



The implementation of EU sanctions against RT and Sputnik

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Director of publication – Susanne Nikoltchev, Executive Director

Editorial supervision – Maja Cappello, Head of Department for Legal Information

Editorial team – Francisco Javier Cabrera Blázquez, Julio Talavera Milla, Sophie Valais

European Audiovisual Observatory

Author

Francisco Javier Cabrera Blázquez

European Audiovisual Observatory

Editorial assistant – Sabine Bouajaja

Press and Public Relations – Alison Hindhaugh, alison.hindhaugh@coe.int

European Audiovisual Observatory

Publisher

European Audiovisual Observatory

76, allée de la Robertsau, 67000 Strasbourg, France

Tel.: +33 (0)3 90 21 60 00

Fax: +33 (0)3 90 21 60 19

iris.obs@coe.int

www.obs.coe.int

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Francisco Javier Cabrera Blázquez



Foreword

Freedom of expression and information is one of the most fundamental human rights, and the free reception and retransmission of audiovisual content has been one of Europe's pillars since the original European Convention on Transfrontier Television was adopted in 1989.

Much water has flown under the European bridge since then, with waves of media legislation at European and national level making the dream of a united European zone of freedom of expression ever closer to reality.

Following the invasion of Ukraine by the armed forces of the Russian Federation, different European countries have resorted to restrictive measures with regard to Russian programmes considered to endanger their national security. In the latest but not least of them, the EU has banned the state-owned media outlets RT and Sputnik, as one of its sanctions in response to the invasion.

This note discusses the legal and institutional framework behind the EU sanctions, not their appropriateness, and builds on publicly available information. It incorporates the valuable feedback received from Mark D. Cole (EMR), Emmanuelle Machet and Eric Munch (EPRA), Urška Umek (Council of Europe), and the peer-reading from numerous national media regulators through ERGA and its secretariat at the European Commission: Dieter Staudacher (AT), Ingrid Kools (BE VL), Michalis Lambrianides (CY), Lojíková Kateřina (CZ), Tais Vagrõõm (EE), Raphaël Honoré and Martine Coquet (FR), Persa Lampropoulou (GR), Ciaran Kissane (IE), Mateusz Jasiński (PL), Ruxandra Minea-Cristea (RO), Tove de Vries (SE), and Stanislav Matejka (SK). I would like to thank them all for their precious collaboration!

Strasbourg, March 2022

Maja Cappello

IRIS Coordinator

Head of the Department for Legal Information

European Audiovisual Observatory

Table of contents

1	Introduction	1
1.1	The EU framework.....	1
1.2	The Council of Europe and the ECTT.....	4

2	EU sanctions regime	6
2.1	General rules.....	6
2.2	EU restrictive measures concerning the war in Ukraine.....	7

3	EU sanctions against RT and Sputnik.....	8
3.1	Restrictive measures.....	8
3.2	Rationale	8
3.3	Legal basis.....	9
3.4	Judicial review.....	10

4	Measures taken by EU member states against Russian media outlets	12
4.1	Before the EU sanctions	12
4.1.1	BG - Bulgaria.....	12
4.1.2	DE - Germany	13
4.1.3	EE - Estonia.....	14
4.1.4	LT - Lithuania.....	16
4.1.5	LV - Latvia.....	17
4.1.6	PL - Poland.....	19
4.2	After the EU sanctions.....	20
4.2.1	AT - Austria	21
4.2.2	CY - Cyprus.....	21
4.2.3	EE - Estonia.....	22
4.2.4	GR - Greece	22
4.2.5	IE - Ireland.....	23
4.2.6	LT - Lithuania.....	23
4.2.7	LV - Latvia.....	23
4.2.8	RO - Romania	24

5	Sanctions from non-EU countries	25
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5.1	GB - United Kingdom.....	25
5.2	MD - Moldova.....	25
5.3	UA - Ukraine.....	26



1 Introduction

1.1 The EU framework

On 27 February 2022, the President of the European Commission, Ursula von der Leyen, released a statement¹ outlining certain measures in response to the Russian invasion of Ukraine. Among these measures, von der Leyen announced that the EU would ban the state-owned media outlets Russia Today and Sputnik, as well as their subsidiaries. High Representative/Vice-President Josep Borrell confirmed this in a separate statement,² in which he affirmed that the EU was “taking a crucial step to turn off the tab for Russia’s information manipulation in Europe by banning Russia Today and Sputnik from broadcasting in the Union” and that the EU would “continue working actively in Ukraine and our neighbourhood to fight their attempts to distort reality and seed confusion and uncertainty”. Following these statements, the Council of the EU adopted a Decision and an EU Regulation urgently suspending the broadcasting activities of Sputnik’ and RT/Russia Today in the framework of EU sanctions against the Russian Federation.³

In a normal situation, the EU does not have the competence to impose on member states restrictions on the activities of a broadcaster under media law.⁴ The main EU regulatory instrument in the media field, the Audiovisual Media Services Directive (AVMSD),⁵ governs EU-wide coordination of national legislation on all audiovisual media – traditional TV broadcasts, on-demand services, partly also on video-sharing platforms (VSPs). However, the AVMSD applies only to freedom of reception and transmission between EU member states and, depending on who has jurisdiction over the infringing

¹ Statement by President von der Leyen on further measures to respond to the Russian invasion of Ukraine, 27 February 2022,

https://ec.europa.eu/commission/presscorner/detail/en/statement_22_1441.

² Further measures to respond to the Russian invasion of Ukraine: Press statement by High Representative/Vice-President Josep Borrell, 27 February 2022,

https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_1463.

³ See Chapter 3 of this Note.

⁴ Among the various opinions expressed, there has also been some criticism of the way the abovementioned sanctions have been imposed by the European Union, see e.g. European Federation of Journalists, “Fighting disinformation with censorship is a mistake”,

<https://europeanjournalists.org/blog/2022/03/01/fighting-disinformation-with-censorship-is-a-mistake/>.

⁵ Consolidated text: Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (codified version) (Text with EEA relevance),

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010L0013-20181218>.



media outlet, the procedure to adopt restrictive measures against the transmissions of a media outlet can be more or less complicated. There are different scenarios:

- The complaining EU member state has jurisdiction over the infringing media outlet. In such cases, national law applies.
- When an infringing media outlet falls under the jurisdiction of another EU member state, and that country does not act against the media outlet, adopting measures against the outlet in the receiving country requires a lengthy procedure according to Article 3(2) or (3) AVMSD (emphasis added). This procedure applies only in limited cases, where infringements are particularly serious:

*2. A Member State may provisionally derogate from paragraph 1 of this Article⁶ where an audiovisual media service provided by a **media service provider under the jurisdiction of another Member State manifestly, seriously and gravely infringes point (a) of Article 6(1) or Article 6a(1) or prejudices or presents a serious and grave risk of prejudice to public health.***

The derogation referred to in the first subparagraph shall be subject to the following conditions:

*(a) during the **previous 12 months, the media service provider has on at least two prior occasions already performed one or more instances of conduct described in the first subparagraph;***

*(b) the **Member State concerned has notified the media service provider, the Member State having jurisdiction over that provider and the Commission in writing of the alleged infringements and of the proportionate measures it intends to take should any such infringement occur again;***

*(c) the **Member State concerned has respected the right of defence of the media service provider** and, in particular, has given that provider the opportunity to express its views on the alleged infringements; and*

*(d) **consultations with the Member State having jurisdiction over the media service provider and the Commission have not resulted in an amicable settlement within one month of the Commission's receipt of the notification referred to in point (b).***

***Within three months of the receipt of the notification** of the measures taken by the Member State concerned and after having requested ERGA to provide an opinion in accordance with point (d) of Article 30b(3), **the Commission shall take a decision** on whether those measures are compatible with Union law. The Commission shall keep the Contact Committee duly informed. Where the Commission decides that those measures are not compatible with Union law, it shall require the Member State concerned to put an end to the measures in question as a matter of urgency.*

*3. A Member State may provisionally derogate from paragraph 1 of this Article where an audiovisual media service provided by a **media service provider under the jurisdiction of another Member State manifestly, seriously and gravely infringes***

⁶ Article 3(1) AVMSD: “1. Member States shall ensure freedom of reception and shall not restrict retransmissions on their territory of audiovisual media services from other Member States for reasons which fall within the fields coordinated by this Directive.”



point (b) of Article 6(1)⁷ or prejudices or presents a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence.

