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ABSTRACT

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ECONOMIC SANCTIONS IN MODERN INTERNATIONAL LAW

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GENERAL CHARACTERISTICS OF THE THESIS

Relevance and development of the topic. The limitations on military force in modern international law have made the use of non-military methods a logical necessity for resolving disputes.

In modern international law, the UN Charter defines the legal basis for the application of economic coercive measures as one such instrument. Since the adoption of the UN Charter, particularly in the modern era, the application of economic coercive measures has played an important role in preventing and removing threats to international peace and security, as well as in maintaining stable conditions of peace and security. In this context, economic coercive measures act as a guarantor of the international legal order alongside the institution of legal responsibility.

Currently, issues related to economic sanctions imposed by individual states or collectively against violations of international legal obligations have become significantly more relevant. These issues are not uniform; they also have legal, political, and economic characteristics. In this context, it is necessary to mention the following issues that highlight the international legal regulation of economic sanctions: 1. In many cases, a violation occurs when the political interests of individual states (e.g., aggression, genocide, war crimes against the Republic of Azerbaijan, Georgia, Ukraine, the Russian Federation, and other sovereign states) takes precedence over the universal rule of law; 2. Massive and systematic violations of human rights and freedoms in certain states (e.g., Syria, Somalia, etc.); 3. obligations under international economic law: a) suspension or violation of mutually agreed privileges and concessions of an intangible nature, for example, those provided for by the law of the World Trade Organization (hereinafter referred to as the WTO); b) breach of obligations under international economic law to protect property (goods) from political risks; 4. failure to comply with the decisions of international arbitration tribunals and courts as a means of peaceful settlement of international disputes, etc. If these issues arise, it becomes necessary to apply economic sanctions as a measure of international legal coercion.

Practice shows that the application of harsh economic sanctions leads to severe humanitarian crises. The application of economic sanctions often causes a significant portion of a country's population to fall below the subsistence level. Therefore, the legitimacy of economic sanctions is often questioned. This is because a comprehensive analysis of the legality and fairness of their application raises several questions in international law doctrine. Economic sanctions can only be considered legitimate if they meet certain criteria. In some cases, the sanctions applied, especially unilateral ones, do not meet many of these criteria.

The contemporary system of international economic relations, shaped by the globalization of commercial activities and the ongoing process of economic integration, renders a state targeted by unilateral sanctions from powerful economies effectively unable to access the global financial and trading systems. Accordingly, it can be stated that the process of globalization has turned unilateral economic sanctions into an effective tool for developed countries to exert pressure on developing countries. As this process deepens, the impact of this pressure will also increase. Thus, the development of global trade and the deepening of economic cooperation between states further increase the vulnerability of economically weak states to economic pressure from economically powerful states.

In contemporary international law, international legal norms governing the application of economic sanctions perform an important preventive function. This is expressed, first and foremost, in the fact that the very possibility of imposing economic sanctions on a potential violator has a regulatory effect. In this way, it ensures that the violator's behavior is brought into line with the requirements of international legal norms in a more precise and voluntary manner.

As can be seen, there are currently a few theoretical and practical problems related to the theoretical aspects, mechanism of application, and effectiveness of economic sanctions. Therefore, to gain a deep understanding of issues related to economic sanctions, their essence, features of application, and effectiveness, it is vital to involve all issues existing in this area in comprehensive scientific research. Solving this problem based on international law is

particularly relevant, and comprehensive scientific research and theoretical analysis undoubtedly play a special role in this regard.

The above considerations confirm the relevance of the research topic, and we have therefore decided to select it as the subject of our scientific research.

When writing the dissertation, an analysis of scientific research related to the subject of the study was conducted. It should be noted that in domestic legal doctrine, the topic of the study is usually considered at the textbook level (A.I. Sadygov[1], E.A. Aliyev[2], L.H. Huseynov[3]).

The topic of economic sanctions and its various aspects have been the subject of research in the legal doctrine of foreign countries at different times. In this regard, the monograph by M.V. Keshner, published in 2015 [4], and the doctoral dissertation by M.B. Ryzhova, defended in 2006[5], are of great importance, as they share the same title as the subject of the study. The aforementioned monograph and dissertation analyze issues related to the legal nature of economic sanctions, their relationship to legal liability, and their effectiveness and legitimacy.

In doctrine, the issue of economic sanctions is sometimes analyzed in a historical and theoretical context[6], or in the context of

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[1] Sadıqov, Ə.İ. Beynəlxalq iqtisadi hüquq: Dərslik / Ə.İ.Sadıqov. - Bakı: Bakı Universiteti nəşriyyatı, 2008. - 396 s.

[2] Əliyev, E.Ə. Beynəlxalq iqtisadi hüquq: Dərslik / E.Ə.Əliyev. - Bakı: "Günəş-B" Nəşriyyat-poliqrafiya müəssisəsi, - 2016. - 690 s.; Beynəlxalq (publik) hüquq kursu. Dərslik / E.Ə.Əliyevin ümumi redaktəsi ilə. I cild. Ümumi hissə. Bakı: Günəş-B nəşriyyat-poliqrafiya müəssisəsi, 2018. - 752 s.

[3] Hüseynov, L.H. Beynəlxalq hüquq. Dərslik. – Bakı: Qanun, 2012. - 368 s.

[4] Кешнер, М.В. Экономические санкции в современном международном праве / М.В. Кешнер. – Москва: Проспект, – 2015. - 184 с.

