met. Bringing Russia's war against Ukraine to an end represents an objective that can be described as something for the greater good. From a consequentialist point of view, civilian suffering of the Russian population might even exist, if it would contribute to the end of war. However, focusing on the actor's intention is problematic because the intention to act is itself subject to external influencing factors. The intention to do something good, even if something bad follows from it, can be morally legitimate if the actor compares the action with his moral code of values and comes to a positive evaluation result in the course of this comparison. Nevertheless, this moral code, which is used to check intention, is a variable construct that is available to actors in different forms and characteristics. Whereas one actor, with the help of his moral code, concludes that his intention to act is not to be regarded as morally bad (even if negative consequences follow from the action) another actor regards the action of his counterpart as morally bad because, in his view, the intention behind it is already considered as morally reprehensible. For the EU, sanctions are a good thing because they are a reaction to the reprehensible behavior of the Russian government. For the Russian government the EU sanctions are, on the contrary, a bad act which view Russian behavior as morally bad and punish it in this respect. Focusing on intention as the fundamental standard of moral evaluation appears to be so difficult because the actors' intentions are based on different moral concepts. These concepts are the result of a consensus process. For example, the view set forth in the Charter of the United Nations that all member states are obligated to preserve a global peace order and must expect negative consequences if they do not comply with the obligations is the result of a consensus process. The same can be said regarding the decision-making processes at EU level. Thus, the intention behind EU decisions is the result of a substantive consensus among the 27 EU member states and the EU institutions. Accordingly, the sanctioning process on Russia is the result of a negotiation process reached by consensus among all member states. Similarly, the intention behind the imposition of sanctions is the result of a collective decision-making process influenced by various external factors. It is crucial to consider these factors when examining the moral status of actions. The two presented attempts to justify economic sanctions neglect external factors of influence. These attempts assess intention as a rigid entity that is free from external influencing factors.

## VII. Criticism of the justification attempts: Intention is not suitable as a point of reference

As the attempts to justify economic sanctions have made clear, intention is the basic point of reference for examining the moral status of such measures. In the case of the EU sanctions against Russia, the intention to act is produced by several actors. The EU member states, and EU institutions make their individual contribution to generating a common intention. Russia's intention to act, on the contrary, is created by a singular actor. Both the EU and the Russian Federation legitimize their intentions to act by referring to different ideas of what moral action means on the world political stage. Since political decisions, which include sanctions, are usually a product of collective decision-making processes, their emergence is characterized by a multitude of different opinions made by government representatives, advisors, experts and also formed through external factors (e.g., political world situation, wars, crises). Nevertheless, a big amount of internal and external influencing factors increases the risk that the decisions made are flawed. Thus, individual views on certain issues significantly influence a decision-making process. The intention of the government officials of one state to act vis-à-vis the government of another state is often unknown for both sides.

According to Sebastian Rosato, this is due to insufficient information resources available to the actors about their respective counterparts. In Rosato's view, collecting and organizing primary and secondary sources of information about the respective intentions of states poses hurdles, as unlimited access to these sources of information is difficult. Primary sources of information about states' intentions to act present a particular obstacle because these intentions are known only to a small circle. Since a state represents a structure of a political unit, the state's intentions to act cannot be judged from the outside by looking only at the state itself. It is necessary to look inside the political entity, specifically at the government, which is the head of the unit. Rosato stresses that "[a] leadership group is [...] made up of several officials – typically the head of the government plus a handful minister and advisers – all of whom have their own personal opinions."<sup>61</sup> The government's intentions are the result of a negotiation process, an agreement on a common denominator. The divergent opinions prevailing in the government must be brought to a common point through a negotiation process. However, it is difficult for other states or their governments to obtain accurate in-

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<sup>61</sup> Sebastian Rosato, *Intentions in Great Power Politics: Uncertainty and the Roots of Conflict* (New Haven and London: Yale University Press 2021), 10.

formation about the outcome of this negotiation process – the government’s intention – because they do not participate in the process themselves. This, in turn, makes it difficult to obtain precise certainty about a state’s intention or behavior in a given situation, which in turn leads to a high degree of uncertainty and knowledge disadvantage.<sup>62</sup> The reasons why policy makers come to flawed decisions are due to their limited cognitive abilities. Alex Mintz and Karl de Rouen Jr. describe this issue as follows: “One of the main problems that leaders may encounter in crises is their tendency to be influenced by biases and errors in decision making because of cognitive limitations.”<sup>63</sup>

An essential psychological approach explaining political decision-making processes at the international political level is the concept of groupthink developed by Irving Janis. He describes how decisions are made within groups and why decisions made within these groups can be flawed and miss the actual goal of group dynamics. According to the groupthink model, decision-making in groups occurs through consensus. At the same time, consensus-building leads to disregard of alternative ways of decision-making. Given the conformity of opinion, dissenting opinions or alternative proposals are seen as damaging to consensus. Group members who hold a position that deviates from the majority opinion are put under pressure by other members in order to adjust their opinion to the prevailing unified opinion.<sup>64</sup> The Russian countermeasures against the economic sanctions imposed by the EU illustrate how flawed consensus decisions on the part of the sanction sender can be and how problematic it is for the sender to correct possible mistakes. After the annexation of Crimea in 2014, the Russian government adopted an austere budgetary policy.