The derogation referred to in the first subparagraph shall be subject to the following conditions:

(a) during the **previous 12 months the conduct referred to in the first subparagraph occurred at least on one prior occasion;**

and

(b) the **Member State concerned has notified the media service provider, the Member State having jurisdiction over that provider and the Commission in writing of the alleged infringement and of the proportionate measures it intends to take should any such infringement occur again.**

The Member State concerned shall respect the rights of defence of the media service provider concerned and, in particular, give that provider the opportunity to express its views on the alleged infringements.

Within three months of the receipt of the notification of the measures taken by the Member State concerned and after having requested ERGA to provide an opinion in accordance with point (d) of Article 30b(3), **the Commission shall take a decision** on whether those measures are compatible with Union law. The Commission shall keep the Contact Committee duly informed. Where the Commission decides that those measures are not compatible with Union law, it shall require the Member State concerned to put an end to the measures in question as a matter of urgency.

- Article 3(5) AVMSD provides, however, a fast-track procedure for “urgent cases” (emphasis added):

5. Member States may, in urgent cases, no later than one month after the alleged infringement, derogate from the conditions laid down in points (a) and (b) of paragraph 3. Where this is the case, the **measures taken shall be notified in the shortest possible time to the Commission and to the Member State under whose jurisdiction the media service provider falls, indicating the reasons for which the Member State considers that there is urgency. The Commission shall examine the compatibility of the notified measures with Union law in the shortest possible time.** Where it comes to the conclusion that the measures are incompatible with Union law, the Commission shall require the Member State in question to urgently put an end to those measures.

- With regard to audiovisual media services which come from third countries and do not fall under the jurisdiction of an EU member state, Recital 54 AVMSD provides that member states are free to take whatever measures they deem appropriate,

⁷ Public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32017L0541>.



provided that they comply with Union law and the international obligations of the Union.

In very exceptional situations, such as the situation at hand, the sanctioning rules deriving directly from the Treaty apply.⁸ This case does not fall under the framework of the AVMSD but follows a different EU regulatory framework. This note explores this kind of measures.

1.2 The Council of Europe and the ECTT

For the sake of completeness, considering that rules that are similar to those set in the AVMS Directive also exist at the level of wider geographical scope of the Council of Europe, it is worth mentioning that the European Convention on Transfrontier Television (ECTT)⁹ is the first international treaty creating a legal framework for the free circulation of transfrontier television programmes in Europe, through minimum common rules, in fields such as programming, advertising, sponsorship and the protection of certain individual rights. It entrusts the transmitting states that have ratified the Convention with the task of ensuring that television programme services transmitted comply with its provisions. In return, freedom of reception of programme services is guaranteed, as well as the retransmission of the programme services which comply with the minimum rules of the Convention. The Convention applies to all transfrontier programmes regardless of the technical means of transmission used (satellite, cable, terrestrial transmitters, etc.).

The Convention was negotiated in parallel with the Directive on "Television without Frontiers" (later renamed AVMSD). Following the substantial revision of the "Television without Frontiers" Directive in 2007, it became necessary, to maintain coherence between the directive and the Convention in the interest of legal certainty of both states and transfrontier broadcasters, to re-align the Convention with the directive.

A Standing Committee composed of representatives of each Party is responsible for monitoring the application of this Convention. Proceedings of conciliation and arbitration are also provided for. The Standing Committee finalised the revision of the ECTT to align it to the Directive in 2009, but the negotiations were put on hold after the European Commission reminded the EU members states which are also parties to the ECTT "of their dual obligation not to enter into international commitments that conflict in substance with Community Law and to respect the case law of the European Court of Justice with regard to the external powers of the Community".

The Committee of Ministers of the Council of Europe endorsed proposals by the Secretary General for priorities in 2011 which included, in particular, a proposal to discontinue work on transfrontier television following the termination of the negotiations of the Convention. This was confirmed by the Committee of Ministers when adopting the

⁸ See chapters 2 and 3 of this Note.

⁹ European Convention on Transfrontier Television, Strasbourg, 5 May 1989 (text amended according to the provisions of the Protocol (ETS No. 171) which entered into force, on 1 March 2002), <https://rm.coe.int/168007b0d8>.



2 EU sanctions regime

2.1 General rules

Restrictive measures or sanctions are an essential tool of the EU's Common Foreign and Security Policy (CFSP).¹¹ These measures, which must be consistent with CFSP objectives,¹² as set out in Article 21 of the Treaty on European Union (TEU),¹³ are imposed by the EU to bring about a change in policy or activity by the target country, part of the country, the government, entities or individuals, in line with the objectives set out in a CFSP Council Decision adopted by unanimity after a proposal made by the High Representative of the Union for Foreign Affairs and Security Policy (HR) which has to be examined and discussed by the relevant Council preparatory bodies.¹⁴ A Council decision is binding on those to whom it is addressed (e.g. an EU country or an individual company) and is directly applicable.¹⁵

Furthermore, if the Council Decision includes an asset freeze and/or other types of economic and/or financial sanctions, those measures need to be implemented in a Council regulation, which is based on a previous CFSP Council decision. The regulation is a legal act of general application which is binding on any person or entity (economic operators, public authorities, etc.) within the EU, and lays down the precise scope of the measures and details for their implementation. It is adopted by the Council of the EU on the basis of a joint proposal by the High Representative and the European Commission. The Council then informs the European Parliament of the adoption of the Council regulation.

The CFSP Council decision and the Council regulation are adopted together to allow for both legal acts to produce their effects at the same time. They enter into force upon publication in the Official Journal of the European Union.

The EU adapts the restrictive measures as a result of developments with regard to the objectives of the CFSP Council Decision in question. Where possible and consistent with the European Union's overall strategy towards the third country concerned, the legal instruments imposing restrictive measures may refer to incentives to encourage the required change in policy or activity. The legal instruments will be subject to regular review

¹¹ <https://www.consilium.europa.eu/en/policies/sanctions/>.

¹² See Chapter 2 of this Note.

¹³ Treaty on European Union (TEU), https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.

¹⁴ The preparatory bodies are the Council working party responsible for the geographical region to which the targeted country belongs, the Working Party of Foreign Relations Counsellors (RELEX), if required, the Political and Security Committee (PSC), and the Committee of Permanent Representatives (COREPER II), see <https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/>.