[5] Рыжова, М.В. Экономические санкции в современном международном праве: / автореф. дис. канд. юрид. наук. / – Казань, – 2006. – 25 с.

[6] Негматова, Т.М. Санкции как внешнеполитический инструмент в деятельности международных организаций и государств: историко-теоретический аспект: / афтор. дис. кан. ист. наук. / – Душанбе, 2018. – 26 с.

the relationship between diplomacy and international law[7], or in the context of the impact of economic sanctions on international private relations[8], or in the context of countermeasures[9]. Sometimes, in legal doctrine, the subject of research is analyzed from the perspective of the application of economic sanctions within the framework of the UN, by the European Union (hereinafter referred to as the EU), or by specific states.

At the same time, the works of the following authors are considered as the scientific and theoretical basis of the dissertation: A.M. Grachev, Jenke Keskin, G.A. Hakimdar, G.Ch. Hafbaer, I.I. Lukashuk, G.I. Kurdyukov, G.I. Tunkin, M.F. Malikova, M.D. Aljauran, N.I. Dmitrieva, R.F. Mamedov, S.V. Bakhin, S.V. Chernichenko, V.A. Vasilenko, and others.

Object and subject of research. The subject of this study is the issue of applying economic sanctions as a coercive measure in

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[7] Крючкова И. Н. Влияние экономических санкций Совета Безопасности Организации Объединенных Наций на исполнение частно-правовых договоров международного характера / Автореф. дис. на соис. уч. степ. канд. юрид. наук. - Москва, 2005. - 35 с.; Войтович, Е.П. Экономические санкции в международном частном праве // - Новосибирск: Вестник Новосибирского государственного университета, серия Право, - 2014. Т. 10, вып. 2, - с. 112-119; Бутакова Я.С. Международные экономические санкции в международном частном праве: теоретический аспект / Международное право и международные организации / International Law and International Organizations. 2024. № 1, - с.36-55.

[8] Крючкова И. Н. Влияние экономических санкций Совета Безопасности Организации Объединенных Наций на исполнение частно-правовых договоров международного характера / Автореф. дис. на соис. уч. степ. канд. юрид. наук. - Москва, 2005. - 35 с.; Войтович, Е.П. Экономические санкции в международном частном праве // - Новосибирск: Вестник Новосибирского государственного университета, серия Право, - 2014. Т. 10, вып. 2, - с. 112-119; Бутакова Я.С. Международные экономические санкции в международном частном праве: теоретический аспект / Международное право и международные организации / International Law and International Organizations. 2024. № 1, - с.36-55.

[9] Крицкий, К.В. Санкции и односторонние ограничительные меры в современном международном праве: / дис. канд. юрид. наук. / – Москва, 2019. - 186 с.

contemporary international law. The subject of the study is a comparative analysis of international legal norms and the legislation of the Republic of Azerbaijan (hereinafter referred to as the RA) with a view to determining the theoretical and practical aspects of the legal regulation of economic sanctions in contemporary international law, the interaction between the characteristics of the application of unilateral and collective economic sanctions, economic sanctions and legal liability, the legitimacy of economic sanctions, and other legal issues.

Research goals and objectives. The main goal of the research is to analyze the theoretical aspects of economic sanctions in international law, the features of their implementation mechanism scientifically and comprehensively, as well as to reveal problems related to the effectiveness of economic sanctions in the conditions of a globalized market economy and to propose ways to solve them.

In order to achieve the indicated goal, the following **tasks** were set in the research work:

- studying the nature and system of legal obligation in ensuring modern international law;
- studying the concept and characteristics of economic sanctions as a coercive measure in the doctrine of international law;
- researching the characteristics of economic sanctions and defining their types.
- analysis of the purpose and specific legal consequences of economic sanctions with a view to determining their purpose;
- research into the criteria for the legitimacy of economic sanctions;
- examination of the universal legal basis of economic sanctions and the role of the UN in the regulation of sanctions;
- study of the characteristics of the EU economic sanctions model;
- analysis of the characteristics of the US model with a view to identifying problems in the application of unilateral economic sanctions;
- determination of the legal basis for AR's unilateral economic sanctions against Armenia's aggression;

- study of multilateral counter-coercion measures within the framework of solidarity against Armenia's aggression and making relevant recommendations.

The research methods. In the process of development of a thesis, both general scientific methods (transition from abstract to concrete, systematic-functional approach, formal-logical (analytical), historical approach method), as well as the methods of special legal sciences (comparative jurisprudence, systematic analysis, generalization of theoretical, normative and practical materials, induction and deduction), etc. methods were used extensively.

The main scientific propositions defended. As a result of the conducted research, a number of new propositions, conclusions and proposals of theoretical importance, a new procedure for resolving current issues are proposed:

1. Economic sanctions in international law are lawful coercive measures of a unilateral or collective nature, directed against a state, its economy and legal system, individuals and legal entities that have committed an offense in response to a violation of international law, aimed at ensuring international legal order by compelling the state to fulfill its international legal obligations.

2. Sanctions and legal liability, broadly related to measures of legal coercion and expressing a response to a committed offense, serve as a substantive element of protective legal relations. In this sense, sanctions (primarily as the authority of the victim state to apply coercive measures) relate to subjective rights, while liability (as the obligation of the perpetrator state to remedy the damage caused) relates to legal obligations.

