

ZURICH UNIVERSITY OF APPLIED SCIENCES
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**THEMATIC HUMAN RIGHTS SANCTIONS IN
SWITZERLAND?**

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**A POLITICAL ANALYSIS OF OBSTACLES FOR
SWITZERLAND TO APPLY THIS NEW TOOL**

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Management Summary

Switzerland's main international partners are applying thematic sanctions, which are motivated by a specific issue, such as human rights, rather than by events, as in comprehensive and targeted sanctions. Switzerland is not doing so.

It is a constitutional duty of Switzerland to "promote the respect for human rights abroad". Therefore, this thesis aimed to unfold findings relevant to evaluate whether Switzerland is acting on a constitutional duty sufficiently. Moreover, Switzerland's current approach to sanctions was criticized by parliamentarians, foreign governments, as well as local and international media, and has caused protests. Therefore, this thesis had the objective to provide answers by helping the reader comprehend Switzerland's reluctance to apply thematic human rights sanctions. The thesis aimed to approach the knowledge gap by identifying the obstacles which stand in the way of a Swiss application.

The results of this thesis are based on qualitative research. The findings were mainly retrieved from the analysis of parliamentary activity, interviews that have been conducted with four members of Parliament and a representative of the State Secretariate of Economic Affairs (SECO), as well as information from relevant publications.

It was found that the Swiss government is facing pressure, mainly in the form of parliamentary activity, lobbyism, and diplomatic interventions, to adopt thematic human rights sanctions, and to a lesser degree, not to adopt them. This thesis has shown that Switzerland would face no legal obstacles to adopt such sanctions from the EU and that adoption would be in line with its Constitution and the described purpose of sanctions in Swiss law. If Switzerland were to impose its own sanctions, independent from the EU, there would be obstacles in terms of achieving the majorities for the needed revision of the law. However, this thesis suggests that it would likely be more of a service to human rights if Switzerland were to adopt the EU sanctions rather than imposing its own, as it was found that a coordinated approach is more effective.

It was found that the argumentation of the Swiss government regarding the adoption of sanctions lacks coherence and is hardly comprehensible. This thesis argues that the reasoning of the Swiss government is not fact-based and has proven that the credibility of the Council's arguments can be questioned. Consequently, this thesis argues that there is a need to establish a fact-based and transparent sanctions adoption evaluation process, which is in line with Switzerland's values, Constitution, and law, to ensure that such decisions are accepted by the public, the Parliament, and Switzerland's international

partners. Moreover, it was found that the sanctions department at SECO is facing operational difficulties, which could negatively impact the effectiveness of sanctions.

Therefore, this thesis concludes that Switzerland would need to overcome political obstacles to adopt the thematic human rights sanctions from the EU, and operational obstacles to ensure that they would have an impact beyond their symbolic value.

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1 List of Abbreviations

EAER	Swiss Federal Department of Economic Affairs, Education and Research
EmbA	The Swiss Federal Act on the Implementation of International Sanctions of 2002 (Embargo Act)
EMEA	Europe, the Middle East and Africa
EU	European Union
EU GHRSR	The EU Global Human Rights Sanctions Regime of 2020
FACNC	Foreign Affairs Committee of the National Council
FDFA	Swiss Federal Department of Foreign Affairs
GMHRA Act	The US Global Magnitsky Human Rights Accountability Act of 2016
ICRC	International Committee of the Red Cross
MP	Member of Parliament
NGO	Non-Governmental Organization
SECO	State Secretariate of Economic Affairs
UCL	University College London
UK	United Kingdom
UK GHRSR	The UK Global Human Rights Sanctions Regulations of 2020
UNICEF	United Nations International Children's Emergency Fund
US	United States of America

2 Introduction

This thesis focuses on the topic of thematic sanctions targeting human rights violators and the potential Swiss application of such sanctions. All of Switzerland's major democratic partners are currently applying human rights-based thematic sanctions (DFAT, 2021; NHC, 2022; Portela, 2021). Switzerland is not doing so (SECO, 2023). First, such sanctions were introduced in the United States with the Global Magnitsky Human Rights Accountability Act in 2016 (Portela, 2021). Later, the United Kingdom, Canada, Australia, Norway and the European Union followed by introducing similar legislation (DFAT, 2021; NHC, 2022; Portela, 2021).

Thematic sanctions differ from comprehensive sanctions and targeted sanctions, as they are motivated by a specific issue, such as human rights, rather than by specific events, and are not limited to a specific country or situation (Russell, 2020; SECO, 2023). Thematic sanctions target legal persons and individuals regardless of their location (Beaucillon, 2021). They do not directly target nation states (Beaucillon, 2021).

The Swiss government has not shared much on how it is evaluated whether to adopt sanctions from the European Union. They often state that Switzerland does not adopt sanctions as they would harm Switzerland's so called Good Offices, which the Federal Council sometimes argues are more effective in achieving desired results than sanctions. This can be seen for example in the Federal Council's response to parliamentary Interpellation 22.7918. However, no evidence for this claim has been presented by the Swiss government. This constitutes a gap of knowledge, as it appears to be unknown on what criteria and facts such adoption decisions are based upon. Furthermore, there is also an unclarity on what other factors might influence Switzerland's approach to sanctions, such as political motivations, as well as public and international pressures. This thesis aims to fill this knowledge gap with a focus on thematic human rights-based sanctions by identifying the obstacles Switzerland would have to overcome to apply them.

2.1 Relevance

It is a constitutional obligation for Switzerland to "promote the respect for human rights abroad", as stated in Article 54 of the Swiss Constitution. Therefore, the findings this thesis aims to unfold are relevant to contribute to evaluations on whether Switzerland

is acting on a constitutional duty sufficiently or whether the current approach should be reconsidered.

Furthermore, Switzerland's approach to sanctions was also criticized on several occasions by representatives of foreign governments (Eigenmann & Gafner, 2023; Gerny, 2023; Häsler, 2023; Marti, 2023). Additionally, Switzerland's reluctance to adopt human rights sanctions has also caused demonstrations in the country (SRF, 2022b, 2023a). Therefore, the findings of this thesis might also be of interest to, and provide answers for, the Swiss public and the international community of states.

Moreover, a decision on whether Switzerland will adopt the thematic human rights sanctions from the EU is awaited since 2021 (Bernet, 2023). This thesis aims to deliver answers that help the reader comprehend the reasons behind Switzerland's reluctance to apply such sanctions and aims to present an understanding of the obstacles which stand in the way of Swiss thematic human rights sanctions.

2.2 Research Question

With the overarching goal to identify the obstacles Switzerland would have to overcome to apply thematic sanctions in efforts to promote and defend human rights abroad, the following research question has been formulated:

“What obstacles would Switzerland have to overcome to apply thematic human rights sanctions?”

This study aims to approach the research question through an extensive political analysis preceded by an analysis of the current state of Switzerland's sanctions set up and legal framework, as well as a comparative analysis of thematic human rights sanctions applied in the UK, US, and EU.

More specifically, this thesis aims to outline the current and recent parliamentary efforts and debates concerning a possible Swiss application of thematic human rights sanctions. Additionally, it is aimed to be found what the argumentation and reasoning of the Swiss government is not to adopt sanctions, including what evaluation criteria it applies to take such decisions, and if the argumentation is coherent, reasonable, and fact-based. Moreover, the study aims to find how lobbyism, external pressure, and public efforts shape Switzerland's future sanctions strategy. To present a basis for the political

analysis, the thesis aims to outline the current sanctions legal framework in Switzerland and find how the sanctions responsibilities are allocated within the Swiss government in terms of adoption decision, implementation, and enforcement. Furthermore, it is aimed to identify potential operational shortcomings which could compromise the effectiveness of sanctions applied by Switzerland. Additionally, this thesis aims to find whether the impact of such sanctions applied by other jurisdictions, namely the UK, US, and EU can be assessed at this stage, and if there are any relevant learnings from abroad for Switzerland.

Based on the desired findings described above, this thesis thereafter aims to conclude what obstacles Switzerland must overcome to apply thematic human rights sanctions.

3 Methodology

This thesis is based on qualitative research. Due to the lack of academic literature in the exact field of the thesis, limited literature could be reviewed. As a result, there is no dedicated literature review section in this thesis. However, academic literature was reviewed and mainly incorporated in the theoretical framework section and the analysis of the EU, UK, and US sanctions regimes. Nevertheless, the findings of this thesis are mainly based on documents published by government organizations, such as legal texts and documentation of parliamentary and government activity, as well as journalistic publications and information from interviews.

In the context of this thesis five expert interviews have been conducted with members of the National Council, as well as with a representative of the State Secretariate of Economic Affairs. When selecting the members of Parliament (MPs) to be interviewed, both their expertise and activity in the field of this thesis as well as their role in Parliament was considered. All MPs interviewed are members of the Foreign Affairs Committee. In addition, their political affiliation was considered to ensure the inclusion of opinions from throughout the political spectrum. Therefore, a representative of the Socialist Party, Green Party, Liberal Party, and the Swiss People's Party each has been interviewed.

The interviews were conducted in a semi-structured way according to Näf & Mieg (2005). The general outline and structure of the interviews, including the main questions, was prepared in advance. The semi-structures approach provides structure and ensures that all relevant questions are covered, while leaving it open to make adjustments during the interview, appropriate to the conversation flow (Näf & Mieg, 2005).

The questions were prepared in advance but not given to the interview partners beforehand to receive authentic, unprepared answerers. The interviews were recorded and later transcribed. For one interview, a different approach had to be followed. The representative of the SECO requested to receive the questions in advance and therefore was the only interviewee who received the questions before the interview. Furthermore, they wished not to be recorded. Therefore, the interview was transcribed based on the author's notes and later sent to the representative of the SECO for approval and adjustments. To analyze different perspectives on relevant issues, some identical or nearly identical questions were asked to different interviewees. Other questions were tailored to the expertise or position of the respective interviewee.

The transcribed interviews are not attached to this published version of the thesis. All interviews were transcribed in the original language they were conducted in. Generally, the interviews were transcribed on a word-by-word basis to the best possible extent. However, as some of the interviews were conducted in Swiss German dialect, grammatical adjustments had to be made to translate them into written German.

The interviews are cited in-text using the following schema:

A reference for the answer to question two of the interview with the Socialist Party MP is cited as “(I SP-A2)”. The interview with the Green Party MP is cited as “(I GP-A2)”, the one with the Swiss People’s Party MP as “(I SVP-A2)”, the one with the Liberal Party MP as “(I LP-A2)”, and the one with the representative of the SECO as “(I SECO-A2)”.

The letter “I” stands for “Interview”, the following letters indicate the interviewee, followed by an indication on which question / answer is referenced.

4 Theoretical Framework

4.1 Thematic Sanctions, Comprehensive Sanctions, and Targeted Sanctions

Thematic sanctions differ from traditional comprehensive (geographic) sanctions and targeted sanctions. Comprehensive (geographic) sanctions target nation states or organizations not recognized as a state with control over a specific territory (FCDO, 2020; SECO, 2017b). Targeted or smart sanctions focus on specific goods, natural persons, or legal persons rather than a state or territory as a whole to avoid the negative humanitarian impact geographic sanctions can have on the civil society of the targeted country (SECO, 2017b).