¹⁵ https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en.



in order to assess the efficiency of the adopted restrictive measures with regard to the objectives stated.¹⁶

Listed persons and entities have the possibility of challenging the Council's decision before the General Court of the European Union, which has jurisdiction to rule on proceedings reviewing the legality of decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter 2 of Title V of the Treaty on European Union, in accordance with the conditions laid down in the second paragraph of Article 275 and the fourth and sixth paragraphs of Article 263 of the Treaty on the Functioning of the European Union.¹⁷

2.2 EU restrictive measures concerning the war in Ukraine

Since March 2014, the EU has progressively imposed restrictive measures in response to the following actions by the Russian Federation:

- annexation of Crimea in 2014
- decision to recognise the non-government controlled areas of Donetsk and Luhansk oblasts as independent entities in 2022
- military aggression against Ukraine in 2022

During this period, the EU has imposed different types of restrictive measures:¹⁸

- diplomatic measures
- individual restrictive measures (asset freezes and travel restrictions)
- restrictions on economic relations with Crimea and Sevastopol, and with the non-government-controlled areas of Donetsk and Luhansk
- economic sanctions
- sanctions on media
- restrictions on economic cooperation

¹⁶ For more information, see "Guidelines on the implementation and evaluation of restrictive measures (sanctions)" - 4 May 2018, <https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf> and "Best practices for the effective implementation of restrictive measures" - 4 May 2018, <https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf>.

¹⁷ Treaty on the Functioning of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

¹⁸ For more information about these measures see: <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-ukraine-crisis/>.

See also:

<https://www.sanctionsmap.eu/#/main/details/26/?search=%7B%22value%22:%22%22,%22searchType%22:%7B%7D%7D>.



3 EU sanctions against RT and Sputnik

3.1 Restrictive measures

On 1 March 2022, the Council of the EU adopted a Decision¹⁹ pursuant to Article 29 TEU and a Regulation²⁰ pursuant to Article 215 TFEU (“the EU Decision and Regulation”) by which it is prohibited for “operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by the legal persons, entities or bodies listed in Annex XV [RT- Russia Today English, RT- Russia Today UK, RT - Russia Today Germany, RT - Russia Today France, RT- Russia Today Spanish, Sputnik], including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications, whether new or pre-installed”. Any broadcasting licence or authorisation, transmission and distribution arrangement with RT and Sputnik are suspended. Furthermore, it is prohibited “to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent such prohibitions in the Regulation including by acting as a substitute for natural or legal persons, entities or bodies referred to in Article 2e(3) or Article 2f, 5, 5a, 5b, 5e, 5f or 5h, or by acting to their benefit by using the exceptions in Article 2e(4), 5(6), 5a(2), 5a(5), 5b(2), 5b(3), 5e(2) or 5f(2) of Regulation (EU) No 833/2014”.²¹

The Regulation entered into force on 2 March 2022, the date of its publication in the Official Journal of the European Union.

3.2 Rationale

According to the Recitals of the EU Decision and Regulation, the Russian Federation “has engaged in a systematic, international campaign of media manipulation and distortion of facts in order to enhance its strategy of destabilisation of its neighbouring countries and of the Union and its Member States.” [...] “Those propaganda actions have been channelled through a number of media outlets under the permanent direct or indirect control of the leadership of the Russian Federation. Such actions constitute a significant and direct threat

¹⁹ Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.065.01.0005.01.ENG&toc=OJ%3AL%3A2022%3A065%3ATOC.

²⁰ Council Regulation (EU) 2022/350 of 1 March 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.065.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A065%3ATOC.

²¹ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.229.01.0001.01.ENG&toc=OJ%3AL%3A2014%3A229%3ATOC.



to the Union's public order and security" and "are essential and instrumental in bringing forward and supporting the aggression against Ukraine, and for the destabilisation of its neighbouring countries". The abovementioned restrictive measures will be maintained "until the aggression against Ukraine is put to an end, and until the Russian Federation, and its associated media outlets, cease to conduct propaganda actions against the Union and its Member States". These measures "do not prevent those media outlets and their staff from carrying out other activities in the Union than broadcasting, such as research and interviews".

With regard to the competence of the European Union to take such restrictive measures, the Regulation explains that they "fall within the scope of the Treaty and, therefore, in particular with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary".

3.3 Legal basis

In the case at hand, the Council of the EU used the prerogatives under Title V of the TEU concerning the general provisions on the EU's External Action and the specific provisions on the Common Foreign and Security Policy. According to Article 21(2)(c) TEU:

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

[...]

(c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;

Article 29 TEU empowers the Council of the EU to "adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature". Accordingly, member states must ensure that their national policies conform to the EU positions.

Following a Decision of the Council of the EU pursuant to Article 29 TEU, the restrictive measures of Article 215 of the Treaty on the Functioning of the European Union (TFEU) apply:

1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.

2. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the



procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.

3. The acts referred to in this Article shall include necessary provisions on legal safeguards.

3.4 Judicial review

The measures foreseen in Article 215 TFEU are implemented by means of a Regulation,²² which are binding and directly applicable throughout the EU, and they are subject to judicial review by the Court of Justice and the General Court in Luxembourg. CFSP Council Decisions providing for restrictive measures against natural and legal persons are also subject to judicial review.²³ Accordingly, RT France has initiated legal proceedings against the Council of the EU against the EU Decision and Regulation, although at the time of writing (9 March 2022), there was no information available on the website of the Court of Justice of the EU about the content of RT France's application.²⁴

As suspending the broadcasting activities of Sputnik' and RT/Russia Today concerns the fundamental freedom of expression and information, it is interesting to read the CJEU judgment in Case T-262/15,²⁵ concerning sanctions on Dmitrii Konstantinovich Kiselev, Head of the Russian Federal State News Agency "Rossiya Segodnya". In 2014, Mr Kiselev had been included on the lists of persons subject to restrictive measures for the following reasons:

Appointed by Presidential Decree on 9 December 2013 Head of the Russian Federal State news agency "Rossiya Segodnya". Central figure of the government propaganda supporting the deployment of Russian forces in Ukraine.

Mr Kiselev requested that the Court of Justice of the EU (CJEU) annul the measures against him.²⁶ Among the reasons argued by Mr Kiselev was the infringement of his freedom of expression, as set out in Article 11 of the Charter of Fundamental Rights of the European Union²⁷ and Article 10 of the Convention for the Protection of Human Rights and

²² See Chapter 1 of this Note.

²³ Guidelines on the implementation and evaluation of restrictive measures (sanctions) - 4 May 2018, page 6.

²⁴ RT France v Council, Case T-125/22,

[https://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=T-125%252F22&page=1&dates=&pcs=Oor&lq=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=4621904](https://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=T-125%252F22&page=1&dates=&pcs=Oor&lq=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=4621904).

²⁵ Judgment of the General Court (Ninth Chamber) of 15 June 2017, Case T-262/15, Dmitrii Konstantinovich Kiselev v Council of the European Union,

<https://curia.europa.eu/juris/document/document.jsf?jsessionid=D8C0A1A8FC096C2E039FCC682E1FF16C?text=&docid=191802&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=688632>.

²⁶ This CJEU judgment follows the banning of RT in Latvia and Lithuania, see:

<https://www.euronews.com/my-europe/2020/07/09/lithuania-follows-latvia-in-banning-russian-broadcaster-rt> and <https://www.neplpadome.lv/en/home/news/news1/neplp-kiselyov,-who-is-on-the-eu-sanction-list,-ensures-full-control-over-rt.html>. See also Chapter 4 of this Note.

²⁷ Charter of Fundamental Rights of the European Union,

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.