3. The system of economic sanctions in international law includes coercive measures that may vary depending on their object and scope. Within this system, it is appropriate to distinguish between economic sanctions applied collectively and those applied unilaterally in terms of their legal significance. In the context of this differentiation, the concept of “economic sanctions” can be considered in a narrow and broad sense. In a narrow sense, this concept refers to collective economic sanctions applied by international organizations (the UN, the EU), in particular the UN

Security Council (hereinafter referred to as the UNSC), and in a broad sense, this concept refers to unilateral economic sanctions along with collective ones.

4. An important advantage of collective sanctions, particularly economic sanctions, imposed on the basis of a UN Security Council decision, can be justified by: a) the need to protect interests erga omnes; b) condemnation by the international community of the conduct of the state that committed the violation; c) the fact that its legitimacy is disputed in only a few cases. The application of economic sanctions in this form takes place within the framework of the national legal obligation of member states to implement them.

5. Unilateral economic sanctions, acting as a response by a subject of international law to a violation of the law, are a form of a state's de lege lata fulfillment of its obligation to protect the international legal order. The application of sanctions in this form consists in the main subject of international law using its subjective power in the form of a response in the event of a violation. On the one hand, economic sanctions in this form do not violate the principle of sovereign equality (Parem non habet Imperium) of international law, provided that they are lawful. On the other hand, the introduction of unilateral economic sanctions serves as a preliminary stage within the framework of an international organization, especially for collective economic sanctions applied by the UN Security Council.

6. In international law, the legitimacy of economic sanctions is determined by the legality of the coercive measure, regardless of the form in which it is applied. Legitimacy is determined by the norms of international law (international custom and international treaties), especially the fundamental principles of a mandatory nature (jus cogens). The legitimacy of economic sanctions applied contrary to these principles raises questions.

7. In international law, the purpose of economic sanctions is of a general nature, they may also give rise to spesific legal consequences. The realization of such spesific legal effects occurs

through the application of economic sanctions in the form of imperative norms.

8. The economic sanctions that the AR may impose on Armenia in connection with its aggression have their own characteristics regardless of their form. Thus, unilateral economic sanctions with a valid legal basis are applied in the interests of ergaga omnes. The incorporation of the fundamental principles of international law into the public policy of the Republic of Azerbaijan (ordre public) ensures the legitimacy of unilateral countermeasures taken by the Republic of Azerbaijan or its participation in collective measures against any actions by other states that contradict these principles. In this context, although multilateral economic, energy, and communications projects implemented at the regional level do not provide for direct sanctions against Armenia, Armenia's exclusion from these projects and the actual application of economic restrictions against it is lawful.

The scientific of novelty of the research. The scientific novelty of research can be explained by the fact that, for the firts time in the field of national law, this issue has been scientificially analyzed at the level of a dissertation study. Concerning this, the dissertation represents a monographic research work dedicated to a comprehensive analysis of the problem. Moreover, conducting a scientific study of the topic in the context of the interaction between international legal norms and the domestic legislation of the Republic of Azerbaijan further emphasizes the scientific novelty of the study.

Theoretical and practical significance of research. The theoretical significance of the study lies in the fact that the scientific propositions formulated therein and the conclusions drawn can serve as a solid theoretical basis for further scientific research related to the issues under consideration. In addition, the dissertation can be used in the educational process as a teaching resource, in particular when teaching subjects such as international law, international economic law, and private international law.

The practical significance of the study lies in the fact that its results can be used in the process of applying unilateral economic sanctions, improving domestic legislation and international legal acts

regulating economic sanctions regimes, as well as in the development and adoption of de lege ferenda regulatory legal acts.

Approbation and application. The scientific propositions and results achieved in the dissertation are reflected in scientific articles published in authoritative scientific journals in Azerbaijan and abroad, as well as in the materials of local and international scientific and practical conferences in which the applicant participated.

The organization where the dissertation work was performed. Azerbaijan National Academy of Sciences Institute of Law and Human Rights**.**

The total volume of the dissertation work with characters indicating the volume of the structural sections of the dissertation separately. The research work consists of introduction, four chapters, 13 paragraphs, 2 subparagraphs, conclusion and list of used literature.

Introduction - 1434 characters, Chapter I - 74987 characters, Chapter II - 41640 characters, Chapter III – 8344 characters, Chapter IV - 34433 characters, Conclusion - 10818 characters. Excluding the list of used literature, the total volume of the dissertation consists of - 259668 characters.

THE MAIN CONTENT OF THE THESIS

The **Introduction** of the thesis defines the relevance of the research topic, the degree of scientific processing of the problem, the goals and objectives of the research, states the subject, object, research methods, presents defense clauses, provide information about the approval of the research results and the structure of the thesis

Chapter I of the thesis entitled **"Theoretical problems of coercive measures in modern international law"** consists of four paragraphs.

The first paragraph analyzes the essence and system of coercion in international law. It states that the exercise of coercion is one of the key issues in contemporary international law. In this

context, a comparative analysis of the approaches to studying this issue that exist in legal literature is conducted. It is established that the main characteristic of coercion in international law as a legal institution is its direct focus on participants in international relations. The formula “ubi jus, ibi remedium” (“where there is law, there is a means of enforcing it”) expresses the essence of coercion and is based on the imperative norms (jus cogens) of international law. International law classifies coercive measures, noting their systemic nature. Collective and individual forms of coercive measures are distinguished as a criterion for classification based on the range of participants. Another criterion is the basis for application: depending on this, coercive measures are divided into sanctioned and non-sanctioned, or contractual types. It should be emphasized that in both cases the terms used are conditional, since even non-sanctioned or contractual coercive measures contain an element of sanction. A state whose rights have been violated or restricted resorts to coercive measures, which in a broad sense are sanctions. In other words, sanctions, which serve to enforce responsibility under international law, act as coercive measures in the event of a subject's failure to fulfill its international legal obligations.