Contrary to comprehensive sanctions and targeted sanctions, thematic sanctions are motivated by a specific issue, such as human rights, rather than by specific events, and are not limited to a specific country or situation (Russell, 2020; SECO, 2023). Thematic sanctions target legal persons and individuals regardless of their location (Beaucillon, 2021). Therefore, thematic sanctions do not directly target nation states (Beaucillon, 2021).

The increasing international application of such thematic sanctions had its beginnings in the United States, where such sanctions were first introduced with the Global Magnitsky Human Rights Accountability Act in 2016, hereafter the GMHRA Act (Portela, 2021). The GMHRA Act is based on the 2012 Sergei Magnitsky Rule of Law Accountability Act, originally a response to the death in detention of Russian auditor Sergey Magnitsky, targeting the people responsible for human rights violations related to his case (Portela, 2021). At a later point, the United Kingdom, Canada, Australia, Norway and the European Union followed by introducing similar legislation (DFAT, 2021; NHC, 2022; Portela, 2021).

4.2 Human Rights

When this paper uses the term “human rights”, it refers to the set of universal rights that should be granted to every human being, listed in the Universal Declaration of Human Rights of 1948. The declaration is a result of post-World War II ambitions to ensure that such a devastating act of tyranny against humanity could never happen again (United Nations, n.d.-a). It was the first time such a collection of fundamental rights was

established to be protected universally (United Nations, n.d.-b). The declaration has been translated into over 500 languages and over 70 international human rights treaties permanently active to this date have been based on it (United Nations, n.d.-b).

4.3 Swiss Neutrality

When referring to “Swiss Neutrality”, the status of Switzerland as a permanently neutral state is meant. The term can be further categorized in neutrality as a policy and the law of neutrality (FDFA, 2022a). The law of neutrality refers to the Hague Conventions of 1907 which obligates a neutral state, such as Switzerland, to “refrain from engaging in war, ensure its own defense, ensure equal treatment of belligerent states in respect of the exportation of war material, not supply mercenary troops to belligerent states, not allow belligerent states to use its territory” (FDFA, 2022a). According to the FDFA (2022a), the policy of neutrality is the political strategy aimed at preserving the credibility of Swiss neutrality. Furthermore, the policy of neutrality is not regulated by law and is intended to be adjusted to the contemporary international geopolitical situation (FDFA, 2022a). Therefore, neutrality policy changed significantly over the course of history (FDFA, 2022a).

According to the the Federal Council (2022a), neutrality does not mean that Switzerland has no opinion on geopolitical events, and is not limiting the Swiss government and its the citizens of Switzerland in the expression of values.

In the Swiss Constitution, neutrality is neither listed as a purpose article nor as a foreign policy principle. The Constitution solely states that neutrality is to be safeguarded by the Federal Council and the Federal Assembly (*BV Art. 173 & 185*, 1999). Neutrality is therefore understood as means to an end (FDFA, 2022a).

4.4 Switzerland’s Good Offices

The “Good Offices” referred to in this paper describe Switzerland’s diplomatic efforts in mediation and facilitation. Switzerland often uses its status as a neutral country to offer its assistance in resolving international conflicts as a neutral mediator or facilitator (FDFA, 2021). Switzerland does so in different ways; in some cases it simply offers its territory to host diplomatic exchanges, in other cases Switzerland is actively involved in negotiations (FDFA, 2021). Furthermore, protecting power mandates for states in conflict

that have broken off diplomatic relations are part of the Good Offices (FDFA, 2021). Such mandates include representing the interests of one state in the other, and the consular protection of citizens of the represented conflict party state (FDFA, 2022c). In March 2023, Switzerland maintains the following protecting power mandates: Iran in Egypt, USA in Iran, Russia and Georgia, Iran and Saudi Arabia, and Iran in Canada (FDFA, 2022c).

4.5 Note on the Effectiveness of Sanctions in General

Generally, it is difficult to assess the exact impact of sanctions (Zigerelli, 2020). As described by Zigerelli (2020), it is not possible to measure an event that did not happen, such as a violation of human rights, which is what those sanctions aim to achieve. Furthermore, list-based sanctions regimes, such as the ones analyzed in this thesis, tend to focus on a number of targets that is not large enough to make significant statements in quantitative research (Zigerelli, 2020). However, evidence can be found that sanctions are effective to an extent (Biersteker, 2019). In academic literature, the success rate of sanctions is identified as being between 5 and 34 percent, where success is mostly defined as a positive change of behavior of the sanctioned (Deutscher Bundestag, 2020). Nevertheless, according to some authors, other aspects than change of behavior should not be neglected, such as the strong symbolic effect of sanctions (Deutscher Bundestag, 2020). Furthermore, the leverage one party has over another when sanctions are in place can be often effectively used as a tool in diplomatic efforts when the relaxation, termination or suspension of sanctions are on the table (Hudáková et al., 2021).

5 Findings

The findings section of this thesis is divided into three subsections which have different purposes and aims. Firstly, the status quo of thematic human rights sanctions in the United Kingdom, the United States and the European Union is comparatively explored. Secondly, the current state of sanctions in Switzerland is analyzed. And the third subsection, which is the main part of the findings section, consists of the political analysis.

The purpose of the first subsection is to present a general overview of the thematic human rights sanctions landscape in the EU, UK, and US, find whether the impact of the respective sanctions can be assessed at this stage, and assess whether any relevant learnings for Switzerland can be identified.

The second subsection elaborates the current sanctions legal framework in Switzerland and is aimed at finding how the sanction responsibilities are allocated within the Swiss government in terms of adoption decision, implementation, and enforcement. Furthermore, this subsection aims to identify shortcomings of operational nature which could compromise the effectiveness of sanctions applied by Switzerland.

The aim of the third and main subsection is to outline the current and recent parliamentary efforts and debates concerning a potential Swiss application of thematic human rights sanctions. Furthermore, in this subsection it is aimed to be found what the argumentation and reasoning of the Swiss government is not to adopt sanctions, including what evaluation criteria it applies to take such decisions, and if the argumentation is coherent, reasonable, and fact-based. Moreover, this subsection aims to find how lobbying, external pressure, and public efforts shape Switzerland's future sanctions strategy.

5.1 Thematic Human Rights Sanctions in the EU, UK, and US

This section of the findings comparatively analyzes the thematic human rights sanctions regimes of the European Union, United Kingdom, and United States. Although other countries have introduced similar sanctions regimes (Portela, 2021), it was decided to focus on the EU, UK, and US as those are deemed most relevant for Switzerland. This is due to the fact that the United States is significant as a shaping force of such thematic human rights sanctions and the first ones to have implemented them (Portela, 2021). The European Union is relevant for Switzerland as it is the most probable source from which Switzerland would potentially adopt thematic human rights sanctions, given the current Swiss legal framework based on the Federal Act on the Implementation of International Sanctions of 2002. The UK is deemed relevant as it is another European state that is not a member of the European Union but, other than Switzerland, applies thematic human rights sanctions.

In this section, the legal frameworks of the countries analyzed are explained, and it is attempted to evaluate the impact of those regimes, while considering the difficulties concerning the impact evaluations as outlined by Zigerelli (2020). Additionally, literature on criticism and shortcomings that those regimes face is reviewed, and the main points are outlined in this section.

5.1.1 United States of America

5.1.1.1 Legal Framework

In the United States, thematic human rights sanctions were introduced under the GMHRA Act of 2016 (Eckes, 2020). The GMHRA Act authorizes the US President to impose sanctions on any foreign person that, based on conclusive evidence, is responsible for gross human rights violations, or any foreign person who acts on behalf of a person responsible for gross human rights violations. The Act states that such sanctions can be an entry ban to the United States, the blocking of a sanctioned persons property or property interest, that is located in the United States or under the control of a US Person. In the GMHRA Act, a US Person is defined as a natural person that holds US citizenship or is a legal US permanent resident, or a legal person organized under US law. According to the Act, while evaluating whether to impose sanctions the President must take into account credible evidence gained from foreign nations, and non-governmental

organizations (NGO's) monitoring human rights, as well as information from representatives of the relevant congressional committees.

With Executive Order 13818 US President Donald Trump implemented the GMHRA Act in 2017 (Weber, 2021). Weber (2021) found that based on authorities given to the President by other legal bases, Executive Order 13818 appears to have expanded the scope of the thematic human rights sanctions to a wider group of natural and legal persons. The US GMHRA of 2016 uses the term “gross violations of internationally recognized human rights”, a term defined as “torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of these persons, and other flagrant denial of the right to life, liberty, or the security of person.”, while Executive Order 13818 (2017) uses the undefined term “serious human rights abuse”. Therefore, Weber (2021) concluded that due to the broader use of terminology, the Executive Order 13818 allows for a broader scope of sanctionable persons.

5.1.1.2 Impact

As of February 2023, 208 individuals, 257 entities and 157 vessels are sanctioned under the GMHRA Act (OFAC, n.d.).

Due to the limitations of sanctions impact assessments, the impact can mainly be assessed looking at specific cases rather than statistical evidence. In some cases it appears to be evident that the GMHRA Act caused local reform (Zigerelli, 2020). South Africa, Latvia and Serbia have all introduced anti-corruption measures after GMHRA Act based sanctions were imposed on some of their citizens or government officials (Zigerelli, 2020). Furthermore, Rob Berschinski (2018) , Senior Vice President of Human Rights First, stated that the GMHRA Act can have a significant impact without actually being used; it can be a tool for US diplomats to exert pressure on foreign government officials, which can change their behavior. This is confirmed by the fact that the GMHRA Act not only evidently caused reform in South Africa, Serbia and Latvia, but also in neighboring countries of both Serbia and Latvia, showing that the GMHRA Act sanctions also can have an impact on legislation in countries that do not (yet) have citizens or officials sanctioned (Zigerelli, 2020). A similar effect is observed by Peterson (2014). His theory is based on analyzing the behavioral changes of human rights violating governments after they observe perceived similar states targeted by US human rights sanctions. He

concluded that human rights sanctions imposed on a state can result in the behavioral change of another human rights violating government not subject to sanctions, causing an improvement of the human rights situation in that other state.