Fundamental Freedoms.²⁸ The applicant argued that the limitations of that right should be provided for by law, having regard to the principle of legal certainty, pursue an objective of general interest and be necessary and proportionate to that objective, without impairing the substance of that freedom or significantly interfering with journalistic activity. Moreover, the notions of national security and hate speech should also be interpreted strictly.

The Court dismissed Mr Kiselev's action in its entirety. With regard to the effect on freedom of expression of the Council of the EU's restrictive measures, and after acknowledging that the applicant had engaged in propaganda, the Court explained the following (emphasis added):

*112 **The Council's adoption of restrictive measures** relating to the applicant because of his propaganda in support of the actions and policies of the Russian Government destabilising Ukraine **cannot be regarded as a disproportionate restriction of his right to freedom of expression.***

*113 **If that were the case, the Council would be unable to pursue its policy of exerting pressure on the Russian Government** by addressing restrictive measures not only to persons who are responsible for the actions and policies of that government as regards Ukraine or to the persons who implement those actions or policies, but also to persons providing active support to those persons.*

²⁸ Convention for the Protection of Human Rights and Fundamental Freedoms, https://www.echr.coe.int/Documents/Convention_ENG.pdf.



4 Measures taken by EU member states against Russian media outlets

4.1 Before the EU sanctions

Some EU member states did not wait for the European Union to act on Russian state-controlled media outlets, as explained in the following sections. While some measures were taken on the basis of the AVMSD and transposing national law (or simply because of lacking a licence in the German case), in some cases, the NRA in question or the relevant state body (e.g. Ministry of Economy) took the decision to ban channels on the basis of EU sanctions against legal or natural persons originating from a third country.

4.1.1 BG - Bulgaria

On 1 March 2022, the Bulgarian Council for Electronic Media (CEM)²⁹ issued a resolution³⁰ on the basis of Article 32, Paragraph 1, Subparagraph 18, in conjunction with Article 8, Paragraph 2 of the Radio and Television Act,³¹ in conjunction with Article 24, Subparagraph 2 of the European Convention on Transfrontier Television,³² in conjunction with Article 60, Paragraph 1 of the Administrative Procedure Code,³³ the Council for Electronic Media, to temporarily restrict the retransmission on the territory of the Republic of Bulgaria of audiovisual media services (television programmes) Russia Today and its subsidiaries, as well as Sputnik and its subsidiaries.

In its Resolution, the CEM recalled the following legal instruments supporting its decision:

- The freedom provided for in the AVMSD for Member States to take whatever measures they deem appropriate with regard to audiovisual media services which come from third countries and which do not satisfy the conditions laid down in Article 2 (Recital 54).
- The possibility provided for in the European Convention on Transfrontier Television that if the alleged infringement is of a manifest, serious and grave nature, such as to raise important public questions and affect the provisions relating to Article 7,

²⁹ <https://www.cem.bg/>.

³⁰ CEM Resolution No РД-05-15, 1 March 2022, https://www.cem.bg/downloadFile.php?file=1646641341_1646138229_reshenie_rd-05-15_01032022_ogr_prepredavane-en.pdf.

³¹ ЗАКОН ЗА РАДИОТО И ТЕЛЕВИЗИЯТА, <https://www.lex.bg/index.php/bg/mobile/ldoc/2134447616>.

³² European Convention on Transfrontier Television (consolidated version), <https://rm.coe.int/168007b0d8>.

³³ АДМИНИСТРАТИВНОПРОЦЕСУАЛЕН КОДЕКС, <https://www.lex.bg/bg/laws/ldoc/2135521015>.



item 1 (but not limited to it), the receiving Party may suspend the retransmission of the programme concerned.

- The prohibition in the Radio and Television Act on media services inciting violence or hatred directed against a group of persons or a member of a group on any of the grounds set out in Article 21 of the Charter of Fundamental Rights of the European Union.
- The retransmission on the territory of the country by undertakings within the meaning of the Electronic Communications Act, carrying out electronic communications through cable and satellite electronic communications networks, of foreign programmes of Russian origin or close to the present Government of the Russian Federation, which may disseminate content inciting hatred, disinformation, discrimination, and intolerance to justify the military action against Ukraine.

4.1.2 DE - Germany

On a very different ground, on 16 December 2021, RT launched RT DE, a new live German-language channel. However, since the broadcaster did not hold a German licence, the Medienanstalt Berlin-Brandenburg (Berlin-Brandenburg state media authority - mabb) opened proceedings against RT DE. The provider of the programme argued that it operated under a licence issued in Serbia that had been lawfully applied for and approved in accordance with the legislation and provisions of the European Convention on Transfrontier Television.³⁴ A previous attempt by the broadcaster to obtain a licence from Luxembourg had failed, because the TV programme was considered subject to Germany's jurisdiction as the media service provider maintained a registered office in the Federal Republic of Germany and a substantial part of the personnel entrusted with the provision of the audiovisual media service work in Berlin.³⁵

On 1 February 2022, the Commission for Licensing and Supervision (ZAK)³⁶ of the German media authorities prohibited the broadcasting and distribution by RT DE Productions GmbH, based in Berlin, of the television programme service "RT DE" in Germany because the necessary media law licence for it had neither been granted nor applied for in accordance with section 52 of the State Media Treaty.³⁷ In this particular case, the decision

³⁴ See Heise.de, "Russischer Sender RT DE darf in Deutschland kein TV-Programm verbreiten", 2 February 2022, <https://www.heise.de/news/Russischer-Sender-RT-DE-darf-in-Deutschland-kein-Fernsehprogramm-verbreiten-6346482.html>.

³⁵ See Tagesschau.de, "Keine TV-Lizenz für RT", 16 August 2021, <https://www.tagesschau.de/ausland/europa/russland-fernsehsender-rt-deutschland-101.html>. See also Ukrow J., [DE] "Proceedings opened against RT for broadcasting without a licence", IRIS 2022-2:1/19, <http://merlin.obs.coe.int/article/9371>.

³⁶ <https://www.die-medienanstalten.de/ueber-uns/organisation/kommission-fuer-zulassung-und-aufsicht-zak>. The ZAK is a joint organ of the 14 German state media authorities, whose responsibilities include granting licences to national broadcasters in Germany and related supervisory measures.

³⁷ *Staatsvertrag zur Modernisierung der Medienordnung in Deutschland (Medienstaatsvertrag)*, 14-28 April 2020, https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Medienstaatsvertrag_MStV.pdf.



was taken without taking into consideration the content of the broadcasts.³⁸ Broadcasting and distribution of the TV programme via livestream on the Internet, via the mobile and smart TV app "RT News" and via satellite must therefore be discontinued. The ZAK underlined that the provider of "RT DE" cannot rely on any other permission that is legitimate under European law.