The second paragraph, entitled “Sanctions as a measure of international legal coercion” analyzes the legal nature of sanctions in international law and their relationship to legal liability. The main doctrinal provisions in this regard are subjected to comparative analysis, the relationship between sanctions and legal liability is established, and the legal content of sanctions is determined. It has been established that in international law, sanctions and liability act as sub-institutions of the institution of international legal coercion, possessing both similar and different characteristics. This approach is justified by the fact that: 1) both, in a broad sense, relate to coercive measures; 2) both express a reaction to a committed offense and serve the purpose of combating that offense. However, unlike responsibility, the basis for applying sanctions is not the violation itself, but the refusal of the offending state to cease the international violation or voluntarily fulfill its obligations arising from protective legal relations; 3) both sanctions and responsibility are elements of

protective legal relations. In this sense, sanctions relate to subjective rights (such as the power of the injured state to apply coercive measures), while responsibility relates to legal obligations (such as the obligation of the offending state to remedy the damage caused); 4) Sanctions do not completely replace responsibility; for the latter to be applied, it is important that the guilty party refuses to cease the international wrongdoing. In this sense, sanctions serve as a means of ensuring responsibility, but do not change the essence of responsibility and its legal consequences.

The paragraph provides a comparative analysis of concepts (in particular, countermeasures, restrictive measures, unlawful measures, restrictions) that are similar in terms of defining the legal content of sanctions but are interpreted differently in legal doctrine. For this purpose, international legal documents and doctrinal approaches are analyzed. The conclusion reached is that, although it is not mentioned in official international documents, the term "sanction" is used as a generalizing concept encompassing coercive measures that express a reaction to an international wrongful act (in accordance with its nature). In this context, it is necessary to understand the concept of "sanctions" in both a narrow and broad sense. In fact, in the narrow sense, 'sanctions' include measures applied collectively, in the broad sense, "sanctions" also include measures applied unilaterally (unilateral sanctions). Although the application of collective (especially through international organizations) and unilateral (by individual states) sanctions differs in terms of the subject, legitimacy, and legal consequences. Furthermore, unilateral sanctions may only constitute the initial stage of collective sanctions that will be applied by the UN and other international organizations if they do not contradict the imperative norms of international law.

Therefore, in international law, sanctions are unilateral or collective coercive measures of a political, economic, or military nature applied to a state, its institutions, individuals, and legal entities that have violated international law, in response to the violation of international law and aimed at compelling the state to comply with its international legal obligations.

The third paragraph analyzes the features of the international legal regime of economic sanctions. In international law, economic sanctions are defined as an element of the mechanism for responding to violations of the law that do not involve the use of military force. In the context of Article 41 of the UN Charter, economic sanctions serve to protect erga omnes interests. Given that sanctions applied for this purpose in any form entail economic consequences, economic sanctions in the modern era are a more humane measure of coercion.

This paragraph provides a comparative analysis of economic sanctions in international law and sanctions in international economic law. It notes that: 1) while economic sanctions in international law are public law in nature and have a political and legal purpose, in international economic law sanctions are a type of other economic measures; 2) while economic sanctions in international law preserve the international public order, the application of sanctions in international economic law serves to restore the international economic legal order; 3) the actual basis for the application of sanctions in international economic law is a violation of the provisions of an international treaty on economic turnover. Against the backdrop of these differences, sanctions in international economic law are characterized by the following: 1) they can be applied in a kind of collective form; 2) the institutional mechanisms for their application also serve as an alternative to judicial or arbitration proceedings for the resolution of disputes.

Summarizing the relevant characteristics, the author's definition of economic sanctions is as follows: in international law, an economic sanction is a legally binding measure of an economic nature, applied unilaterally or collectively within the framework of conditions permitted by international law, with the aim of ensuring international legal order by influencing the state that has committed the offense and its economy in response to the offense.

The fourth paragraph classifies economic sanctions in international law. In this regard, doctrinal approaches, existing international documents, and their application in practice are analyzed. It is acknowledged that the absence of a specific, precise

list of economic sanctions as a coercive measure in international legal documents and the uncertainty of the classification used in Article 41 of the UN Charter hinder the existence of a unified system of economic sanctions, paving the way for the use of various criteria in the doctrine of classification. Regarding this, various classification criteria are examined. It is emphasized that the negative humanitarian consequences of the application of economic sanctions necessitate the use of "targeted" (Smart-Smart sanctions) and "financial" sanctions.

Noting the importance of technological sanctions, which have become widespread in recent times, the following classification of economic sanctions applied unilaterally or collectively within the framework permitted by international law is proposed: trade sanctions (trade embargoes, bans or restrictions on access to markets, financial resources or infrastructure); technological sanctions (prohibition or restriction of access to technologies and resources, technical termination of service, etc.); financial sanctions (seizure and freezing of accounts, blocking of foreign assets, restriction of access to financial markets, etc.).