5.1.2 United Kingdom

5.1.2.1 Legal Framework

In the United Kingdom, thematic human rights sanctions were introduced under the Sanctions and Anti-Money Laundering Act of 2018 with the Global Human Rights Sanctions Regulations of 2020, hereafter “UK GHRSR” (Eckes, 2020; FCDO, 2020). The UK GHRSR are authorizing an “appropriate Minister”, such as the Secretary of State, to impose sanctions aimed at preventing certain human rights violations or holding accountable the persons involved. More specifically, the human rights violations sanctionable under the UK GHRSR are described as serious violation of a person’s “right to life, right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour”. Violations are sanctionable under the UK GHRSR if committed “by or on behalf of a State within the territory of that State”. Furthermore, the violations are sanctionable under the UK GHRSR if committed outside the United Kingdom or within the United Kingdom by a non-UK person, meaning a UK citizen or a legal person under UK law. The sanctions imposable under the UK GHRSR are asset freezes, prohibition of making funds or economic resources available, directly or indirectly, to a designated person or for the benefit of a designated person, and immigration exclusion under section 8b of the 1971 Immigration Act. As stated in the UK GHRSR, to impose sanctions on a person the Secretary of State needs to have “reasonable grounds to suspect that that person is an involved person”.

5.1.2.2 Impact

As of February 2023, the United Kingdom lists 83 individuals and 6 entities under the UK GHRSR (OFSI, 2022).

There appears to be no sufficient evidence and literature regarding the effectiveness of the UK GHRSR to make a valid assessment. A paper of the University College London (UCL) came to the same conclusion (Zemtsov et al., n.d.).

5.1.3 European Union

5.1.3.1 Legal Framework

In the European Union thematic human rights sanctions were introduced with the EU Global Human Rights Sanctions Regime in 2020, hereafter EU GHRSR (Portela, 2021). In the EU the authority to list persons sanctioned for human rights violations lies with the Council (*Council Regulation (EU) 2020/1998*, 2020). The Council amends the list after reviewing a proposal from a member state or the High Representative (*Council Decision (CFSP) 2020/1999*, 2020). According to Council Regulation (EU) 2020/1998, the following actions are sanctionable: “torture and other cruel, inhuman or degrading treatment or punishment, slavery extrajudicial, summary or arbitrary executions and killings, enforced disappearance of persons, arbitrary arrests or detentions”. Furthermore, in severe cases, other human rights violations can be sanctioned as well. Sanctioned can be all persons responsible for or involved in such violations, or persons who are in relation with those who are. The measures under the EU GHRSR consist of entry bans, the freezing of a listed persons funds and other economic resources, and prohibition of making available such resources to a listed person or to their benefit (Council of the EU, 2020).

5.1.3.2 Impact

As of February 2023, the EU has 18 natural persons and 5 legal persons sanctioned under the EU GHRSR (*Council Regulation (EU) 2020/1998*, 2020).

According to Eckes (2022), the application of thematic sanctions has proven to allow the EU to apply sanctions in a faster and more flexible way than before. She argues that this is due to the fact that thematic sanctions regimes are not limited geographically, which means that the EU does not have to push a new sanctions regime through the legislative process when recording a human rights violation that calls for a sanction response, as the legal basis for the listing is already established, regardless of where the violations took place. This clear added value can be observed in the recent case of Alexei Navalny, where the EU swiftly sanctioned those identified as being involved in poisoning him and later wrongfully detaining him, based on the EU thematic chemical weapons regime and the EU GHRSR (Eckes, 2022).

Moreover, it can be observed that the sanctions caused significant reactions. After the EU imposed sanctions on Chinese entities and citizens for human rights violations committed against Uyghurs, the immediate reaction of the Chinese government was to impose countersanctions on European human rights activists and EU officials (Bogdanova, 2022).

5.1.4 Criticism and Shortcomings

When reviewing literature on the shortcomings of thematic human rights sanctions regimes in the EU, UK, and US it becomes evident that the regimes face several points of criticism, some of which are elaborated in this section.

One of the main points of concern that were voiced in relation to all three regimes lies within the evaluation on which sanctionable persons should be targeted, as the grounds for evaluation often appear to be politically motivated. Eckes (2022) noted that the EU GHRSR is a foreign policy tool after all, which means that it cannot be assumed that it is applied in a fully just way. She stated that the listings will naturally be shaped by foreign policy objectives to some extent and therefore focus on violations that happen in certain places while neglecting violations that take place in regions less in focus (Eckes, 2020). Zemtsov et al (n.d.) criticize that the UK GHRSR regime has unclear aims and appears to be applied mainly to targets that are politically convenient for the UK government. As a result, Zemtsov et al (n.d.) claim that the sanctions are likely relatively ineffective. Furthermore, it was criticized that the credibility of GMHRA Act sanctions in the United States could be compromised as the President might decide not to impose sanctions solely due to foreign affairs considerations (Acer et al., 2020). The Liberal Party MP interviewed made similar remarks, stating that different actors are not treated equally when it comes to thematic sanctions, as for instance they have never seen that the USA were sanctioned due to the death penalty (I LP-A3).

Tilahun (2021) observed, in relation to the EU GHRSR, that the claim that there is an added value in the thematic approach due to the detachment of sanctions from nation states could be relativized by the fact that the human rights violations to be sanctioned are often indirectly a result of the criminal justice system in the state they were committed in, as it failed to prosecute those responsible for violation. Therefore, the improvement of the prosecution of human rights violators should be a criterion for de-listing which would put the political changes in the state where the violation took place in focus again

(Tilahun, 2021). He also pointed out that there appears to be somewhat of a conflict between EU foreign policy goals and the narrow targeting given in the EU GHR SR. From a foreign policy perspective, it might be more desirable to target indirectly responsible actors such as government officials tolerating human rights violations while the regime focuses on direct involvement (Tilahun, 2021).

In relation to the US GMHRA Act sanctions, Weber (2021) found that their effectiveness is strongly interrelated with personal characteristics of sanctionable human rights abusers. For instance, the blocking of a listed person's property and a United States travel ban are only means of pressure to a person that has property under the control of US Persons or located in the United States, or travels to the United States regularly (Weber, 2021).

5.1.5 Comparison

Evaluating by how extensively the sanctions are applied in February 2023, the thematic human rights sanctions regime of the United States is the largest out of the three analyzed, with 208 individuals, 257 entities and 157 vessels sanctioned under the GMHRA Act (OFAC, n.d.), followed by the regime of the United Kingdom which lists 83 individuals and 6 entities under the UK GHR SR (OFSI, 2022), and lastly by the regime of the EU which has 18 natural persons and 5 legal persons sanctioned under the EU GHR SR (*Council Regulation (EU) 2020/1998*, 2020).

When it comes to legal differences, it appears that the US GMHRA requires a higher level of evidence to list a person than the UK GHR SR. However, this might be leveled out due to US courts being relatively reluctant in interfering in political decisions (Eckes, 2020). Furthermore, the EU does not include minimum evidence standard at all and applies a case by case basis instead (Eckes, 2022). Another legal difference lies in who can be targeted. While under the US and EU regimes anyone responsible for or involved in human rights violations can be targeted (*Council Regulation (EU) 2020/1998*, 2020; US GMHRA, 2016), in the UK regime the violations need to be committed "by or on behalf of a State within the territory of that State" (UK GHR SR, 2020), meaning that the scope of sanctionable persons is more limited than in the EU and UK.

5.1.6 Coordination of Sanctions and Sanctions Enforcement

According to the Council of the EU and the European Council (2023), involving a wide range of international partners increases the effectivity of sanctions. The importance of the coordination of sanctions was also emphasized by the National Councilor of the Socialist Party who was interviewed for this thesis. They stated that sanctions are most effective when imposed in coordination and that in an ideal world all sanctions would be imposed by a functioning UN that cannot be paralyzed (I SP-A9). They further stated that while that is not the case, the only option left is to impose sanctions as a coalition of willing states (I SP-A9). In order to increase the effectiveness of the thematic human rights sanctions regimes, it can be observed that the listings are sometimes coordinated between the states, meaning that in those cases the EU, UK, and US list the same persons around the same time (Weber, 2021). Furthermore, there have been reports that the G7 are planning to coordinate their sanctions enforcement (Lester, 2023).

5.2 Current State in Switzerland

An overview of the non-political aspects that impact a Swiss adoption of thematic human rights sanctions is presented in this section. Therefore, this section presents the current state of sanctions in Switzerland in terms of the legal framework and operational set up. In this context it is outlined how sanctions related responsibilities are allocated, how sanctions are currently applied and in what condition the responsible department is, concerning its ability to implement and enforce sanctions.

5.2.1 Current Legal Framework in Switzerland

The Swiss participation in international, non-military sanctions are generally compatible with Swiss neutrality (The Federal Council, 1993). As a neutral state, Switzerland's status is legally defined by the law of neutrality of 1907 that was codified in the Hague Conventions, which defines the rights and obligations of a neutral state (FDFA, 2022a). The law of neutrality does not prohibit a neutral country from participating in international sanctions (FDFA, 2022b).

Besides the law of neutrality, Swiss neutrality is also defined by the policy of neutrality. Different to the law of neutrality, the policy of neutrality is not regulated by law. The term describes a neutral country's actions aimed at preserving the credibility of its neutrality (FDFA, 2022a). Therefore, this policy needs to be considered by the Federal Council when deciding whether to adopt sanctions. However, in the case of the EU sanctions related to the Russian invasion of Ukraine, the Federal Council concluded that adopting the sanctions would not compromise the credibility of Swiss neutrality (FDFA, 2022b).

In Switzerland, sanctions are based on the Federal Act on the Implementation of International Sanctions (Embargo Act) of 2002, hereafter EmbA. The EmbA states that Switzerland can impose sanctions by adopting them from either the United Nations Organization, the Organization for Security and Cooperation in Europe, or from Switzerland's most important trade partners. The EmbA specifies that sanctions can be adopted if they "serve to secure compliance with international law, and in particular the respect of human rights".

In addition, sanctions can be adopted to safeguard the interests of the Switzerland as under Article 184 paragraph 3 of the Federal Constitution. The EmbA states that the

Federal Council is responsible for enacting sanctions measures, which it does by issuing ordinances.

Therefore, legally the Federal Council cannot impose its own sanctions but is authorized to adopt them from the above-mentioned actors. Philipp Weber-Lörtsch, an attorney focusing on global trade and legal expert in terms of sanctions, was contacted for this thesis. He confirmed that Switzerland could adopt the EU's thematic human rights sanctions, based on the existing legal foundation given by the EmbA (personal communication, April 12, 2023). Additionally, it should be noted that the Swiss Constitution states in Article 54 “Foreign Relations” that Switzerland must, among other things, promote the respect for human rights abroad.

5.2.2 Responsibilities and Current State

In Switzerland the Foreign Economic Affairs Directorate, which is a department under the State Secretariate of Economic Affairs, hereafter “SECO”, is responsible for the implantation of sanctions (SECO, 2021). The SECO underlies the authority of the Federal Department of Economic Affairs, Education and Research, hereafter “EAER” (EAER, 2021).

Switzerland is participating in United Nations sanctions since 1990 and has adopted sanctions from outside the United Nations since 1998 when Switzerland implemented EU sanctioned against Yugoslavia (SECO, 2017a). According to the SECO, sanctions were based on the Federal Constitution before the EmbA was in force. Currently there are adopted targeted and comprehensive geographic sanctions regimes in place including measures concerning Belarus, Iran, North Korea, Sudan, and the current situation in Ukraine (SECO, 2022b).