On 1 March 2022, the Berlin-Brandenburg media regulator mabb³⁹ threatened to impose a penalty payment of EUR 25 000 and immediately announced that it would impose the penalty payment if RT DE Productions GmbH did not stop broadcasting and distributing the television programme "RT DE" by 4 March 2022. RT DE Productions GmbH had filed an appeal against this, which did not prevent the imposition of the penalty payment until a court decision was made. Since RT DE's livestream was still available on various websites on 5 March 2022, the mabb set the penalty payment accordingly, and it must be paid by 16 March 2022. At the same time, the mabb will threaten a new penalty payment of EUR 40 000 if the broadcasting of the television programme "RT DE" is not discontinued by 16 March 2022.⁴⁰

4.1.3 EE - Estonia

On 24 February 2022, the Consumer Protection and Technical Regulatory Authority (CTRA) issued an injunction to telecommunications operators to stop retransmitting five TV channels on the territory of the Republic of Estonia:⁴¹

- RTR Planeta
- NTV Mir (including NTV Mir Baltic)
- Belarus 24
- Rossiya 24
- TV Centre International (TVCI)

The CTRA established that the broadcast of the abovementioned TV channels included a speech of the President of the Russian Federation, which can be considered as a whole as justification of, or incitement to, military aggression and as a justification of disregard of the general principles of international law, in violation of the requirements of the Media Services Act.⁴² Thus, the broadcasting of the audiovisual media service on the listed TV channels violated the prohibition of incitement to commit a crime, undermined the security

³⁸ After this decision, Russia revoked Deutsche Welle's broadcast license and shut down DW's office in Moscow, see DW, "Why Deutsche Welle is not the same as RT", 4 February 2022, <https://www.dw.com/en/why-deutsche-welle-is-not-the-same-as-rt/a-60666432>.

³⁹ <https://mabb.de/home.html>.

⁴⁰ See mabb's press release of 5 March 2022,

<https://mabb.de/uber-die-mabb/aktuelles/neuigkeiten-details/aktueller-sachstand-rt-de.html>.

⁴¹ *TTJA otsustas keelata viie telekanali taasedastamise Eesti Vabariigi territooriumil*, 25 February 2022,

<https://www.ttja.ee/uudised/ttja-otsustas-keelata-viie-telekanali-taasedastamise-eesi-vabariigi-territooriumil>.

⁴² *Meediateenuste seadus (lühend - MeeTS)*, <https://www.riigiteataja.ee/akt/MeeTS>.



of society, including the provision of state security and national defence, and posed a significant threat to the security of society.

Moreover, the retransmission of some channels has been stopped based on financial sanctions, but this was implemented not by the media NRA, but by the Estonian Financial Intelligence Unit (FIU).⁴³ The FIU⁴⁴ is responsible for carrying out the tasks arising from the International Sanctions Act pursuant to Article 54(1)(9) of the Money Laundering and Terrorist Financing Prevention Act (Money Laundering Act).⁴⁵ Due to the imposition of comprehensive sanctions by the European Union in connection with Russia's activities destabilising the situation in Ukraine, the FIU supervises international financial sanctions, responding to inquiries in connection with international financial sanctions, and issuing administrative acts and performing other acts provided for in the legislation imposing or implementing the international sanction (Article 11(2) and (3)(3) of the International Sanctions Act (RSanS)).⁴⁶ On the basis of EU Council Regulation No 269/2014,⁴⁷ Bank Rossiya is included in the list of sanctioned persons as of 23 February 2022 and is subject to restrictive measures in accordance with Article 2 of the Regulation. FIU established, in accordance with Article 18(1) and (2) of the RSanS, that the National Media Group and Pervõi Kanal (Channel One Russia) are controlled by Bank Rossiya and, consequently, the broadcasting of certain TV channels constitutes an indirect provision of funds and resources and, therefore, restrictive measures should be imposed on National Media Group and Pervõi Kanal (Channel One Russia) and the TV channels produced by them.

The FIU established that, inter alia, the TV channels listed below broadcast content produced by National Media Group:

- Pervõi kanal
- 5TV (Petersburg - Channel Five)
- CTC Media
- REN TV
- Channel 78

FIU has established from public sources that, among others, the following channels broadcast content produced by Pervõi Kanal:

- Дом кино
- Дом кино Премиум
- Музыка Первого
- Время
- Телекафе

⁴³ *Märgukiri raadio- ja televisioonorganisatsioonidele ning abioperaatoritele*, 28 February 2022, <https://www.fiu.ee/uudised/margukiri-raadio-ja-televisioonorganisatsioonidele-ning-abioperaatoritele-28022022>.

⁴⁴ <https://www.fiu.ee/>.

⁴⁵ *Rahapesu ja terrorismi rahastamise tõkestamise seadus*, <https://www.riigiteataja.ee/akt/113032019126>.

⁴⁶ *Rahvusvahelise sanktsiooni seadus*, <https://www.riigiteataja.ee/akt/RSanS>.

⁴⁷ Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0269>.



- Бобёр
- О!
- Поехали!
- Победа
- Катюша
- Карусель

According to FIU, the above does not alter the fact that if a natural or legal person establishes independently that a person with whom it has or proposes to have a business relationship is the subject of a financial sanction, or that a transaction or conduct by that person is or is proposed to be in breach of a financial sanction, it shall apply the financial sanction and immediately notify the FIU.

4.1.4 LT - Lithuania

On 25 February 2022 the Radio and Television Commission of Lithuania (RTCL)⁴⁸ decided to temporarily suspend the free retransmission of six Russian-language television programmes in the territory of Lithuania:⁴⁹

- Belarus 24
- NTV Mir
- Pirmais Baltijas Kanals Lietuva (PBK)
- Planeta RTR
- Rossiya 24
- TVCi⁵⁰

The decision was taken due to the persistent violations of international and national legal acts and the threat to national security and territorial integrity, instigation and propaganda of war and incitement to national hatred related to Russia's declared war against Ukraine.⁵¹ The decision was based on the provisions of article 3(3) of the Audiovisual Media Service

⁴⁸ <https://www.rtk.lt/>.

⁴⁹ See the decisions (in English) of the Radio and Television Commission:
No. KS-30 of 25 February 2022, [https://www.rtk.lt/uploads/documents/files/20220301%20Re%204%20Russian%20channels\(EN\).pdf](https://www.rtk.lt/uploads/documents/files/20220301%20Re%204%20Russian%20channels(EN).pdf),
No. KS-31 of 25 February 2022, [https://www.rtk.lt/uploads/documents/files/20220301%20Re%202%20Russian%20channels\(EN\).pdf](https://www.rtk.lt/uploads/documents/files/20220301%20Re%202%20Russian%20channels(EN).pdf), and
No. KS-32 of 28 February 2022, [https://www.rtk.lt/uploads/documents/files/KS-32%20EN%20Re%202%20more%20Russian%20channels\(EN\).pdf](https://www.rtk.lt/uploads/documents/files/KS-32%20EN%20Re%202%20more%20Russian%20channels(EN).pdf).

⁵⁰ Free retransmission of television programmes Pirmais Baltijas Kanals Lietuva (PBK) and TVCi was suspended for three years and Planeta RTR, Rossiya 24, NTV Mir and Belarus 24 for five years.

⁵¹ See press release of the Radio and Television Commission of Lithuania, "Decision to Suspend Retransmission of 6 Russian Language TV Programmes", 1 March 2022, <https://www.rtk.lt/en/news/decision-to-suspend-retransmission-of-6-russian-language-tv-programmes>.