The second chapter, entitled **"The Purpose and Criteria for the Legitimacy of Economic Sanctions in International Law"** consists of two paragraphs. It includes the first paragraph, **"The Purpose of Economic Sanctions in Contemporary International Law"**

The first subparagraph analyzes the purpose of economic sanctions as an essential element of their imposition. Here, it is noted that the purpose plays a significant role in determining the application of economic sanctions. Thus, the scope, intensity, and effectiveness of economic sanctions must be proportionate to the objectives that justify their use. In this sense, economic sanctions have not only a political but also a legal purpose. The purpose of economic sanctions (e.g., policy change, weakening of a country's potential, slowing economic development, etc.) must be determined on a case-by-case basis depending on the situation. The fact that it is not legal and is used only for political purposes may call into question the legitimacy of economic sanctions. In this regard, the

legitimacy of the use of unilateral sanctions aimed at overthrowing the government is not ensured by the imperative norms of international law. To this end, sanctions should only be imposed through a collective mechanism, by a decision of the UN Security Council.

Historical experience shows that sanctions initially served the purpose of punishment and prevention of repeat violations, and then expanded to include such goals as conflict prevention, nuclear non-proliferation, protection of human rights, etc. In today's world, the main purpose of international economic sanctions should be to ensure international law and order. International economic sanctions should not pursue indirect, symbolic, inadequate, or disproportionate goals; the political interests of individual states should be pursued only on the basis of the interests of ergaga omnes.

The second subparagraph examines the impact of economic sanctions on international private contracts. It notes that the target of sanctions may include both the state and its institutions, as well as specific individuals and legal entities, which means that private legal relationships in which they participate are also subject to sanctions. This, in turn, creates legal difficulties at the stages of contract conclusion, performance, and dispute resolution.

However, the effect of economic sanctions on international contracts should not limit the rights of individuals to a fair trial and effective legal protection in the context of human rights (2008 ruling of the Court of Justice of the European Union (CJEU) in the case of Kadi and Al Barakat).

It should be noted that in international law, economic sanctions have an undeniable direct or indirect impact on international private relations, especially on contracts. This impact can occur in three stages: planning or concluding a contract; implementing an already concluded contract; and resolving legal disputes. As a result of this impact, the application of economic sanctions in international private relations takes the form of foreign law and mandatory rules based on conflict of laws rules (the principles of lex fori and lex causae).

The second paragraph examines the issue of the legitimacy of economic sanctions in international law. It points out that the

legitimacy of economic sanctions is directly linked to their compliance with international law. In other words, the legal legitimacy of economic sanctions depends on their application in accordance with international law, in particular its mandatory norms and fundamental principles. If these conditions are not met, the sanction cannot be considered lawful and legitimate. This condition applies to both collective and unilateral economic sanctions.

In the context of recent developments in international relations, it is emphasized that the recognition of UN Security Council resolutions as a standard of legitimacy is controversial. To resolve this dispute: 1) de lege ferenda, the UN should carry out appropriate reforms of the sanctions mechanism; 2) de lege lata, unilateral economic sanctions imposed by a state should be considered a form of fulfilling its obligation to preserve the international legal order. In this context, it is not the legitimacy of unilateral economic sanctions that can be challenged, but their lawful application.

It has been observed that a significant factor in the legitimacy of economic sanctions, regardless of the form in which they are applied, is the condition of proportionality. Hence, the regime of economic sanctions must be commensurate with the real threat or objectives that justify their application. This condition requires, on the one hand, minimizing the negative consequences of sanctions for the civilian population and third countries that are not at fault. On the other hand, certain procedural conditions must be observed.

The third chapter, entitled **"Models of collective application of economic sanctions in international law and unilateral economic sanctions"** consists of five paragraphs.

The first paragraph analyzes the international legal basis for the application of economic sanctions. The analysis emphasizes the importance of international customs, especially those in the field of international humanitarian law, as the legal basis for protecting interests of erga omnes. International treaties in this field are considered as the legal basis. Naturally, the provisions of the UN Charter are analyzed as the main legal document. At the same time, the role of international treaties in the field of humanitarian law as a legal basis is defined. In the context of the possibility of defining

specific mechanisms for the application of economic sanctions, the General Agreement on Tariffs and Trade (GATT) is scrutinized.

In addition to international treaties, there are international recommendations that define "soft" legal frameworks (the 1970 Declaration on Principles of International Law, the 1974 Charter on Economic Rights and Duties of States, 1981 Declaration on the Inadmissibility of Intervention in the Internal Affairs of States, 2001 draft articles on the responsibility of states for internationally wrongful acts, etc.) are analyzed in detail.

The second paragraph is entitled "The application of economic sanctions within the UN and existing problems." It analyzes the features of the mechanism for applying collective economic sanctions within the UN. It highlights that the existence of the UN Security Council in this regard stems from the UN Charter. Based on the provisions of the Charter, the authorities of the Council of Ministers to apply economic sanctions can be justified by the following provisions: 1) by applying economic sanctions, inter alia, serves the purpose of protecting international peace and security, which is the goal of the UN (art. 1, paragraph 1); 2) bears legal responsibility for the performance of tasks arising from Section VII of the Charter (art. 24); 3) determines what economic measures are taken (art. 39, 41); 4) requires a member state to apply such measures (art. 40, 41); 5) member states are subject to the Security Council when implementing a decision (art. 25); 6) a member state's obligation to implement a decision has legal precedence over its other international obligations (art. 103).