Switzerland did so far not adopt any thematic sanctions (SECO, 2023). According to the SECO (2023) thematic sanctions are discussed internally but the Federal Council has not yet made any decisions on the topic. The internal evaluation regarding the adoption of thematic sanctions from the EU is ongoing since 2021 (Bernet, 2023). The representative of the SECO interviewed did not make a statement on when an update on that can be expected when asked (I SECO-A6).

The decision on whether new sanctions should be adopted, for example from the EU, lies within the Federal Council, which takes into account, among other things, foreign policy aspects, e.g. how a takeover would affect Switzerland's relations with other states

(I SECO-A3). There are no specified criteria by which such evaluations are made (I SECO-A2).

Within the framework of already existing sanction ordinances, the EAER is responsible for updating the lists (amendment of annexes) and can also involve other departments (I SECO-A3). In the case of amendments to ordinances, the Federal Council is responsible (I SECO-A3).

5.2.3 Operational Set Up of the State Secretariate of Economic Affairs

While the SECO has several years of experience implementing sanctions under the EmbA, it was faced with major challenges when sanctions related to the situation in Ukraine were introduced (I SECO-A5). According to the representative of the SECO interviewed, the sanctions related to the situation in Ukraine are of a different dimension, as a significant number of new measures, not present in previous sanctions regimes, were introduced promptly (I SECO-A5). As a result, the resources in the responsible department of the SECO were substantially expanded, and the number of employees was more than doubled from around 10 to around 20 people (I SECO-A5). Furthermore, it was reported on March 15th 2023 the SECO stressed the heavy workload involved with following up on cases of potential violations and was allocated five additional resources to its sanctions team by the government (SWI, 2023).

The Liberal Party MP interviewed is of the opinion that the SECO is capable of handling all tasks efficiently without having a staff overload and sees a problem at the cantonal level instead (I LP-A6). They stated that in many economic and labor law aspects the cantons are responsible for enforcement and must supply the Federal Government with data and information, which the cantons are not doing sufficiently according to the MP (I LP-A6). According to an information sheet issued by the SECO (2022a), there are reporting obligations in place involving the tax authorities, land registry, and commercial registry. The National Councilors of the Socialist and Green Party interviewed, on the other hand, have a different view. The Socialist Party MP described the SECO's operational set up and ability to enforce sanctions as "miserable" and stated that they are completely at the limit of their capacity and slightly overwhelmed (I SP-A6). The Green Party MP claimed that the SECO is massively understaffed and relies on the goodwill of economic actors to report their own violations (I GP-A5). They elaborated that with 20 people, it is virtually impossible to ensure that no sanctioned person can benefit from the

financial market in Geneva alone (I GP-A5). They also observe a lack of motivation to enforce sanctions in the SECO (I GP-A5). US-Ambassador to Switzerland, Scott Miller, also notes a lack of political will in the Swiss sanctions enforcement (Häsler, 2023). He criticized that SECO Director Helene Budliger Artieda publicly questions the use of sanctions, and stated that even though the SECO now has 20 people working on sanctions, there is still a lot of work to do (Häsler, 2023).

In order to put the set-up of the SECO into perspective, in comparison the United Kingdom had 70 people working on Russia sanctions in June 2022 and was also criticized for not having enough people (Makortoff, 2022).

5.3 Political Analysis

In this section, parliamentary efforts, lobbying, public efforts, debates and pressures that shape Switzerland's application of sanctions, with a focus on thematic human rights sanctions, are analyzed. There have recently been two parliamentary attempts to change the law, which would have had an impact on the Swiss application of thematic human rights sanctions. Furthermore, several relevant parliamentary interpellations, motions, questions, and declarations, which are categorized in Iran or China related ones, are presented in this section. Additionally, the controversies on the Federal Councils sanctions adoption evaluation and reasoning are covered. Moreover, it is explored what external pressures Switzerland is exposed to from the international community of states, and which forces lobby against or in favor of such sanctions. Lastly, the so called "Neutrality Initiative" and its potential impact on sanctions is explained.

The parliamentary activity referenced in this section can be found on the website of the Swiss Parliament under the respective 6-digit business number. The first two digits of the business number is a reference to the year.

5.3.1 Proposed Revision of the Federal Act on the Implementation of International Sanctions

On the 13th of December 2019, the Federal Council proposed a revision (19.085) of the EmbA. The objective of the proposal was to give the Federal Council the authority to extend coercive measures adopted from the UN, the Organization for Security and Cooperation in Europe or Switzerland's most important trade partners, to other countries not yet covered by those measures, if required for the protection of Switzerland's interests.

On the 3rd of June 2021, the Council of States further extended the proposal (19.085) with 36 votes and 3 abstentions while 1 member voted for the initial proposal of the Federal Council. The extension intended to not only give the Federal Council the authority to extend the adopted measures to other states but also to persons and entities.

On the 9th of June 2022, the National Council further extended (19.085) the proposed scope of action of the Federal Council. According to the resolution of the National Council, independent sanctions could have been directed against individuals and

entities based the violation of human rights or other serious violations of international law.

Consequently, the proposal (19.085) was discussed once again in the Council of States on the 19th of September 2022. The Council of States rejected of the extension of the Federal Council's scope of action proposed by the National Council with a majority of 29 to 12 votes and 1 abstention.

On the 29th of September 2022, the National Council gave in to the Council of States and voted to refrain from its proposed extension of the Federal Councils scope of action with a majority of 103 to 83 votes.

On the final vote on the 30th of September 2022, the Council of States approved the proposal (19.085) with 45 votes. However, the National Council voted against the proposal with 118 to 70 votes and 5 abstentions. Therefore, the proposed revision of the EmbA was rejected.

The Socialist Party MP interviewed stated that the National Council rejected the proposed revision in the final vote as the Council of States refused to include the possibility for the Federal Council to impose its own thematic sanctions (I SP-A8). They believe that a revision is therefore out of the question at the moment but assume that there is a high probability that the Federal Council will propose a revision again at some point (I SP-A8).

5.3.2 Parliamentary Initiative

On the 18th of December 2019, National Councilor Molina proposed a parliamentary initiative (19.501) aiming at introducing a legal basis for Switzerland to impose its own sanctions on persons and institutions, based on serious human rights violations or corruption. The proposal states that while the EmbA already gives the Federal Council a legal basis to adopt such sanctions from the UN or the EU, authority should be given to the Federal Council to impose its own, independent sanctions.

On the 18th of January 2021, a majority of the Foreign Affairs Committee of the National Council, hereafter FACNC, voted in favor of the initiative (19.501) with 13 to 8 votes with 3 abstentions. The majority of the FACNC is of the opinion that the Federal Council should not be limited to adopt sanctions of the UN or its most important trading partners; rather, it should also be able to impose sanctions on its own against persons or institutions that have committed serious violations of human rights or international

humanitarian law. While the majority acknowledges that only a coordinated approach to sanctions is effective, it also notes that Switzerland can currently not impose sanctions in case the authorities want to act against individuals not on the lists of the EU. They could only do so through applying emergency law. Therefore, the parliamentary initiative seeks to provide a legal basis for such cases. The majority is of the opinion that the initiative strengthens Switzerland's scope of action in its foreign policy and sovereignty. It also believes that the initiative is compatible with Swiss neutrality, as Switzerland recognizes states and not governments or individuals.

The minority of the FACNC believes that the term "human rights crime", referred to in the initiative (19.501), is a legal term implying that proceedings and investigations have led to convictions. However, the minority stated that it is not a task of the Federal Council to declare that a certain behavior constitutes a crime or that this crime can be attributed to a certain person. Furthermore, the minority believes that this initiative would make Switzerland an active player in the area of sanctions and therefore an involved party in international conflicts. Finally, the minority stated that the rule of law would be weakened, and that the initiative would create a risk of Switzerland imposing sanctions beyond those of the UN or its main partners.

On the 16th of April 2021, the Foreign Affairs Committee of the Council of States voted against the initiative (19.501) with 7 to 5 votes. Based on article 109 of the Parliamentary Law, in this case the initiative must be proposed to the National Council in a next step and thereafter, if approved by the National Council, needs to be voted on in the Council of States.

On the 2nd of June 2022, a majority the National Council voted in favor of the initiative (19.501) with 104 to 74 votes and 5 abstentions. However, the initiative was thereafter rejected by the Council of States on the 19th of September 2022 with 28 to 13 votes.

5.3.3 Thematic Human Rights Sanctions in relation to China

There have been different parliamentary interpellations and motions regarding the Swiss adoption of EU thematic sanctions in relation to human rights violations in the Xinjiang region of China. Additionally, there have been some questions asked in relation to the adoption of those sanctions in the parliamentary Q&A sessions.

Within an interpellation (20.4510) submitted on the 16th of December 2020 in the Council of States by Lisa Mazzone, a Green Party representative, regarding Switzerland's reaction to the human rights violations in the Xinjiang region of China, the Federal Council was asked if Switzerland plans to adopt thematic human rights sanctions from the European Union.

The Federal Council replied to interpellation (20.4510) that the adoption of such sanctions is currently being assessed and no decision has been made yet.

On the 19th of March 2021, Green Party MP Nicolas Walder submitted an interpellation (21.3408) in the National Council asking the executive branch if Switzerland will sanction Chinese institutions and authorities in Xinjiang. He also asked for an explanation of why not, in case the answer was that Switzerland will not adopt those sanctions. He further asked under what circumstances the Federal Council would change its opinion and adopt the sanctions.

In response to the interpellation (21.3408), the Federal Council stated that Switzerland is neither politically nor legally obligated to adopt those thematic sanctions from the EU. Furthermore, the Federal Council stated that the adoption of those sanctions under the EmbA is currently internally discussed but no decision has been made yet.

Sibel Arslan, a Green Party representative in the National Council, asked (21.7507) the Federal Council in a parliamentary Q&A session on the 3rd of June 2021 if Switzerland will adopt the China related EU thematic human rights sanctions, when a decision will be made, and if the Federal Council is deliberately accepting the circumvention of EU sanctions through Switzerland. In the same parliamentary Q&A session, Molina asked (21.7505) when Switzerland would adopt those sanctions, how the Federal Council would prevent the circumvention of EU sanctions via Switzerland, and if the Federal Council faced any reactions due to its hesitant attitude.

The Federal Council stated in response to both questions (21.7507 & 21.7505) that it had already answered these questions in detail when replying to the interpellation (21.3408) of Walder in March 2021. Therefore, it appears that the Federal Council did not answer the questions regarding when a decision can be expected, the prevention of circumvention and the reactions due to its hesitant attitude, as those things are not mentioned in the Federal Councils response to Walder in March 2021.