Directive and article 341.4 of the Lithuanian Republic Law on the Provision of Information to the Public.⁵²

On 28 February, two more Russian channels (MIR24 and RBK-TV) were suspended for five years.⁵³

Furthermore, the RTCL is coordinating actions to suspend the retransmission of all Russian TV programmes related to GazpromMedia in Lithuania, since it is operated by the Russian Federation bank Gazprombank, which is subject to sanctions by the EU and the US. In order to implement this, the RTCL started coordinating actions with the Government of the Republic of Lithuania in order to make the necessary amendments to legal acts.⁵⁴

Regarding VSPs, the RTCL applied to YouTube with a request that it immediately remove the accounts of suspended Russian-language propaganda television channels Rossiya 24, NTV Mir, Belarus 24, PBK Lietuva, TVCi, MIR24 and RBK-TV from the platform, with which the platform complied.⁵⁵

Previously, free reception of television channels NTV MIR Lithuania, RTR Planeta, REN TV Baltic, TVCI and PBK Lithuania had already been suspended in the territory of Lithuania 11 times in 2013-2018 due to instigation of war, incitement to hatred and discord. Some of these decisions were approved by the European Commission and the CJEU.⁵⁶

4.1.5 LV - Latvia

At the beginning of 2022, the National Electronic Mass Media Council of Latvia (NEPLP)⁵⁷ banned the distribution of nine Russian programmes in Latvia.⁵⁸ The programmes disseminated content and appeals that endangered national security. Two programmes registered in Latvia have had their broadcasting permits revoked following an assessment of the real beneficiaries.

⁵² Law on the Provision of Information to the Public,

<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b90a7c321c7b11ecad9fbbf5f006237b?ifwid=10nvo6shnk>.

⁵³ See press release of the Radio and Television Commission of Lithuania, 28 February 2022,

<https://www.rtk.lt/en/news/the-free-reception-of-two-more-russian-propaganda-television-channels-suspended>.

⁵⁴ See press release of the Radio and Television Commission of Lithuania, 1 March 2022, “The Radio and Television Commission of Lithuania is coordinating actions to suspend the retransmission of all Russian TV programmes related to GazpromMedia in Lithuania”, <https://www.rtk.lt/en/news/the-radio-and-television-commission-of-lithuania-is-coordinating-actions-to-suspend-the-retransmission-of-all-russian-tv-programmes-related-to-gazprommedia-in-lithuania>.

⁵⁵ See press release of the Radio and Television Commission of Lithuania, 2 March 2022, “YouTube has removed Russian propaganda TV channels from the platform”,

<https://www.rtk.lt/en/news/youtube-has-removed-russian-propaganda-tv-channels-from-the-platform>.

⁵⁶ See Ó Fathaigh R., “European Commission: Decision to suspend broadcast of Rossiya RTR in Latvia compatible with AVMS Directive”, IRIS 2021-7:1/26, <http://merlin.obs.coe.int/article/9230>.

⁵⁷ <https://www.neplpadome.lv/>.

⁵⁸ NEPLP turpina ierobežot Krievijas propagandas kanālu izplatību Latvijā, 1 March 2022,

<https://www.neplpadome.lv/lv/sakums/padome/padomes-sedes/sedes-sadalas/neplp-turpina-ierobezot-krievijas-propagandas-kanalu-izplatibu-latvija.html>.



- On 24 February 2022, the NEPLP decided to restrict the distribution of three TV programmes related to Russia in the territory of Latvia in connection with serious violations of the Audiovisual Media Services Directive and the Law on Electronic Media⁵⁹ in the programmes - dissemination of content and appeals that threaten national security, as well as seriously undermine public order and safety:
 - Rossiya RTR for five years.⁶⁰
 - Rossiya 24 for four years.
 - TV Centre International (TVCI) for three years.
- On 25 February 2022, the retransmission of the Belarusian television programme "Balarus 24" was banned because the owner of the programme, Belarusian citizen Ivan Eismont, is subject to EU sanctions.
- On 28 February 2022, the NEPLP removed the programmes "MIR 24" and "RTVi" from the register of programmes to be retransmitted in Latvia for disseminating content that threatens national security, and is biased and misleading.
- Two programmes, "PBK Estonia" and "PBK Lithuania", had their broadcasting licences revoked. This decision was taken following an investigation by the beneficial owner, Oleg Solodov, and the receipt of additional information from the competent authority.

Furthermore, in the last three years, the NEPLP has removed more than 60 programmes from the register of programmes to be retransmitted in Latvia, half of which are Russian TV programmes, for various violations. Among them, on 30 June 2020, seven Russia Today programmes were removed from the list of audio and audiovisual programmes to be distributed in Latvia. These programmes are in the sole possession and under the control of Dmitry Kiselev, who is subject to sanctions by the Council of the European Union:⁶¹

- RT (Russia Today)
- RT (Russia Today) HD
- RT (Russia Today) Arabic
- RT (Russia Today) Spanish
- RT Documentary (HD)
- RT Documentary
- RT TV (Russia Today TV)

Also, as of 20 November 2019, nine programmes can no longer be distributed in Latvia: "Vremya: dalekoye i blizkoye", "Bobjor", "Dom Kino", "Dom Kino PREMIUM", "Muzika Pervogo", "O!", "Poyekhali", "TELECAFE", "Peterburg - 5 kanal". One of the real beneficiaries of these programmes is a sanctioned person - Yuri Kovalchuk. The programmes are banned for distribution until the sanctions imposed by the Council of the European Union are lifted.

⁵⁹ *Elektronisko plašsaziņas līdzekļu likums*, <https://likumi.lv/ta/id/214039-elektronisko-plassazinas-lidzeklu-likums>.

⁶⁰ ERGA issued an opinion in 2021 relating to Decision No. 68/1-2 of the Latvian National Electronic Mass Media Council restricting the retransmission of the channel Rossiya RTR in the territory of Latvia for 12 months, <https://erga-online.eu/wp-content/uploads/2021/04/2021-03-10-ERGA-Opinion-on-decision-No.-68-1-2-of-the-Latvian-National-Electronic-Mass-Media-Council-as-adopted.pdf>.

⁶¹ See section 2.2. of this note.



4.1.6 PL - Poland

On 24 February 2022, pursuant to Article 9(1), Article 45(3)(1a) and (4) of the Act of 29 December 1992 on Radio and Television Broadcasting,⁶² the National Broadcasting Council adopted a resolution⁶³ on the deletion of five Russian programmes from the register of TV programmes transmitted exclusively in the ICT system and from the register of programmes retransmitted on cable networks and satellite platforms:⁶⁴

- RT (Russia Today)
- RT Documentary
- RTR Planeta
- Soyuz TV
- Rossiya 24

The decision was taken due to their content posing a threat to national security and defence. The Resolution, which entered into force on the date of its adoption, authorises the Chairperson of the National Broadcasting Council to make decisions based on this Resolution immediately enforceable.

Moreover, on 4 March 2022, the National Broadcasting Council adopted another resolution⁶⁵ removing the following Russian and Belarusian programmes from the Register of television programmes transmitted exclusively in the ICT system and from the Register of programmes retransmitted on cable networks and satellite platforms:

- Belarus 24 (also known as TV Belarus)
- Pervy channel (also known as: Channel 1 Russia, ORT1)

The National Broadcasting Council, in coordination with Government Plenipotentiary for Cyber Security Janusz Cieszynski, is urgently conducting verification of all Russian and Belarusian TV programmes distributed in Poland. Decisions on these matters are in the process of being taken.⁶⁶

⁶² Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji,

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19930070034/U/D19930034Lj.pdf>.

⁶³ Resolution of the National Council for Radio and Television No. 29/2022 of 24 February 2022, <https://www.gov.pl/attachment/b24893e9-662f-4fb3-a6e3-eb1f6f8f906d>.

⁶⁴ See press release of the National Broadcasting Council, 25 February 2022, “Russian programs removed from the registry of distributed programs”, <https://www.gov.pl/web/krrit-en/russian-programs-removed-from-the-registry-of-distributed-programs>.