Within the scope of these powers, the Security Council is obliged to comply with international human rights law and humanitarian law in the application of economic sanctions: 1) According to Article 24, paragraph 2, of the Charter, the Security Council, in exercising its functions under Chapter VII, shall act in accordance with the purposes and principles of the United Nations; 2) the Charter's objective of maintaining international peace and security is to be pursued in compliance with the principle of justice and international law (art. 1, p. 1).

The necessity of updating the UN's mechanism for applying economic sanctions stems from several critical issues. First, the Security Council's nature as a political body means its decisions are often politically motivated. Second, placing the "primary responsibility" for international peace and security on its five permanent members undermines the principle of the sovereign equality of states. Finally, these permanent members consistently breach the "impartiality" principle as established in Article 27, Paragraph 3 of the UN Charter.

In an effort to reform this mechanism, it is proposed that jurisdiction over the imposition of collective economic sanctions be vested in the International Court of Justice, as this would ensure a more legally grounded determination of legitimacy. Furthermore, the implementation and enforcement of such sanctions should be a joint responsibility of the United Nations and the International Court of Justice.

The third paragraph analyzes the features of the EU economic sanctions model. For that end, the legal basis and institutional mechanisms of the EU are examined. In this model, the application of economic sanctions is based on EU law. In the EU model, economic sanctions are applied in the following forms: 1) UN Security Council sanctions are incorporated into EU legislation; 2) independent unilateral sanctions are applied (Treaty on the Functioning of the European Union (TFEU), art. 347); **3**) additional measures are taken to supplement and, in some cases, tighten UN sanctions.

The introduction of independent economic sanctions in the form of restrictive measures based on the EU model began in 2009 after the Lisbon Treaty came into force. These measures are applied within the framework of the Common Foreign and Security Policy (CFSP). However, the legal basis for this is Article 215 TFEU. According to the first paragraph of this article, the Council of the EU decides on the termination of economic and financial relations with third countries based on a joint proposal from the High Representative and the Commission by a qualified majority and informs the European Parliament. The second paragraph empowers

the EU Council to impose restrictive measures on natural persons, legal entities, and non-state entities, creating a legal basis for targeted sanctions, mainly in cases of international terrorism and human rights violations. The third paragraph requires that the sanctions imposed include appropriate procedures and safeguards to ensure legal remedies.

One of the features of economic sanctions in the EU model is that sanctions are considered only as a decision of the EU Council and measures taken within the framework of the CFSP. The decision to impose economic sanctions is taken unanimously by the EU Council under Articles 30-31 of the EU Treaty and enters into force upon publication in the EU's official journal.

The sanctions policy in the EU model, with all its features, acts as a comprehensive foreign policy instrument based on economic power and implemented through diplomatic and legal action.

The fourth paragraph deals with the problem of compliance with the application of unilateral economic sanctions with international law. It is noted that unilateral economic sanctions are a form of reaction of a subject of international law to an offense and a form of implementation of his duty to protect the international legal order. The legality of unilateral economic sanctions is determined by international law, its peremptory norms, particularly the basic principles. A unilateral economic sanction that is imposed in violation of the fundamental principles of international law is considered illegitimate and, consequently, unlawful. Therefore, a more accurate statement is not “unilateral sanctions cannot be lawful because they contradict imperative norms of international law”, but rather “unilateral sanctions are not considered lawful if they contradict imperative norms of international law”.

Regarding this matter, compliance with imperative norms of international law is a condition for the imposition of unilateral economic sanctions: 1) the application of these sanctions does not contravene the principle of sovereign equality of states (par in parem non habet imperium), but also must not violate it; 2) the application of these sanctions does not conflict with the principle of peaceful

settlement of disputes. The existence of this principle necessitates the use of unilateral economic sanctions as a "last resort"; 3) the application of these sanctions does not contradict the principle of non-use of force or the threat of force. In this context, unilateral economic sanctions are applied as a "means of influence" rather than as a "means of pressure"; 4) the application of these sanctions must not contradict the principle of non-interference in domestic affairs. Otherwise, unilateral economic sanctions are considered as a "means of pressure"; 5) the application of these sanctions must also comply with the international principle of respect for human rights and fundamental freedoms. Otherwise, unilateral economic sanctions would contravene human rights during peacetime and violate norms of international humanitarian law during conflict; 6) these sanctions, by their nature and intensity, should be proportionate to the nature and consequences of misconduct.

The fifth paragraph, titled "The American Model of unilateral economic sanctions" analyzes the characteristics of unilateral economic sanctions implemented by the United States. It is stated that the practice of applying the American model renders the legality and, consequently, the legitimacy of unilateral economic sanctions a subject of debate within international law. A distinctive feature of the American model is its dependency on certain factors, such as the economic power of the United States, control over international payment systems, the dominant position of the dollar within these systems, and other related elements. These factors enable the United States to exert influence over the economic and financial systems of other states.

In the American model, economic sanctions are usually based on domestic legislation. Therefore, economic sanctions are usually imposed by presidential decree. This step is based on emergency powers granted by Congress. However, most of the presidential decrees related to sanctions refer to various sources of legislation. At the same time, Congress, as the legislative body, has the authority to enact individual laws that expand or restrict existing powers. Thus, the American model is built on two legal foundations: 1) the power of Congress to pass laws in the field of foreign trade and 2) the

powers granted to the President to impose specific sanctions and declare new ones after a state of emergency has been declared n the U.S. model, economic sanctions operate based on their scope as follows: within its own territory; with respect to citizens and residents; with respect to any legal entity established under its laws but operating in the U.S. and abroad; and with respect to any natural or legal person for transactions conducted wholly or partially within the United States. In this case, unilateral restrictive measures are regulated exclusively by domestic legislation. This approach was also consolidated in the US National Security Strategy, approved in December 2017.