On the 28th of February 2022, Walder submitted another interpellation (22.3029) asking the Federal Council if Switzerland will impose sanctions based on severe human rights violations. He stated that in Switzerland it is legally possible to adopt sanctions

from the EU and that, according to the EmbA, the purpose of sanctions is to promote the respect for international law and human rights. This statement was verified for this thesis and appears to be correct as it is backed by article 1 of the EmbA. He further expressed his astonishment that Switzerland has adopted most EU sanctions before, but not the thematic human rights sanctions which are so clearly in line with article 1 of the EmbA. Furthermore, he requested the Federal Council to confirm that Switzerland is legally able to adopt the thematic human rights sanctions, and that Switzerland could adopt sanctions from its most important trade partners including the United States and United Kingdom. Additionally, the Federal Council was asked in this interpellation if, by now, a decision has been made regarding the adoption of sanctions related to human rights violations in China.

The Federal Council replied to the interpellation (22.3029) that although the term “most important trade partners” in the EmbA is not defined, the Federal Council and the Federal Assembly interprets that mainly the European Union is meant in the law. This can be verified in the “message on the Federal Act on the Implementation of International Sanctions published by the Federal Council” of the 17th of April 2001 (Bundesblatt, 2001). However, other important trade partners are not excluded neither in the message nor in the law or in the response of the Federal Council to the interpellation. Furthermore, the Federal Council explained that the thematic sanctions are a new concept that is different from the geographic sanctions which Switzerland, for the most part, adopts from the EU. Therefore, the Federal Council stated, the evaluation for the decision whether or not to adopt such sanctions demands for a thorough analysis which is still ongoing, and as a result no decision has been made yet. Moreover, the Federal Council stated that a decision can be expected by August 2022.

No decision has been communicated by August 2022. Consequently, on the 14th of September 2022, Molina asked (22.7696) the Federal Council if they are willing to adopt the EU human rights-based thematic sanctions in relation to violations in China.

The Federal Council replied (22.7696) that it had decided to deepen the analysis as the new and complex concept of thematic sanctions calls for a comprehensive overview of potential repercussions if Switzerland were to adopt them.

On the 22nd of September 2022, Walder submitted a motion (22.3983) in the National Council demanding that Switzerland adopts the thematic EU sanctions imposed on persons, organizations, and entities for human rights violations committed against the Uyghur population in China. Walder argued that all of Switzerland’s most important trade

partners have long imposed such sanctions and it is not acceptable for Switzerland to ignore such severe human rights violations, confirmed in a report by the United Nations High Commissioner for Human Rights, any longer. He further stated that Switzerland, in support of international law, adopted the EU sanctions in response to the Russian invasion of Ukraine and must do so as well when it comes to the ones in relation to human rights violations in Xinjiang.

On the 16th of November 2022, the Federal Council responded to the motion (22.3983) stating that, while the Federal Council is deeply concerned about the human rights violations in Xinjiang, the Federal Council has not yet decided on this issue and will deepen its analysis on the topic of thematic sanctions. Furthermore, the Federal Council stated that it assigned the corresponding tasks to the EAER and other federal departments. The Federal Council once again argued that thematic sanctions are a novel concept which raises concerns that need to be clarified before deciding on the matter.

The motion (22.3983) is not yet voted on in the National Council as of March 2023. When asked about the motion, the Green Party MP interviewed said that they are not sure when the motion will be treated in the National Council and that they are not confident that it will have a majority (I GP-A8b). However, they believe that the motion is important as it will cause a discussion and increase the pressure on the Federal Council to decide (I GP-A8b). They also stated that in their view it is nevertheless realistic that the external pressure will eventually be too strong and the sanctions will be adopted consequently (I GP-A8b). The Socialist Party MP interviewed stated that eventually this will be resolved through a combination of internal and external pressures. They elaborated that in their opinion it will, at some point, not be possible anymore to explain to the Swiss public that the whole world is sanctioning criminals but not Switzerland (I SP-A4). Furthermore, they stated that at some point Switzerland's international partners will also not accept the Swiss position any longer (I SP-A4). The MP of the Liberal Party interviewed disagrees. They are of the opinion that those sanctions would have no majority in the parliament and do not see a majority in the Swiss population if it were to vote on them after a debate when the negative effects the sanctions would have on Switzerland would be explained properly (I LP-A4).

5.3.4 Iran Related Human Rights Sanctions

On the 17th of October 2022, the European Union announced that 11 natural persons and four organizations in Iran will be sanctioned under the Iran Human Rights Sanctions Regime in response to the death of Mahsa Amini and the violent reaction of Iranian authorities to the protests that followed (Council of the EU, 2022). Additionally, one Iranian entity and three Iranian natural persons were sanctioned on the 20th of October 2022 in relation to the delivery of Iranian drones to Russia (Council of the EU, 2023).

On 2nd of November 2022, the Federal Council published a press release informing the public that the EAER and FDFA decided together that Switzerland will adopt the sanctions against Iran in relation with drone deliveries to Russia, which the EU imposed on the 20th of October 2022 (The Federal Council, 2022b). However, the two departments communicated in the same press release that Switzerland will not adopt the sanctions against Iran in relation to human rights violations which the EU imposed on the 17th of October 2022. In the release it was stated that the decision is based on foreign policy considerations including the Swiss protection power mandates concerning Iran.

This decision was thereafter criticized by several members of parliament, as will be seen in this subsection, and caused protests (SRF, 2022b, 2023a). While those sanctions do not fall under a thematic regime (I SECO-A1), the case is deemed relevant in the context of this paper as it demonstrates the high level of public interest in human rights sanctions and serves as a case study to analyze the Federal Councils reasoning not to adopt sanctions. Furthermore, the Socialist Party MP interviewed stated that the decision not to adopt those sanctions is related to the potential adoption thematic human rights sanctions against violators in China (I SP-A1). They claimed that in truth the Federal Council did not want to set a precedent where it adopted human right based sanctions in one case but not in another (I SP-A1).

Before the EU had imposed sanctions in October 2022 (Council of the EU, 2022), National Councilors Marianne Binder-Keller of the Centre Party and Lilian Studer of the Evangelical People's Party of Switzerland submitted an identical interpellation (22.4059 & 22.4038) in the National Council on the 28th and 29th of September 2022 asking the Federal Council several question on the Swiss reaction to the human rights violation in Iran.

In response to these interpellations (22.4059 & 22.4038) the Federal Council has given a detailed explanation on the Swiss approach in reacting to the situation on the 16th

of November 2022. It stated that the Swiss President voiced concerns regarding the death of Mahsa Amini to the Iranian President, and that the Swiss Ambassador to Iran discussed the case of Mahsa Amini and two Iranian LGBTQ activists sentenced to death with the secretary of the High Council of Human Rights within the Iranian justice system. Furthermore, Switzerland demanded a swift, impartial, and independent investigation of the circumstances of Mahsa Aminis death in the Human Rights Council, urged Iran to be passive in reaction to peaceful demonstrations, and to lift the restrictions of the Internet. Additionally, it was stated that the head of the FDFA's EMEA department called in the Iranian representative to discuss the developments in Iran twice. It was further explained that Switzerland also condemned, within an interactive dialogue with the special rapporteur on Iran at the UN General Assembly, the violent handling of the demonstrations and called for Iran to eliminate all forms of discrimination against women and girls as well as to respect the rights of minorities. According to the response, Switzerland is in constant diplomatic dialogue on a bilateral and multilateral level with Iran on human rights and supports projects by the UNICEF and High Commissioner for Human Rights concerning juvenile justice in Iran, which, among other things, aim to improve the access to justice for minors and to achieve a moratorium on executions for persons who were minors at the time of the crime. Furthermore, it was explained that, due to its protection power mandates, Switzerland has access on a regular basis to high-level Iranian officials which is used to discuss the human rights situation. Lastly, the Federal Council stated that Switzerland will not adopt the EU human rights sanctions against Iran, repeating the reasoning of the press release from the 2nd of November 2022.

On the 30th of November 2022, National Councilor Claudia Friedl of the Socialist Party submitted an interpellation (22.7918) in the National Council asking the Federal Council why Switzerland did not adopt all EU sanctions against Iran, whether Switzerland has protested to the Iranian government over the brutal crackdown on demonstrators, and how Iranian civilians can be supported in their protest.

The Federal Council has stated in response to Interpellation (22.7918) that it had reacted with several diplomatic interventions, including an intervention by the Foreign Minister and then President of the Confederation, Ignazio Cassis, to the President of Iran Ebrahim Raisi. Furthermore, the Federal Council responded that Switzerland works with international organizations active in the field. Regarding the adoption of the human rights sanctions, the Federal Council repeated that the decision was made under consideration of Switzerland's domestic and foreign policy interests including its Good Offices in Iran.

Moreover, it was stated by the Federal Council that Switzerland is keen to continue the open and critical dialogue and to directly discuss its demands regarding the human rights situation with the Iranian government, as well as that it believes that this approach serves the promotion of women's rights, human rights, and stability better in the long run.

On the 12th of December 2022, Molina submitted an interpellation (22.4335) in the National Council asking the Federal Council a set of questions. Some of the questions asked in this interpellation are of significant interest in the context of this thesis. The Federal Council was asked why it was decided to adopt the sanctions in relation to drone deliveries but not the ones based on human rights violations, and whether this could not be understood as a message implying that the drone deliveries are crossing a line while human rights violations do not. And, how the Federal Council ensures coherence in the Swiss sanctions policy in this context. Additionally, it was asked how the sanctions against Iran from the 2nd of November 2022 were implemented. Moreover, it was asked how Switzerland supports the Iranian civil society, how the Federal Council specifically supports the investigation of the human rights situation in Iran initiated in the UN Human Rights Council in November 2022, and whether the Federal Council supports NGOs in support of human rights and woman's rights in Iran. Furthermore, Molina asked about the Federal Council's thoughts on the chances of reform in Iran within the current regime, and how it supports the immediate suspension of the death penalty against protesters and humane detention of political prisoners. Lastly, he asked whether the Federal Council shares the opinion that a unified opposition needs to be supported in order to achieve progress in terms of human rights and democracy in Iran and if so, what actions it takes in this context.

In response to Interpellation (22.4335), the Federal Council repeated the elaboration on Switzerland's support of projects of the UNICEF and High Commissioner for Human Rights, while adding that Switzerland is not supporting any civil organizations in Iran due to the precautionary principle as it would be considered too high of a risk. However, according to the Federal Council, the Swiss Embassy in Teheran supports NGOs in the areas of development, humanitarian aid and human security. The Federal Council further stated that Switzerland could not vote in favor of the above-mentioned resolution as it is not part of the Human Rights Council. Nevertheless, it supported it as a co-sponsor. Furthermore, in the 5th Committee of the UN General Assembly, which is responsible for administrative and budgetary matters, Switzerland advocates that the missions of the Human Rights Council receive the financial resources they need to fulfill

their mandate. Responding to the question why sanctions related to drone deliveries were adopted but not the ones related to human rights violations, the Federal Council explained that in view of the serious violation of fundamental principles of international law, it decided on the 28th of February 2022 to adopt the EU sanctions in connection with the Russian military aggression against Ukraine. In this context, the EAER, in consultation with the FDFA adopted the EU sanctions which concerned the delivery of Iranian drones to Russia. It repeated the argumentation of the press release of the 2nd of November 2022 regarding the protection power mandates and domestic and foreign policy considerations and added it is of the opinion that the promotion of human rights and stability in the region can be addressed in a more targeted manner through Switzerland's critical dialogue with the Iranian government and putting forward its demands directly regarding the human rights situation. Furthermore, it stated that Switzerland comments on specific actions of foreign governments in particular based on international law. However, in accordance with the Vienna Convention on Diplomatic Relations, it does not interfere in the domestic policy issues of other states. Lastly, the Federal Council stated that Switzerland intervened to the Iranian government on several occasions and levels both in Bern and in Teheran, demanding an immediate cease of executions.