⁶⁵ See press release of the National Broadcasting Council, 4 March 2022, “Kolejne rosyjskie i białoruskie kanały KRRiT wykreśla z rejestru programów telewizyjnych”, <https://www.gov.pl/web/krrit/kolejne-rosyjskie-i-bialoruskie-kanaly-krrit-wykresla-z-rejestru-programow-telewizyjnych>.

⁶⁶ See press release of the National Broadcasting Council, 4 March 2022, “KRRiT weryfikuje wszystkie wpisane do rejestru rosyjskie i białoruskie programy telewizyjne”, <https://www.gov.pl/web/krrit/krrit-weryfikuje-wszystkie-wpisane-do-rejestru-rosyjskie-i-bialoruskie-programy-telewizyjne2>.

4.2 After the EU sanctions

European regulators have made themselves available to facilitate the concrete implementation of the EU Decision and Regulation. In a press release, the European Regulators Group for Audiovisual Media Services (ERGA)⁶⁷ declared they were “committed to contribute to the swift and effective implementation of the measures by all stakeholders”. They added: “In this regard, the independent media regulators in ERGA will continue to work closely with the European Commission.” ERGA Chair Karim Ibourki declared further that “these new sanctions echo the major crisis the world and Europe are facing”. He added: “ERGA has full confidence in the decisions taken by the Council and is conscious of the seriousness of the situation. Independently of the present conflict, it is fundamental that countering manipulation and disinformation, in full respect of the protection of freedom of speech, remains a priority in the European debate, especially in the context of future regulations including the Digital Services Act (DSA) and the European Media Freedom Act (EMFA). We need a robust EU framework to guarantee democratic values, while securing a thriving digital and media environment.”⁶⁸

The Body of European Regulators for Electronic Communications (BEREC)⁶⁹ also explained that “the Open Internet Regulation⁷⁰ allows Internet access service providers to take traffic measures to block specific content, applications or services in order to comply with Union legislative acts. The amendment of Regulation 833/2014 is a legislative act that falls within the scope of the exceptions in Article 3(3) of the Open Internet Regulation. BEREC Chair Annemarie Sipkes stated that to “enable a swift implementation of the sanctions, we want to make clear that there are no obstacles in the net neutrality rules to comply with the measures”. She added: “This means that BEREC member NRAs can facilitate Internet access service providers to comply with the measures by the EU.”⁷¹

⁶⁷ The European Regulators Group for Audiovisual Media Services (ERGA) consists of the national regulatory authorities in the field of audiovisual media services, ERGA advises the European Commission and facilitates cooperation between the regulatory bodies in the EU, <https://erga-online.eu/>.

⁶⁸ ERGA press release, “ERGA stands united and ready to contribute to the effectiveness of new EU economic sanctions on Russian state-controlled media”, 2 March 2022, https://erga-online.eu/wp-content/uploads/2022/03/2022-03-02_PR_ERGA-stands-united-and-ready-to-contribute-to-the-effectiveness-of-new-EU-economic-sanctions.pdf.

⁶⁹ The Body of European Regulators for Electronic Communications (BEREC) contributes to the development and better functioning of the internal market for electronic communications networks and services; It does so by aiming to ensure a consistent application of the EU regulatory framework and by aiming to promote an effective internal market in the telecoms sector, in order to bring even greater benefits to consumers and businesses alike, <https://berec.europa.eu/>.

⁷⁰ Consolidated text: Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and retail charges for regulated intra-EU communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012 (Text with EEA relevance), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02015R2120-20201221>.

⁷¹ BEREC press release, “Open Internet Regulation is not an obstacle in implementing EU sanctions to block RT and Sputnik”, 4 March 2022, https://berec.europa.eu/eng/news_and_publications/whats_new/9321-berec-open-internet-regulation-is-not-an-obstacle-in-implementing-eu-sanctions-to-block-rt-and-sputnik.



At the time of writing (9 March 2022), many media NRAs, which had not taken action against Russian media outlets so far, had already publicly communicated the EU Decision and Regulation.⁷² Moreover, the following countries have introduced further measures.

4.2.1 AT - Austria

On 2 March 2022, the Austrian media regulator KommAustria informed all cable network operators and channel aggregators by letter about the wording of the regulation concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. The letter did not refer to the various possibilities of distribution.

According to Section 9 (3) of the Federal Act on Audiovisual Media Services (Audiovisual Media Services Act - AMD-G),⁷³ operators of electronic communication networks are obliged to notify the regulatory authority upon request, to communicate the disseminated or further disseminated programmes as well as the media service providers responsible for them.

According to Section 9 (5) AMD-G, channel aggregators are obliged to provide information on the programs distributed by them and to update this annually.

Due to the legal provisions mentioned above the KommAustria requested a list of all programs distributed by the cable network operators and information about the responsible media service provider of the program.

Further the cable network operators and channel aggregators have been asked to reveal their legal basis (contract, etc.) for any distribution/retransmission of content hosted by a media service provider owned directly or indirectly by the Russian Federation.

As the EU Decision and Regulation do not directly provide authority to the national regulators, a draft law in this respect is currently in preparation. This draft law will provide authority to KommAustria to enforce violations against EU-measures of this kind and should enter into force in short time.

4.2.2 CY - Cyprus

CABLENET, a cable digital subscription platform operating in Cyprus, was the only provider that was broadcasting, among other TV channels, the Russian RT English in Cyprus. Following a communication between the Cyprus Radiotelevision Authority and CABLENET's

⁷² See https://www.epra.org/news_items/nras-react-to-the-crisis-in-ukraine and https://www.epra.org/news_items/new-reactions-by-media-regulatory-authorities-to-the-crisis-in-ukraine.

⁷³ Bundesrecht konsolidiert: Gesamte Rechtsvorschrift für Audiovisuelle Mediendienste-Gesetz, (version of 16 March 2022), <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001412>.



CEO, they decided to switch off the broadcasting of the above mentioned channel from their platform.

4.2.3 EE - Estonia

On 9 March 2022, the Estonian media regulator CTRA issued an injunction to telecoms operators to immediately stop retransmitting RBK (also known as RBC TV) TV programmes and its programme catalogue on the territory of the Republic of Estonia.⁷⁴ CTRA established that RBK broadcasts programmes the content of which, taken together, violates the prohibition of incitement to commit offences, undermines the security of society, including the safeguarding of national security and defence, and poses a significant threat to the security of society. CTRA found that RBK's broadcasts violated the requirements of the Law on Media Services by inciting hatred and violence against the Ukrainian authorities, the army and the Ukrainian people, and thereby endangering the life, health and property of Ukrainians.

The re-broadcasters of the on-demand audiovisual media service are, within the meaning of the injunction, the communication companies that make the RBK channel's broadcasts available for viewing and thereby rebroadcast the RBK channel's broadcasts. In addition, the injunction refers to YouTube, an online platform operated by Google Ireland Limited, as a re-transmitter, through which the RBK channel can be made available for viewing and by means of which YouTube retransmits the RBK channel.

4.2.4 GR - Greece

The National Council for Radio and Television (NCRTV)⁷⁵ communicated the EU Decision and Regulation on the day that they were issued to all Pay-Tv platforms that have been transmitting the two channels and their transmission was suspended the same day. In addition to that, NCRTV has also collaborated with the Hellenic Telecommunications and Post Commission (EETT)⁷⁶ to clarify if the Regulation, despite its wording, was meant to also apply to the relevant websites. As clarified by ERGA, the sanctions apply to all means of transmission and distribution, the access providers blocked the websites of the two channels.

