Dutch coalition of ISPs and media organisations initiate proceedings against EU Council over RT broadcasting ban

IRIS 2022-9:1/14

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On 18 July 2022, the application by a Dutch coalition of ISPs and media organisations to the Court of Justice of the European Union (CJEU) seeking annulment of the Council of the European Union's recent bans on Russia Today and Sputnik (see IRIS 2022-3/6), was published in the *Official Journal of the European Union*. The applicants in the case are three Dutch ISPs - A2B Connect, BIT, and Freedom Internet – and they are supported by the Freedom of Information Coalition, which includes the *Nederlandse Vereniging van Journalisten* (Dutch Association of Journalists) and the *Persvrijheidsfonds* (Dutch Press Freedom Fund).

The applicants seek annulment of Council Regulation (EU) 2022/350 of 1 March 2022; and Council Decision (CFSP) 2022/351 of 1 March 2022. This Regulation and Decision banned the broadcasting of Russian state-owned broadcasters Russia Today and Sputnik in the EU, prohibiting "operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by [Russia Today and 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."

The applicants rely on three main arguments. First, the application argues that Article 29 of the Treaty on European Union (TEU) and Article 215 of the Treaty on the Functioning of the European Union (on common foreign and security policy) do not provide a lawful basis for the contested Decision and Regulation, and that the Council acted outside its competence, as enshrined in the Treaties. Second, the Regulation and Decision violate the right to freedom of expression under Article 11 of the Charter of Fundamental Rights of the European Union (Charter). And third, the Regulation and Decision violate the right to good administration under Article 41 Charter, and constitute an infringement of rules of law relating to the application of the Treaties, more specifically the general principles of good administration.

Finally, on 7 September 2022, the Freedom of Information Coalition announced that it had filed a second complaint with the CJEU, following the Council's new Decision and Regulation in June 2022, which added three further media outlets to the list of Russian media outlets prohibited in the EU (see IRIS 2022-7/7).

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Case T-307/22, A2B Connect and Others v Council, 18 July 2022

https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:62022TN0307

Nederlandse Vereniging van Journalisten, Tweede klacht over blokkade Russische nieuwzenders bij Europees Hof, 7 september 2022

https://www.nvj.nl/nieuws/tweede-klacht-over-blokkade-russische-nieuwzenders-europees-hof

Dutch Association of Journalists, Second complaint about blocking Russian news channels at European Court, 7 September 2022

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