The generated state surpluses were transferred to a state property fund. In this way, financial reserves were built up, allowing Russia a certain degree of political and economic freedom of action even after the imposition of massive economic sanctions. Moreover, since 2014 the Russian state has already worked out alternative ways of action which reduce its dependence on Western goods and services. Jentleson implies that “[e]ven when senders have major economic advantages target states can have [...] counterstrategies to reduce costs incurred from the sanctions. One is to import substitution and shortage man-

<sup>62</sup> Ibid., 21-22.

<sup>63</sup> Alex Mintz and Karl de Rouen, Jr., *Understanding Foreign Policy Decision Making* (Cambridge: Cambridge University Press 2010), 38.

<sup>64</sup> Cf. Irving L. Janis, *Groupthink: Psychological Studies of Policy Decisions and Fiascoes* (Boston, MA: Wadsworth/Cengage Learning, 1982).

agement.”<sup>65</sup> The Russian state also braced itself against Western energy sanctions at an early stage. Since 2014 and especially since 2022, Russia has been seeking non-European consumers for its energy products. The Russian government responded to the sanctions imposed on Russian banks in the wake of the annexation of Crimea by setting up an independent credit card system (Mir).<sup>66</sup> According to John Mearsheimer, the Russian war of aggression against Ukraine is the result of a misguided consensus thinking of Western countries, first of all the European Union and the USA. Leaders in Europe and the US agreed that greater political integration of Ukraine into the Western Hemisphere would weaken Russia’s influence on Ukraine’s political system.<sup>67</sup> According to Mearsheimer, the economic sanctions imposed by the EU are not effective because the sanctions have an intention that disregards the Russian intentions behind the war of aggression against Ukraine:

Given that most Western leaders continue to deny that Putin’s behavior might be motivated by legitimate security concerns [...] [t]he West is instead relying on economic sanctions [...]. But [...] History shows that countries will absorb enormous amounts of punishment in order to protect their core strategic interests.<sup>68</sup>

Limited cognitive abilities of political decision makers on the part of the EU, lack of insight into political events in Russia due to missing or inaccurate sources of information as well as decision-making processes which – in the sense of the Groupthink concept – insist on consensus and do not allow dissenting opinions, not only lead to a flawed understanding of what is meant by a good moral action on the global political level. All these factors also produce a flawed intention to act, which decision-makers invoke in terms of justifying the moral viability of their actions.

### VIII. Conclusion

As this study has shown, there are ways to morally justify economic sanctions. Precisely because of their warlike nature, the application of

<sup>65</sup> Jentleson, 15.

<sup>66</sup> Cf. “The Fight over the Future of Global Payments,” *The Economist*, May 18, 2023, <https://www.economist.com/leaders/2023/05/18/the-fight-over-the-future-of-global-payments>.

<sup>67</sup> Cf. John J. Mearsheimer, “Why the Ukraine Crisis is The West’s Fault: The Liberal Delusions That Provoked Putin,” *Foreign Affairs* 93, no. 5 (2014): 77.

<sup>68</sup> *Ibid.*, 86.

just war principles appears to be suitable for the verification of their moral status. However, the application of the right intention principle reveals a weak point. As the empirical example of the EU sanctions against Russia has shown, the actor's intention can be good, but during the action there might emerge negative consequences. Correcting this weakness with the help of the Doctrine of Double Effect does not completely solve the existing problem. This becomes particularly clear when one takes a closer look at the intention of the actor.

Political decisions are consensus-decisions. As the groupthink concept illustrates, dissenting opinions are neglected in the consensus-building process. In addition, advisors, experts and employees influence the opinion of government officials to a considerable extent. This leads to the formation of specific moral concepts. How and in what way an action can be evaluated as morally good is assessed differently by governments. This is particularly evident regarding the Russian war of aggression against Ukraine. The Russian government has created its own moral code based on historical events, individual opinions and fantasies of maintaining power. This is contrary to the moral codes of Western states. The difference in moral concepts also results in different intentions to act. While the Russian government sees its war against Ukraine as an act based on a good intention, the EU considers this behavior morally illegitimate, as it violates fundamental moral as well as legal norms. These different views make it difficult to evaluate sanctioning procedures as morally good or bad. Consequently, the mere focus on intention is insufficient as an assessment standard for the moral status of an action. As the example of the EU sanctions against Russia shows, a broader perspective is needed that also includes external factors in the analysis.

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