A certain part of the unilateral economic sanctions imposed by the United States is extraterritorial in nature. It is for this reason that they are considered secondary sanctions. These sanctions are directed against third countries and their entities that are not their direct targets but have economic ties with the sanctioned countries.

The fourth chapter, entitled "**Features of the application of economic sanctions in the practice of the Republic of Azerbaijan"**, includes two paragraphs.

The first paragraph analyzes the legal basis for unilateral economic sanctions imposed by the Republic of Azerbaijan. In the context of the conditions related to the legality of unilateral economic sanctions, the relevant features of the legal system of the Republic of Azerbaijan are identified. To this end, the legislation of the Republic of Azerbaijan, primarily the Constitution, is examined.

There is no separate legislative act that serves as the legal basis for the application of unilateral economic sanctions. In this sense, only Article 24 of the 2004 Law of the Republic of Azerbaijan "On National Security" can be considered the legal basis for the application of restrictions in the energy sector against real and potential threats. According to this article, the Republic of Azerbaijan may apply unilateral economic measures in the event of a threat to national security. On the other hand, as in the American model, there is no legislative act legalizing sanctions applied in a specific case. However, this situation does not exclude the possibility

of applying “de facto” economic sanctions (for example, against Armenia).

Within the context of determining the legitimacy of unilateral economic sanctions, Article 10 of the Constitution of the Republic of Azerbaijan establishes the fundamental principles of international law as the legal basis for the country’s relations with other states. This approach also gives priority to these principles in the formation of domestic legislation and confirms that international treaties supported by Azerbaijan are incorporated into its legal system. Consequently, it affirms the existence of a necessary legal foundation within the Azerbaijani legal system for the implementation of unilateral economic sanctions. In this case, any violation of the fundamental principles of international law in any form shall result in the application of unilateral economic sanctions against the state concerned.

The second paragraph is devoted to the specifics of applying collective economic sanctions against Armenia's aggression. It is pointed out that the legal system of the Republic of Azerbaijan has the necessary legal basis for the application of economic sanctions in this form. Thus, in accordance with article 24 of the 2004 Law of the Republic of Azerbaijan “On National Security,” in the event of a real threat to its national security, the Republic of Azerbaijan may apply collective economic measures or participate in such measures in consistent with an international treaty. In order to implement this provision, the experience of the Republic of Azerbaijan's participation in various regional mechanisms is being studied.

With regard to the imposition of collective economic sanctions against Armenia's aggression, it should be borne in mind that Armenia bears responsibility in this regard both to the international community and to the AR. In this context, it is legitimate for a third state or states that have friendly relations with the AR to apply unilateral economic sanctions against Armenia or to participate in collective sanctions. To this end, the right of third states to take legitimate coercive measures, albeit in the form of “soft law” is accepted by international law.

The conclusion of the dissertation notes the important proposals and resuls obtained in connection with the research. In general, they can be expressed as follows:

1. A coercive measure applied in the event of a subject of international law failing to fulfill its international legal obligations acts as a sanction. The application of sanctions serves to enforce the subject's responsibility under international law.

2. In this context, sanctions act as a means of ensuring legal responsibility: a) they comply with the principle of non bis in idem; b) “retaliatory measures... preclude responsibility,” which means “sanctions replace responsibility.”

3. Sanctions in international law are a measure of lawful coercion, unilateral or collective in nature, of a political, economic, or military character, aimed at compelling a state to fulfill its obligations under international law, applied in relation to a state, its institutions, and natural and legal persons who have committed an offense, as a response to a violation of the norms of international law.

4. Collective sanctions should be understood as sanctions in the narrow sense. In this meaning, sanctions include sanctions imposed within the framework of the UN Security Council, as well as “restrictive measures” imposed within the framework of other international organizations, such as the EU, including those that may be imposed by a group of states.

5. The implementation of reforms in the mechanism of collective sanctions within the UN makes it necessary: a) divide the statutory powers to impose sanctions with the UN General Assembly or transfer these powers to the UN International Court of Justice; b) jointly exercise control over the application of sanctions by the UN General Assembly and the International Court of Justice; c) apply unilateral economic sanctions

6. The general concept of “unilateral sanctions” encompasses all lawful coercive measures applied unilaterally by a specific state, including responses to a state that has violated an obligation under international law.

7. The terms “international economic sanctions” and “economic sanctions” are used interchangeably in legal doctrine.

8. The application of sanctions in international economic law, aimed primarily at protecting the international economic order, has the following features: 1) it determines its application in its specific collective form; 2) the institutional mechanisms for applying this instrument also serve as an alternative to judicial or arbitration dispute resolution. Thus, a single mechanism for resolving economic disputes operates within the WTO.

9. Economic sanctions can generally be implemented within the framework of a “complete or partial severance of economic ties” in the form of embargoes, boycotts, economic blockades, freezing of financial resources, investment bans, and other similar measures.

10. The imposition of economic sanctions in international law is primarily determined by their purpose. In this sense, economic sanctions should be used as a “means of influence” rather than a “means of pressure.” International economic sanctions should not pursue indirect, symbolic, inadequate, or disproportionate goals; the political interests of individual states should be pursued only on the basis of the interests of erga omnes.