On the 27th of February 2023, the National Council voted with a majority of 107 against 71 votes and 5 abstentions, in favor of a declaration (23.020) titled "For Human Rights and Democracy in Iran". The declaration (23.020) demands the Federal Council to adopt all EU sanctions against Iran.

The Liberal Party MP interviewed stated that the declaration will have no impact and that the tool of a declaration has been misused by the left solely for their domestic interests and to please their NGOs, in which they hold mandates (I LP-A8). They view the declaration as problematic as it publicly goes against the official stance of the Swiss government, which could be misunderstood abroad (I LP-A8). The Swiss People's Party MP interviewed, said that the declaration has no impact and that it is symbolic only (I SVP-A7). The Green Party MP interviewed is of the opinion that it will likely have no impact but it, nonetheless, puts more pressure on the Federal Council (I GP-A6).

On the 16th of March 2023, the Council of States rejected a Motion (22.4274), with 20 votes against 19 votes and 1 abstention, which would have demanded the Federal Council to take further actions in support for the Iranian civil society in the fight for human rights.

5.3.5 Controversy on Adoption Evaluation

It often appears unclear how it is evaluated whether sanctions are to be adopted by Switzerland or not. The adoption evaluation of the Federal Council is therefore often causing debates.

The Federal Council (2022b) communicated on November 2nd that after considering Switzerland's domestic and foreign policy interests, including the protection power mandates concerning Iran, it will only adopt the sanctions in relation to the delivery of drones but not the ones related to the human rights violations. It later repeated this argumentation in responses to parliamentarians. However, no link to the exact evaluation criteria, such as how the sanctions in relation to the drone's delivery impact the protection power mandates differently than the ones in relation to human rights violations, was made.

In conversations with politicians and the representative of the SECO, different explanations were given on how the sanctions in relation to the drone deliveries differ from those based on human rights violations, in the context of the policy of neutrality. The Socialist Party MP interviewed stated that the Federal Council did not adopt the human rights-based sanctions as it did not want to set a precedent where it adopts human rights sanctions in the case of Iran but not in the case of China (I SP-A3). Bernet (2023) of the Aargauer Zeitung came to a similar conclusion. The Liberal Party interviewed claimed that the drone delivery-related sanctions are concerning the law of neutrality, as Switzerland is not allowed to deliver weapons to countries in conflict (I LP-A7). They further stated that the Federal Council has no legal basis to adopt human rights-based sanctions (I LP-A7). Both of the Liberal Party MP's statements appear to be incorrect as the law of neutrality does not concern non-military sanctions and Switzerland does indeed have a legal basis to adopt such sanctions with the EmbA. The Swiss People's Party MP interviewed did not give a clear answer on how the drone delivery and human rights-based sanctions are different but is in favor of the Federal Councils decision not to adopt the human rights-based sanctions, as they believe that Switzerland can most likely achieve more with its current approach (I SVP-A7 & I SVP-A7b). The representative of the SECO explained that the sanctions related to the human rights violations are based on a different sanctions regime than those related to drone deliveries to Russia (I SECO-A1). The listings that Switzerland has adopted were imposed by the EU under its sanctions against Russia (I SECO-A1). Switzerland has joined these sanctions considering the

serious violations of international law (I SECO-A1). The fact that non-Russian citizens are also sanctioned in connection with the Russia sanctions is not new; Belarusian citizens were also listed before (I SECO-A1). Although Iranian nationals are sanctioned in both cases, the sanctions related to drone deliveries to Russia as well as those related to human rights violations, they may be perceived differently (I SECO-A1). The human rights sanctions were not adopted based on a consideration of many aspects, including Switzerland's Good Offices. Other interests of Switzerland are also considered in such evaluations, such as security policy interests (I SECO-A1). However, the representative of the SECO stated that there is no "magic formula" how which interests are weighed (I SECO-A1).

5.3.6 Controversy on the Federal Councils Reasoning

It can be seen in the previous sections that the Federal Council sometimes argues that sanctions are not adopted as they would put Switzerland's diplomatic efforts at risk, which it believes are more effective than sanctions. This causes controversies as it brings up the question if Switzerland's diplomatic efforts are in fact effective in achieving goals such as an improvement of the human rights situation abroad. And, whether the introduction of sanctions would limit Switzerland's diplomatic abilities.

The Socialist Party MP interviewed stated that while there are some success stories, it is difficult to measure to what extent Switzerland can take credit for those (I SP-A9). They further stated that in the case of China, the human rights dialogue did not happen for a while and the only ongoing dialogue is about practical economy related topics (I SP-A3). The Green Party MP interviewed stated that nearly two years ago the government was asked for a report on the impact of the human rights dialogue with China that was ongoing for more than 30 years (I GP-A7). A postulate (20.4334) requesting such a report was voted on and accepted by the National Council on the 9th of March 2021, by 94 to 65 votes and 1 abstention. To this day, the Green Party MP interviewed has not seen any evidence that this dialogue resulted in an improvement of the situation (I GP-A7). The Federal Council regards postulate (20.4334) as sufficiently answered in its "China Strategy 2021-2024" as it stated in its report of on motions and postulates of the Councils in 2021 (22.006). The "China Strategy 2021-2024" was reviewed for this thesis. It is stated in the strategy that the dialogue on human rights with China did not take place since 2018. It further states that Germany and the EU held such dialogues in

2020 (The Swiss Confederation, 2021). However, no reference to the concrete impact of the human rights dialogue between Switzerland and China could be found in the “China Strategy 2021-2024”. The Green Party MP interviewed further stated that Switzerland should evaluate which tools are most effective in support of human rights in China (I GP-A7). When asked about the impact of Switzerland’s Good Offices on human rights in China and Iran, the Swiss People’s Party MP interviewed referred to the impact of humanitarian organizations based in Geneva (I SVP-A1, I SVP-A2). They did not make a statement on diplomatic efforts of the Swiss government (I SVP-A1, I SVP-A2). The Liberal Party MP interviewed said that, while the impact is difficult to measure, Switzerland is the only country that has access to discuss those topics through the human rights dialogue in China and through the protection power mandates in Iran (I LP-A2). This statement appears to be incorrect as evidence was found that several non-neutral countries had a human rights dialogue with China during the years Switzerland had one, and Germany and the EU could continue the dialogue beyond 2018, after which the dialogue with Switzerland was suspended by China (The Swiss Confederation, 2021). No publicly available reports or documentation on the status of the human rights dialogue with China as of April 2023 could be found. Nevertheless, it should be noted that according to Federal Councilor and Foreign Minister of Switzerland Ignazio Cassis the dialogue was resumed in the meantime (personal communication, April 26, 2023). The representative of the SECO interviewed stated, however, that the SECO did not conduct any research on how the effectiveness of Switzerland’s Good Offices compares to the effectiveness of sanctions (I SECO-A8).

Another point of controversy is whether and to what extent sanctions and Switzerland’s perceived neutrality affect Switzerland’s Good Offices. This appears to be a relatively difficult question to assess. On the one hand, evidence can be found that sanctions appear to impact Switzerland’s ability to mediate in the case of the Ukraine Russia conflict. Switzerland’s proposal to take on a protection power mandate and represent Ukraine in Russia was not welcomed by Russia due to the Swiss adoption of EU Sanctions (Walser & Fargahi, 2022). On the other hand, it appears that often non-neutral countries recently took on mediating opportunities that Switzerland had an interest in. Turkey, a member of the NATO, is successfully taking on a mediating role between Russia and Ukraine (SRF, 2022a). Furthermore, in the recent case of the resumption of diplomatic relations between Saudi Arabia and Iran, the mediator was China, not Switzerland, as a neutral country that, in addition, held the protection power mandates for

the two countries (Mavris & Rigendinger, 2023). Switzerland represents the interests of the United States in Iran under the protection power mandate (FDFA, 2022c). However, Qatar has a mediating role in nuclear talks between Iran and the US (England & Bozorgmehr, 2022).

5.3.7 Pressures from International Partners

The dissatisfaction of Switzerland's international partners with regards to the Confederation's general approach to sanctions is increasingly voiced by foreign diplomats. US-Ambassador Miller criticized Switzerland's handling of sanctions and announced that the pressure on Switzerland will increase in the future (Häsler, 2023). While Swiss People's Party MP Franz Grüter harshly criticized the US-Ambassador for his remarks on Switzerland's domestic politics, National Councilors Molina (Socialist Party), and Elisabeth Schneider-Schneiter (Centre Party) see Miller's remarks as a confirmation that Switzerland's position is hardly understood abroad (Gerny, 2023). Schneider-Schneiter noted that Switzerland's reputation abroad is currently suffering dramatically (Gerny, 2023). According to Gerny (2023) the Swiss Ambassador to the United States, Jacques Pitteloud, is also concerned about the increasing pressure. The unity among Switzerland's partners when it comes to the dissatisfaction of Switzerland's handling of sanctions also becomes clear in a letter sent to the Federal Council on the 5th of April 2023 signed by the ambassadors of the G7. The letter was made public by the newspaper "Tages Anzeiger" and can be found online.

The Socialist Party MP interviewed observed that Switzerland's sanctions policy meets no sympathy among foreign diplomats (I SP-A7). The Swiss People's Party MP interviewed stated that they are often in contact with foreign ambassadors to Switzerland (I SVP-A5). When asked about how Switzerland's position on sanctions is received abroad, they stated that Switzerland's special role needs to be explained sometimes (I SVP-A5). The Green Party MP interviewed stated that it will be increasingly requested from Switzerland to take a position and that the pressure from international partners will grow (I GP-A6 & I GP-A3). The Socialist Party MP interviewed added that the pressure from abroad combined with domestic pressure caused the Federal Council to adopt the Ukraine-related sanctions (I SP-A4). The Green Party MP interviewed agrees and said that the sanctions against Russia were adopted from the EU by force, which according to the Green Party MP interviewed, creates the image of Switzerland as an opportunistic country rather than a country that is based on values (I GP-A4). They also stated that

Switzerland is under major pressure by the EU and US to adopt thematic human rights sanctions (I GP-A4).

