Update on EU sanctions against Russian broadcasters

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Mark D. Cole
Institute of European Media Law

The sanctions imposed against Russian state broadcasters shortly after Russia's invasion of Ukraine, which were designed to prevent them broadcasting in the European Union (EU) and have been renewed or extended multiple times, were broadened to include additional broadcasters in decisions adopted on 31 March 2023.

Acting within the framework of the Common Foreign and Security Policy (CFSP), the Council of the European Union adopted Decision (CFSP) 2023/728, in which it ruled that the so-called restrictive measures introduced in a decision of 25 February 2023 could be applied to two additional Russian state media outlets after examination of their respective cases. From 10 April 2023, the broadcasters concerned, RT Arabic and Sputnik Arabic, were therefore added to the list of entities prohibited from broadcasting, transmitting or distributing their services in the EU by any means. Any broadcasting licence or authorisation, or other distribution arrangements with these entities are suspended and advertising in any content that they produce is prohibited. These restrictive measures are described in Article 4g of Decision 2014/512/CFSP and Annex IX thereof, which were originally drafted following theoccupation of Ukraine's Crimean Peninsula by Russian troops and which have been amended accordingly.

For reasons of competence, the economic sanctions imposed within the EU in response to the war started by Russia are based on two distinct decision-making processes, although the decisions themselves have the same effect. On the one hand, the Council of the European Union, which represents the governments of the EU member states, issues such sanctions at the instigation of the European Council (the heads of state and government) within the framework of the CFSP, principally under a CFSP Decision in accordance with Article 29 of the Treaty on European Union. However, since the sanctions also affect the internal market and a rule on competence to adopt economic sanctions is contained in Article 215 of the Treaty on the Functioning of the European Union, such sanctions are also issued in the form of a Council Regulation. The aforementioned extension is therefore also based on Council Regulation (EU) 2023/427 amending Council Regulation (EU) 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and Council Implementing Regulation (EU) 2023/722. Article 2f of Regulation (EU) 833/2014 and Annex XV thereof have been adapted so that both broadcasters are now also mentioned and

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therefore became subject to the sanctions on 10 April 2023.

The reasons for amending and extending the sanctions are the same as those set out in previous decisions. Media under the “control of the Russian leadership” should be prohibited from broadcasting because they are part of a “systematic, international campaign of media manipulation and distortion of facts” designed to destabilise the neighbouring countries of the Russian Federation in particular, as well as the European Union as a whole. These activities and “propaganda actions” constitute a “significant and direct threat to the Union’s public order and security”. The decision also recognises that the sanctions were imposed in view of the fundamental rights enshrined in Article 11 of the Charter of Fundamental Rights and are a justified restriction of the right to freedom of expression and information.

The General Court of the European Union had previously taken this stance in its judgment of 27 July 2022 in case T-125/22 between RT France and the Council of the European Union, dismissing the applicant’s annulment request. The appeal against this decision, submitted to the Court of Justice of the European Union, is still pending (case C-620/22), but a change in circumstances could mean that there will be no final judgment on the appeal. In a statement, RT France’s CEO said that RT France was insolvent and would be forced to shut down after its bank accounts were frozen in accordance with further sanctions in January 2023. Its insolvency could mean that the appellant no longer has a legitimate interest in bringing the action, rendering continuation of the proceedings inadmissible and resulting in their closure. The same would then apply to the other actions brought before the Court by RT France against the decisions extending the sanctions (T-605/22, T-75/23, T-169/23). In case T-605/22, the defendant, i.e. the Council of the European Union, had raised the defence of inadmissibility on the ground that the appeal had been directed against its information letter rather than (as it should have been) against its decision published in the Official Journal. In a judgment of 25 April 2023, the court decided that this plea of inadmissibility should be dismissed because the appellant’s application should be interpreted as being directed against the decision and not just the letter. These proceedings are therefore continuing. Another action pending before the court (T-307/22) was brought against the Council on 1 July 2022 by various Dutch Internet access providers who claimed they were affected by the broadcasting restrictions. They argued that the reasons given for the restrictive measures had no lawful basis and that the decisions to impose the sanctions infringed fundamental rights. No decision has been reached in this case, which is separate from the procedures initiated by RT France.

The sanctions against Russian state media are currently due to expire on 31 July 2023.

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Beschluss (GASP) 2023/434 des Rates vom 25. Februar 2023 zur Änderung des Beschlusses 2014/512/GASP über restriktive Maßnahmen angesichts der Handlungen Russlands, die die Lage in der Ukraine destabilisieren

https://eur-lex.europa.eu/eli/dec/2023/434/oj?locale=de

Council Decision (CFSP) 2023/434 of 25 February 2023 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine

https://eur-lex.europa.eu/eli/dec/2023/434/oj?locale=en

Konsolidierter Text: Beschluss 2014/512/GASP des Rates vom 31. Juli 2014 über restriktive Maßnahmen angesichts der Handlungen Russlands, die die Lage in der Ukraine destabilisieren

https://eur-lex.europa.eu/eli/dec/2014/512/2023-04-10

Consolidated text: Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine

https://eur-lex.europa.eu/eli/dec/2014/512/2023-04-10

Verordnung (EU) 2023/427 des Rates vom 25. Februar 2023 zur Änderung der Verordnung (EU) Nr. 833/2014 des Rates über restriktive Maßnahmen angesichts der Handlungen Russlands, die die Lage in der Ukraine destabilisieren

https://eur-lex.europa.eu/eli/reg/2023/427/oj?locale=de

Council Regulation (EU) 2023/427 of 25 February 2023 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/eli/reg/2023/427/oj?locale=en

Council Implementing Regulation (EU) 2023/722 of 31 March 2023 implementing Regulation (EU) 2023/427 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/eli/reg_impl/2023/722/oj

Ordonnance du Tribunal dans l'affaire T-605/22

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https://curia.europa.eu/juris/document/document_print.jsf?mode=lst&pageIndex=0&docid=272992&part=1&doclang=FR&text=&dir=&occ=first&cid=2144711

CJEU decision in case T-605/22

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