11. The implementation of economic sanctions at the domestic level usually takes place in the sphere of private relations.

a) a decision of the Security Council on economic sanctions is binding on Member States. The forms of implementation may vary in practice among states;

b) b) the application of unilateral economic sanctions in private relations takes the form of foreign law and mandatory rules based on conflict of laws rules.

c) the application of a mandatory rule must meet the following conditions: 1) the purpose and nature of the mandatory rule and the consequences of its application must be taken into account; 2) reference to the mandatory rules of a third country is based on the applicable law (lex causae); 3) the mandatory rules of a third country must be closely related to the circumstances of the case in question;

d) the impact of economic sanctions cannot limit the right of the parties to the contract to protection in the context of human rights. As a result, there is an increased likelihood that the material losses incurred by the parties may also be compensated.

12. Compliance with international law, which determines the legitimacy of economic sanctions in international law, is characteristic of both collective and unilateral sanctions:

a) the introduction of economic sanctions by the EU is a key instrument influencing its foreign policy. This feature is due, on the one hand, to its limited military and political capabilities and, on the other hand, to its powerful economic potential. From the point of view of the aforementioned nature, the application of EU economic sanctions must comply with the basic principles of international law, as well as the international obligations of international organizations in the economic sphere, especially within the framework of the WTO;

c) the legitimacy of unilateral economic sanctions is determined by the fundamental principles of international law, which are jus cogens norms. Compliance with these norms is a condition for the application of unilateral economic sanctions. Therefore, it is more correct to say that "unilateral sanctions cannot be lawful because they contradict the imperative norms of international law" rather than "unilateral sanctions are not considered lawful if they contradict the imperative norms of international law";

d) the model of unilateral economic sanctions imposed by the US differs in terms of the sources of legal regulation, jurisdiction, the procedure for exemption from sanctions, the purpose of sanctions, and the possibility of challenging their application. Since unilateral economic sanctions imposed by the US in certain cases contradict the principles of international law, they also overshadow counterproductive measures taken by other states in self-defense;

e) economic sanctions must be proportionate to the real threats or objectives that justify their use.

13. The following features of the legislation of the AR can be recorded as the legal basis for the application of economic sanctions: 1) the content of public order (ordre public) of the AR legal system is

constituted by the Constitution and acts adopted by referendum; 2) national security interests are included in the content of public order; 3) the fundamental principles of international law are included in the public order of the legal system of the AR; 4) any action by another state or states that violates the public order of its legal system (ordre public) is illegal in terms of international law and domestic legislation and, accordingly, determines a legitimate response; 5) unilateral economic sanctions by the Republic of Azerbaijan are applied in the interests of the state; 6) the self-defense measures and "indirect" measures of economic restriction applied against Armenia are legitimate from the perspective of view of international law.

The main provisions of the thesis are reflected in the following scientific works of the applicant:

1. Classification of economic sanctions in international law // - Baku: Qanun, - 2019. No. 06, – p. 3-10.
2. International legal norms regulating the application of economic sanctions // - Baku: Qanun, - 2019. No. 09, – p. 3-9.
3. Goals and features of economic sanctions in international law // Procedings of XXXXXIII International scientific conference "Modern views in science". New York, USA, - 2019, September 17. - p. 51-55.
4. The history of formation and development of economic sanctions in the system of international relations // - EPRA International journal of multidisciplinary research (IJMR), - 2019, - Volume 5, - Issue – 10 – October, - p. 89-93.
5. The nature of economic sanctions in international law and the modern period // Materials of the international scientific and practical conference "Сусшльнi науки сьогоднi: постулати минулого i сучаснi теорii", - Дніпро: - November 1-2, 2019, - p. 75-79.
6. The concept and essence of economic sanctions in international law // - Uzhgorod: Право Науковий ВІСНИК Ужгородського національного університету, - 2019. No 58, - p. 172-176.
7. US and European systems of applying economic sanctions // – Baku: Qanun, - 2021. No. 03, – p. 12-19.

8. Application of economic sanctions in international law // Materials of the Republican scientific-theoretical conference "Modern theoretical and practical approaches in the field of protection of human rights and freedoms in the 21st century" organized by the Constitutional Court of the Republic of Azerbaijan dedicated to the 98th anniversary of the birth of the national leader H.A. Aliyev. - Baku: - May 05, - 2021, - p. 521-527.
9. Multilateral counter-enforcement measures within the framework of international legal solidarity against Armenia's aggression // - Baku: Qanun, - 2022. No. 03. – p. 16-21.
10. The international legal basis and internal legislation of the unilateral economic sanctions of the Republic of Azerbaijan against the aggression of Armenia // - Baku: Ganun, - 2022. No. 09. p. 3-12.
11. To the issue of the relationship between the international legal framework and the internal legislation of unilateral economic sanctions // Collection of articles on the results of the International Scientific and Practical Conference "Problems of modern integration processes. Ways of implementing innovative solutions", - Sterlitamak (RF), - March 30, - 2023, - p. 107-110.
12. International acts in the field of protection of the rights and freedoms of citizens of the Republic of Azerbaijan // Collection of articles based on the results of the International scientific and practical conference "Problems and prospects for the implementation of interdisciplinary research", Voronezh (RF), - May 15, - 2023, - p. 231-233.
13. The nature and system of legal coercion in ensuring modern international law // - Drogobich (Ukraine): Європейські перспективи, - 2024. No. 2, - p. 197-200

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