Criticism from Bruxelles regarding the Swiss reluctance to adopt the thematic human rights sanctions from the EU is voiced for instance from René Repasi, a German member of the EU Parliament (Marti, 2023). The Liberal Party MP interviewed stated that, since quite some time, the special position Switzerland has internationally no longer suits the EU (I LP-A5). The Green Party MP interviewed explained that, in conversations with parliamentarians from EU countries, the Free Trade Agreement between Switzerland and China is often a point of discussion (I GP-A3). It is an issue for them that Switzerland benefits from the EU single market while simultaneously importing products from labor camps in China with tariff advantages while not applying the moral restrictions the EU has set around its market (I GP-A3). They stated that it is “morally, ethically and even diplomatically a bit difficult for Switzerland” to adopt other sanctions regimes but not the ones based on human rights (I GP-A3).

While there is a clear tendency of pressure from western countries in favor of a Swiss application of thematic human rights sanctions, it should be noted that Switzerland is also facing pressure to do the opposite. The Ambassador to Switzerland of the People’s Republic of China, Wang Shihting, stated that the relationship of the two countries would suffer dramatically if Switzerland were to adopt the EU sanctions against China (Plüss & Cassidy, 2022).

5.3.8 Lobbyism

According to the Liberal and Socialist Party MPs interviewed, the main lobby in favor of thematic human rights sanctions consists of NGOs (I LP-A5 & I SP-A5). Criticism was voiced for instance by the Society for Threatened Peoples, regarding Switzerland not adopting the human rights sanctions related to violations in China (GfbV, 2021). The Swiss People’s Party MP interviewed stated that humanitarian organizations lobby against the application of thematic human rights sanctions (I SVP-A4). They said that organizations they are in touch with, such as the ICRC, are asking not to impose sanctions as it would cause difficulties, such as restricted access, for them to help in sanctioned countries (I SVP-A4 & I SVP-A2). Reports on public criticism of the ICRC could be found regarding sanctions in relation to Iraq and Syria (SRF, 2023b; SWI, 2022). According to the Socialist Party MP interviewed, groups that lobby against adopting

sanctions mainly consist of business associations such as Economiesuisse and Swissmem (I SP-A5). According to Rudolf Minsch, Chief Economist of Economiesuisse, sanctions are only for show and counterproductive (Poletti, 2021). He stated that Switzerland should try to influence the human rights situation through bilateral talks and international organizations instead (Poletti, 2021). Swissmem (2022) published a statement saying that sanctions or boycotts by Switzerland would be ineffective and would only harm the local people and Switzerland itself. The Green Party MP interviewed added that Swiss Banks and Swiss based multinational cooperations also lobby against sanctioning China (I GP-A4b).

5.3.9 Neutrality Initiative

The “Neutrality Initiative” aims to define Swiss neutrality in the Constitution (Neutralitätsinitiative, n.d.). The initiative was initiated in 2022 by a right wing conservative committee, closely associated with the Swiss People’s Party (SRF, 2022c). It is promoted by prominent right wing personalities such as former Federal Councilor Christoph Blocher and National Councilor Walter Wobmann (SRF, 2022c). The initiators now have time until the 8th of May 2024 to collect the 100,000 valid signatures needed to qualify for a national vote (SRF, 2022c).

If passed by vote, according to the official website of the “Neutrality Initiative”, the constataion would be amended with the following article:

Art. 54a Swiss neutrality

1. *Switzerland is neutral. Its neutrality is perpetual and armed.*
2. *Switzerland does not join military or defense alliances. It reserves the right to cooperate with such alliances in the event of a direct military attack on Switzerland or in the event of acts in preparation for such an attack.*
3. *Switzerland does not participate in military conflicts between third countries and does not take any non-military coercive measures against belligerent states. This does not apply to obligations to the United Nations Organization (UNO) and measures to prevent the circumvention of non-military coercive measures by other states.*
4. *Switzerland uses its perpetual neutrality for the prevention and resolution of conflicts and is available as a mediator.*

(This text was translated from German and is not the legally binding version)

Paragraph three is relevant in the context of this thesis as it would make it illegal for Switzerland to adopt the thematic human rights sanctions from the EU.

Chief editor of the NZZ newspaper Eric Gujer, in an interview with Christoph Blocher, criticized the initiative, stating that the purpose of neutrality is to prevent damage and if Switzerland would not have been able to adopt the sanctions from the EU against Russia, Switzerland would have certainly been confronted with retorsion measures from western states (NZZ, 2023). Therefore, he concluded that the adoption of those sanctions is in accordance with the core purpose of Swiss neutrality (NZZ, 2023). Blocher in response claimed that the purpose of neutrality is not to prevent damage but to prevent war. According to the FDFA (2022a) the purpose of neutrality is to secure the independence of Switzerland and the inviolability of Switzerland's territory and further serves peace and security in Europe. In the interview with Gujer, Blocher further claimed that Switzerland has given up the credibility of neutrality by adopting the Russia-related sanctions.

6 Discussion of Findings

In this section the findings of the thesis are discussed and analyzed. For this purpose, the findings are categorized in key observations which are learnings from abroad, current legal framework in Switzerland, current state of Switzerland's sanctions implementation and enforcement, democratic legitimacy of applying human rights-based sanctions, the Federal Council's reasoning, as well as pressures, lobbyism, and opposition. Furthermore, the research question is answered in this section.

6.1 Learnings from Abroad

While the general impact of the thematic human rights sanctions in the EU, UK, and US has proven to be difficult to assess, it must be noted that thematic human rights sanctions face some criticism in academic literature. It was found by Eckes (2022), Zemtsov et al (n.d.) and (Acer et al., 2020) that such sanctions appear to be imposed on politically convenient targets, meaning that not everyone that should be sanctioned, given the purpose of such sanctions, is sanctioned. Furthermore, it was noted that the effectiveness of such sanctions can be questioned as it might be more effective to sanction a malfunctioning justice system rather than directly sanctioning the violators (Tilahun, 2021). Moreover, the effectiveness appears to highly depend on the violator's personal characteristics (Weber, 2021). Nevertheless, there is limited evidence that the US GMHRA Act caused a desired change of behavior (Peterson, 2014; Zigerelli, 2020). Additionally, it was found that there is good reason to assume that such sanctions can be a useful tool to achieve improvements of the human rights situation abroad in diplomatic negotiations. This was pointed out by Hudáková et al. (2021), in relation to the relaxations of sanctions regimes, and by Berschinski (2018) in relation to US thematic human rights thematic sanctions. Additionally, it was found that such sanctions can cause strong reactions of the targeted (Bogdanova, 2022). This indicates that the sanctions do cause discomfort to those responsible for human rights violations.

It was further found that sanctions are more effective when coordinated between likeminded countries; this was pointed out by the Socialist Party MP interviewed as well as by the Council of the EU and the European Council (2023) (I SP-A9). As a result, an increasing coordination of sanctions listings and enforcement can be observed. Weber

(2021) described the coordination of the listings in EU, UK, and US sanctions regimes, and Lester (2023) reported on the planned coordination of G7 sanctions enforcement.

6.2 Current Legal Framework in Switzerland

Switzerland's neutrality appears to not legally hinder the country from adopting human rights-based thematic sanctions. The Federal Council could impellent such sanctions by adopting them, for instance from the European Union, based on the EmbA. Philipp Weber-Lörtsch, an attorney focusing on global trade and legal expert in terms of sanctions confirmed this (personal communication, April 12, 2023). Furthermore, the EmbA specifically states that sanctions can be adopted by Switzerland to "serve to secure compliance with international law, and in particular the respect of human rights". The EmbA does not specify what kind of sanctions can be adopted by Switzerland. Furthermore, it must be noted that the Swiss Federal Constitution obligates the country in Article 54 "Foreign Relations" to promote the respect for human rights abroad.

Therefore, it appears clear that Switzerland could adopt those sanctions, and that they would be clearly in line with the Swiss Constitution and the described purpose of sanctions in Swiss law.

Nevertheless, based on the policy of neutrality, the Federal Council must take the credibility of Switzerland's neutrality into account when considering the adoption of such sanctions.

6.3 Current State of Switzerland's Sanctions Implementation and Enforcement

It was found that the SECO, which is responsible for the implementation of sanctions, has operational difficulties, which appear to negatively impact the effectiveness of sanctions adopted by Switzerland. The SECO stated that it was faced with major challenges when the sanctions related to the situation in Ukraine were introduced, and that it had to more than doubled the number of employees of the responsible department to around 20 people (I SECO-A5). Therefore, the SECO acknowledges that its sanctions department was, at the least recently, not in optimal condition and is now working with a team that is mostly inexperienced in their role. The fact that the SECO was recently allocated more people to work on sanctions and reportedly raised the issue of the heavy workload related to following up with potential

sanctions violations with the government (SWI, 2023), indicates that the SECO itself is acknowledging that its sanctions department also currently has room for improvement. While the Liberal Party MP interviewed stated that the SECO is efficiently doing everything it needs to do (I LP-A6), the Green and Socialist Party MPs made it clear that the SECO is still in a relatively weak position when it comes to the operational ability to implement sanctions (I SP-A6; I GP-A5). Furthermore, the Green Party MP interviewed and the US Ambassador observe a lack of motivation and political will to enforce sanctions within the SECO (I GP-A5), (Häsler, 2023).

6.4 Democratic Legitimacy of Applying Human Rights-Based Sanctions

The cases of both the proposed revision of the EmbA (19.085) and the parliamentary initiative (19.501) show that a majority of the National Council, the political force with the highest democratic legitimacy, would be in favor of giving the Federal Council the authority to impose its own thematic human rights sanctions.

However, those cases also show that the Council of States does not support Switzerland imposing its own thematic human rights sanctions. Therefore, such an option is out of the question with the current composition of the Council of States. Nevertheless, it is possible that similar debates will unfold in the parliament again at a later point and the proposals resulting from those might have a better chance to pass in the next legislation.

The extensive efforts of several MPs pushing for Switzerland to adopt EU human rights-based thematic sanctions in relation to China demonstrate a strong dissatisfaction among a significant fraction of the National Council with the Federal Councils handling of the issue. Furthermore, it appears that the Federal Council deliberately avoids answering certain questions by parliamentarians as can be seen in its response to questions (21.7507 & 21.7505). In addition, the Federal Council appears to avoid taking a position on the matter, which is awaited since 2021. It failed to communicate a decision regarding the potential adoption to this date, even though a decision was promised to be communicated by August 2022 in the Federal Council's response to Interpellation (22.3029).

The parliamentary efforts regarding the potential adoption of the Iran related human rights sanctions confirm the National Councils majority will to sanction human rights violations and the Council of States will not to do so.

6.5 The Federal Councils Reasoning

The Federal Council's reasoning with regard to its sanctions-related decisions appears to be difficult to comprehend. While the Federal Council must consider policy of neutrality related aspects such as the perceived neutrality of Switzerland abroad, according to the representative of the SECO, there are no specified criteria by which such evaluations are made (I SECO-A2). As a result, such decisions can appear incoherent.