⁷⁴ *TTJA keelas tänasest telekanali RBK taasedastamise Eestis*, 9 March 2022, <https://ttja.ee/uudised/ttja-keelas-tanasest-telekanali-rbk-taasedastamise-eestis>.

⁷⁵ <https://www.esr.gr/>.

⁷⁶ https://www.eett.gr/opencms/opencms/EETT_EN/EETT/AboutEETT/.



4.2.5 IE - Ireland

The EU sanctions are given full effect in Ireland by the European Union (Restrictive Measures Concerning Ukraine) (No. 5) Regulations 2022.⁷⁷ The Regulations provide that a person who contravenes a provision of the EU Regulation shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both or, on conviction on indictment, to a fine not exceeding EUR 500,000 or to imprisonment for a term not exceeding 3 years or both. Failing to comply with a direction given by a competent authority in Ireland for the purposes of the administration and enforcement of the EU Regulation constitutes also an offence, and a person guilty of this offence shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or both.⁷⁸

4.2.6 LT - Lithuania

On 9 March 2022, RTCL adopted a decision⁷⁹ to suspend the free reception of the retransmitted and / or distributed on Internet television channel “Mir” in the Republic of Lithuania for five years. RTCL established that the violations identified on the Russian Federation television channel Mir manifestly and seriously infringe the requirements of Paragraph 1 of Article 19 of the Law on Public Information of the Republic of Lithuania, i. e. instigate war and disseminate war propaganda.

Besides that, RTCL issued mandatory instructions to Internet access service providers to block access to 57 websites, which were carrying out illegal activities without registering and notifying the RTCL in accordance with the procedure established by legal acts, as well as were disseminating disinformation, war propaganda and instigation of war.

4.2.7 LV - Latvia

On 7 March 2022, the Latvian media regulator NEPLP decided to ban the distribution of 18 Russian television programmes in Latvia, which are directly or indirectly owned by Gazprombank, a joint stock company registered in Russia and sanctioned by the US Office of Foreign Assets Control in February 2022.⁸⁰ The following programmes have been removed from the list of programmes to be retransmitted:

⁷⁷ S.I. No. 94 of 2022, the European Union (Restrictive Measures Concerning Ukraine) (No. 5) Regulations 2022, <https://www.irishstatutebook.ie/eli/2022/si/94/made/en/pdf>.

⁷⁸ An Information Notice provided by the Commission for Communications Regulation (ComReg) provides an explanation of the regulations, <https://www.comreg.ie/media/2022/03/ComReg-2218.pdf>.

⁷⁹ <https://www.rtk.lt/en/news/the-radio-and-television-commission-of-lithuania-suspends-russian-propaganda-tv-channel-mir-and-blocks-57-websites>.

⁸⁰ NEPLP aizliedz 18 Krievijas televīzijas programmu izplatīšanu, 7 March 2022,



- "THT- Comedy"
- "THT4 International"
- "TNT"
- "TNT Music"
- "FRIDAY International"
- "KHL TV channel"
- "KHL HDTV channel"
- "KINOPREM'YERA"
- "KINOSVIDANIYE"
- "Muzhskoye kino"
- "Lya-minor TV"
- "Avto Plus"
- "Nostal'giya"
- "ZHIVI! "
- "Kto yest' kto"
- "Malysh-TV"
- "Russkaya noch"
- "Zee TV"

The programmes banned in Latvia are owned by the Russian bank Gazprombank, its media holding company Gazprom Media Holdings, or its subsidiary Red Media.

4.2.8 RO - Romania

Romanian service distributors have removed the channel Russia Today from their retransmitted programmes offers, without any decision from the National Audiovisual Council (CNA), and they also proceeded in the same way with the channel Russian Travel Guide International (RTGint), the only TV channel from the Russian Federation which the CNA had granted in 2019 a retransmission authorisation. Furthermore, the CNA had initiated controls on local service distributors to ensure that no channel from the Russian Federation is retransmitted on the Romanian territory.

Otherwise, CNA has made a recommendation to the Romanian citizens, through an informative radio-TV spot, broadcast by broadcasters in the public interest announcement regime, to get their information "exclusively from official sources," in the context of the war in Ukraine.⁸¹

<https://www.neplpadome.lv/lv/sakums/padome/padomes-sedes/sedes-sadalas/neplp-aiizliedz-18-krievijas-televizijas-programmu-izplatisanu.html>.

⁸¹ *Recomandarea CNA nr. 10*, 1 March 2022, <https://www.cna.ro/RECOMANDAREA-C-N-A-nr-10-din-1.html>.

5 Sanctions from non-EU countries

Media regulatory authorities outside of the European Union have also taken measures against Russian channels.

5.1 GB - United Kingdom

On 28 February 2022, Ofcom, the UK regulator, opened 15 new investigations into the due impartiality of news programmes on the RT news channel. This takes the total number of RT programmes under investigation to 27. Ofcom has observed a significant increase in the number of programmes on the RT service that warrant investigation under the Broadcasting Code,⁸² and it is considering whether RT should retain a UK licence.⁸³

5.2 MD - Moldova

On 2 March 2022, the Commission for Exceptional Situations of the Republic of Moldova issued a decision⁸⁴ stating that, for the purpose of protecting the national audiovisual space and to ensure information security, providers of audiovisual television and radio media services must suspend the broadcasting, and distributors of audiovisual television and radio media services, must suspend the retransmission on the territory of the Republic of Moldova, of all programmes that were originally produced in states that have not ratified the European Convention on Transfrontier Television, with the exception of art films and short films and entertainment programmes which do not have military content and audiovisual and sound programmes which are produced in the member states of the European Union, in the United States of America and Canada, as well as in states which have ratified the European Convention on Transfrontier Television.

⁸² Ofcom Broadcasting Code, <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>.

⁸³ <https://www.ofcom.org.uk/news-centre/2022/ofcom-launches-a-further-12-investigations-into-rt>.

⁸⁴ Commission for Exceptional Situations of the Republic of Moldova, Decision No. 5 of 2 March 2022, https://gov.md/sites/default/files/document/attachments/dispozitia_cse_rm_nr.5_din_02.03.2022_stampila.pdf. The decision was taken in accordance with Article 22 of Law No. 212/2004 on the regime of emergency, siege and war (Official Monitor of the Republic of Moldova, 2004, No. 132-137, Art. 696), Article 2 of Parliament Decision No. 41/2022 on the declaration of a state of emergency (Official Monitor of the Republic of Moldova, 2022, No. 52-2, Art. 63-1), and points 6, 7, 8 and 9 of the Regulation of the Commission for Exceptional Situations of the Republic of Moldova, approved by Government Decision No. 1340/2001 (Official Monitor of the Republic of Moldova, 2001, No. 150-151, Art. 1387).



5.3 UA - Ukraine

On 25 February 2022, the Ukrainian regulator NCTRB decided to suspend the retransmission of more than 70 Russian TV channels, which Ukraine sees as a forced measure to counter threats to Ukraine's national security, and therefore aimed at protection against aggression, and not against freedom of speech.⁸⁵

⁸⁵ <https://www.nrada.gov.ua/en/zvernennya-natsionalnoyi-rady-yevropejskyh-mediaregulyatoriv-pro-pidtrymku-v-borotbi-z-propagandoyu-rf/>.

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