The case study of the recent Iran sanctions gives valuable insights into the Federal Council's reasoning and argumentation against adopting sanctions. It shows that the Federal Council's communicated logic, that the sanctions based on human rights are different from those based on drone deliveries, in terms of their effect on Switzerland's perceived neutrality and its protection power mandates, is hardly understood in the public and in the parliament. All parliamentarians asked in the context of this thesis gave a different explanation to the question how the two types of sanctions are different.

While the Federal Council outlined several activities within Switzerland's Good Offices in its responses to MPs in the context of the Iran sanctions, it has not presented evidence that those efforts are effective, let alone more effective than sanctions. Furthermore, the Federal Council did also not present concrete evidence on the impact of the human rights dialogue with China requested, by the postulate (20.4334) in 2021, in its official response (22.006). In contrast, limited evidence has been found that sanctions are effective to some extent and can effectively be used as a diplomatic tool, as outlined in the first section of the discussion. Moreover, it is generally questionable whether the Federal Council's evaluations regarding the adoption are fact-based. The SECO did not conduct any research on how the effectiveness of sanctions compares to the effectiveness of Switzerland's diplomatic efforts within the Good Offices (I SECO-A8).

Furthermore, it was found to be difficult to evaluate if and to what extent sanctions damage Switzerland's perceived neutrality or limits Switzerland's activities within the Good Offices. While according to Russia, Switzerland has lost its neutral position needed to mediate between Russia and Ukraine due to its adoption of EU Sanctions, Russia approved of Turkey as a mediator (Mavris & Rigendinger, 2023; Walser & Fargahi, 2022). Turkey, a member of NATO, is certainly not neutral. It was further found that in recent times Switzerland has lost mediation opportunities to non-neutral states (Mavris &

Rigendinger, 2023; SRF, 2022a). Moreover, the Swiss Confederation (2021) itself stated that the EU and Germany were able to continue the human rights dialogue with China after the dialogue between Switzerland and China was suspended by China.

These findings indicate that the Federal Council's argumentation lacks coherence and appears to be based more on political and economic considerations rather than facts. While these findings do not constitute evidence that Switzerland could continue its diplomatic efforts within its Good Offices without any difficulties after implementing sanctions, they give considerable reason to question to what extent the perceived neutrality influences Switzerland's scope of action within the Good Offices.

6.6 Pressures, Lobbyism and Opposition

Switzerland's position on sanctions is hardly understood among foreign diplomats (I SVP-A5; I SP-A7), (Gerny, 2023). The fact that the Swiss position, and the argumentation backing it, is not well-received abroad, leads to pressure from Switzerland's partners, demanding the Swiss participation in sanctions. External pressure appears to have had a significant part in Switzerland adopting the sanctions from the EU against Russia (I SP-A4; I GP-A4). Now, Switzerland is again facing pressure from its partners, namely the EU and the US, to adopt human right sanctions (I GP-A4). It can be expected that this pressure will increase in the future. This was announced by the US Ambassador himself (Häsler, 2023). Switzerland is a country that is well integrated in the western world and heavily dependent on its partners, both in terms of security and economy. Therefore, it does not come as a surprise that some Swiss politicians and the Swiss Ambassador to the US voiced concerns over the reputational damage that Switzerland is currently suffering abroad and the increasing pressure from its international partners as outlined by Gerny (2023). While it has to be noted that Switzerland is facing pressure from China not to adopt sanctions (Plüss & Cassidy, 2022), these findings show that Switzerland is facing significant international pressure from its western partners to adopt human rights sanctions, which is expected to increase in the future. As it appears that external pressure has contributed to the adoption of sanctions before, the findings indicate that external pressure could possibly cause or significantly contribute to a Swiss adoption of thematic human rights sanctions.

Besides pressures from external partners other actors lobby both in favor and against an adoption of thematic human rights sanctions. The lobby in favor of human

rights sanctions mainly consists of NGOs (I SP-A5; I LP-A5) (GfbV, 2021). On the other hand, major business associations lobby against such sanctions (Poletti, 2021; Swissmem, 2022). According to the Swiss People's Party MP interviewed, some humanitarian organizations are expressing concerns over their access to sanctioned countries and are therefore against thematic human rights sanctions. However, it remains questionable if their concerns would apply to thematic human rights sanctions, as such sanctions do not target entire countries or regions and should therefore not impact the work of humanitarian organizations.

Lastly, it should be noted that a group of right-wing conservatives which are strongly against any sanctions outside of the UN sanctions, started the "Neutrality Initiative" aiming to make it illegal for Switzerland to adopt sanctions from any actor which is not the UN. While it would not be valid to speculate about the outcome of this initiative, should it qualify for a national vote, it will certainly result in heated debates within the Swiss public and shift the topic of sanctions in general and likely the issue of thematic human rights sanctions, into the spotlight.

6.7 Answering of Research Question

The analysis has shown that Switzerland's major political and economic partners apply thematic sanctions in promotion of human rights abroad. To follow the example of the EU, UK, and US, Switzerland would have to overcome a few factors of political and operational nature. Legal obstacles only exist if Switzerland were to apply its own sanctions.

A Swiss introduction of its own human rights-based thematic sanctions would require, in addition to the already existing majority in the National Council, a majority in the Council of States. Furthermore, potentially a majority within the Swiss people eligible to vote would be needed in case of a referendum.

Nevertheless, Switzerland would be able to apply thematic human rights sanctions under its existing legal framework by adopting them from the European Union. For that to happen, the Federal Council would have to make a decision to adopt them. However, for such a decision, whether in favor or against an adoption, to be accepted by the Swiss public, political actors and the international community, the Federal Council probably has to overthink its evaluation criteria, process and reasoning. For such decisions to be comprehended and accepted, they should be made based on facts and in coherence with

Switzerland's values, as well as in line with its constitutional obligations and the purpose of sanctions as described in the EmbA.

Moreover, Switzerland must overcome its difficulties of operational nature within the SECO to ensure that such sanctions, if adopted, have an impact beyond their symbolic value. Based on the findings of this study it can be assumed that the operational difficulties within the SECO are rooted in a lack of resources and could potentially be partly caused by a lack of political will to implement sanctions among its leadership. This would have to be thoroughly investigated and thereafter approached appropriately.

7 Conclusion

The objective of this thesis was to identify the obstacles which Switzerland would have to overcome to apply thematic human right sanctions. Several notable findings were made in this context. The obstacles can be categorized in legal, political, and operational ones. Legal obstacles appear to only apply if Switzerland were to apply its own sanctions. It was found that under the current legal framework, Switzerland could not impose its own thematic sanctions. Nevertheless, it would be legally possible to adopt the thematic human rights sanctions from the EU. Additionally, it appears that an adoption would be in line with the Swiss Constitution and the described purpose of sanctions in Swiss law. As it was found that sanctions are more effective when coordinated between likeminded states, would seemingly be more of a service to human rights if Switzerland were to participate in the thematic EU human rights sanctions rather than imposing its own.

When it comes to the evaluation whether to adopt the sanctions from the EU the obstacles become political. The Federal Council must consider Switzerland's perceived neutrality while deciding whether to adopt sanctions, due to the policy of neutrality. In that context Switzerland's diplomatic efforts within its Good Offices are frequently referred to by the Federal Council as a counterargument to an adoption of sanctions, as they claim sanctions would hurt Switzerland's diplomatic efforts, which it believes are more effective than sanctions. However, the Federal Council failed to present fact-based evidence for such an argument. It was found that the credibility of this argumentation is questionable for two reasons. Firstly, it can be observed that non-neutral actors such as Turkey, China, Germany, and the EU have taken on diplomatic responsibilities, such as mediation and dialogue on human rights, when Switzerland failed to do so. This occurred regardless of the fact that Switzerland would have been in a diplomatically favorable position to take on those exact responsibilities. These findings show that the need for perceived neutrality to perform Good Offices can be questioned. Secondly, no evidence of the effectiveness of Swiss diplomatic efforts in terms of a positive change with regard to the human rights situation, for instance in China and Iran, could be found. However, while the effectiveness of sanctions receives its fair share of criticism in academic literature, limited evidence has been found that sanctions are effective to an extent and can effectively be used as a diplomatic tool. This indicates that the claim that the Swiss diplomatic efforts are more effective than sanctions can be questioned as well.

As a result, the Federal Council is struggling for its position to be understood. It was found that Switzerland is exposed to increasing pressures mainly from the political left in the country, NGO's, and Switzerland's main international partners which are dissatisfied with Switzerland's approach to sanctions, advocating for an adoption of the thematic human rights sanctions. On the contrary, there are forces pushing in the other direction advocating against an adoption, mainly from the political right in the country, business associations, and China. It should however be noted that a majority of the National Council, the chamber with the highest democratic legitimacy, is in favor of thematic human rights sanctions.

Moreover, Switzerland is not only facing political obstacles but also operational ones. The findings indicate that there is reason to believe that current operational capability to enforce sanctions appears to negatively impact the effectiveness of sanctions beyond their symbolic value. More specifically, the operational difficulties in the SECO appear to be rooted in a lack of resources and potentially a lack of political will. However, it must be noted that this observation is mainly based on the statements of some politicians and representatives of other governments. There are also statements reflected in this thesis that suggest otherwise. This conclusion is built on the consensus of the majority of those statements as well as taking into account that statements of the SECO itself which heavily support the first part of the observation regarding the lack of resources.

In conclusion, Switzerland is facing no legal obstacles to adopt thematic human rights sanctions from the EU. However, Switzerland must overcome obstacles of political nature, and some of operational nature, to do so.

7.1 Limitations and Further Research

It must be noted that this thesis contains information that was derived from a small sample size of selected interview partners. The answers given by the interviewees are likely influenced by their beliefs and opinions. While this bias was reduced by interviewing politicians throughout the political spectrum, some degree of subjectivity naturally remains due to the small sample size. Additionally, making statements on the effectiveness of both sanctions and Switzerland's Good Offices remains difficult due to a lack of availability of quantifiable comparing factors. Therefore, any attempts to compare the effectiveness of those two approaches are limited in their credibility.

Moreover, this thesis identified the obstacles Switzerland would have to overcome to apply thematic human rights sanctions. It is limited to the identification of those obstacles and does not present solutions on how to overcome them.

Therefore, future studies could further analyze the sanctions related evaluation process of the Swiss government to present solutions on how to improve its coherence and comprehensiveness. In the broader scope, this could include studies, potentially quantitative ones, on the effectiveness of both Swiss sanctions and diplomatic efforts with the goal to contribute to a more fact-based evaluation of those decisions.

Furthermore, future studies could also focus on further deepening the analysis of the SECO's implementation and enforcement capabilities aimed at finding solutions on how to improve the Switzerland's operational set up in terms of sanctions.

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9 Appendix

9.1.1 Appendix A – List of Interviewees

Function	Format	Date
National Councilor, Socialist Party	In Person	23.02.2023
National Councilor, Green Party	In Person	28.02.2023
High ranking official, sanctions division, SECO	Phone Call	01.03.2023
National Councilor, Liberal Party	In Person	06.03.2023
National Councilor, Swiss People's Party	Zoom Call	18.03.2023