

EU restrictive measures and freedom of expression: a new frontier against disinformation and hybrid threats

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1. – On 16 March 2026, the Council of the European Union (the Council) added four individuals to the sanctions list for their involvement in information manipulation activities (see Decision (CFSP) 2026/646 amending Decision 2024/2643 concerning restrictive measures in view of Russia's destabilising activities, in OJ L 2026/646). These designations target a Russian political analyst (Sergey Klyuchnikov), a Russian news anchor (Ernest Mackeviius), a British blogger (Graham Phillips) and a French media figure (Adrien Bocquet), all targeted for what may be described as “*narrative support*” to the Russia's war of aggression against Ukraine.

These designations are indicative of a broader trend: the increasing use of EU sanctions to counter the dissemination of pro-Kremlin disinformation and anti-Western narratives. In fact, today, a growing group of individuals active in the media sphere, such as journalists, publishers, TV hosts, and directors of news agencies, are included on EU sanctions list. More recently, this group of targeted individuals has expanded to include influencers, policy analysts and academics, operating through state-sponsored media outlets, Russian research institutes, or otherwise contributing to the spread disinformation in Europe, often aimed at legitimising the war of aggression against Ukraine.

Importantly, these restrictive measures do not regulate content as such, nor do they formally criminalise speech. Rather, they impose restrictions (in the form of asset freezes and travel ban) against actors deemed to sustain and amplify disinformation within the European public space. However, the impact of these measures on individuals and entities active in the media sphere gives rise to novel legal questions and debates on free speech and pluralism (see, for instance, the criticism in relation to the designating of the Swiss national Jacques Baud, www.wsj.com/opinion/eu-sanctions-target-free-speech-48e6d511).

To what extent can sanctions lawfully restrict freedom of expression? More specifically, to what extent can the Council target pro-Kremlin disinformation and impose restrictions on actors allegedly responsible for providing “narrative support” to the policies of the Russian government?

On the one hand, the right to freedom of expression, as enshrined in Article 11 of the EU Charter of Fundamental Rights, constitutes a cornerstone of open and

democratic societies and a precondition for pluralism. Article 11 enshrines that everyone has the right to freedom of expression, including the freedom to receive information and ideas without public interference. On the other hand, restrictive measures adopted under the Common Foreign and Security Policy (CFSP) pursue objectives of peace, international security and the protection of the Union's public order, including in response to external threats such as hybrid interference. In this context, the Council must exercise caution and strike *a delicate balance* between the protection of a fundamental right and the pursuit of foreign policy objectives through sanctions. This balancing exercise ultimately sheds light on the tension inherent in Article 3(5) TEU, namely between the Union's commitment to uphold its *values*—such as the protection of fundamental rights, including free speech—and the pursuit of its *interests*, including its foreign policy interests.

This contribution examines the evolution of EU sanctions in targeting actors involved in disinformation. It then analyses the approach developed by the Court of Justice of the European Union (CJEU) in assessing the compatibility of such measures with the right to freedom of expression. While significant litigation on this matter remains pending (see, for instance, case T-334/25, *Akopov v Council*; case T-143/25, *Douamba v Council*), the aim is to identify the developing legal framework that governs the extent to which EU sanctions may legitimately interfere with free speech.

2. – Restrictive measures have traditionally been directed at political elites, military actors and strategic economic sectors. Only exceptionally have they targeted journalists, media outlets or propagandists in third countries. However, what were once exceptional cases have become increasingly central since 2022.

It is worth noticing that, even prior to Russia's full-scale invasion of Ukraine, the Council had already targeted propagandists and public figures in third countries, for instance, for their role in supporting repressive governments (see case T-579/21, *Gusachenka v Council*, in relation to the Lukashenko regime in Belarus), or for inciting violence, hatred and intolerance (see case T-248/18, *Cabello Rondón v Council*, for using use of the media in order to publicly threaten and intimidate the political opposition, other media and civil society in Venezuela). In the context of Russia, a first notable development occurred as early as 2014, when a journalist, Mr. Dmitry Kiselev, was listed due to his position within a state-controlled media structure (i.e., head of the news agency Rossiya Segodnya, RS) following presidential appointment.

In earlier practice, designations primarily focused on individuals operating within, or closely linked to, state-controlled media (such as Mr. Kiselev). The Council relied on the assumption that these actors formed part of the broader apparatus supporting governmental policies, including through the dissemination of propaganda and disinformation. Since 2022, however, EU practice has undergone a significant transformation. The link between the target and the state apparatus is no longer deemed a necessary condition for the imposition of designations; rather, the link between the target and the Russian government may be of a merely ideological nature.

In practice, the Council appears to capture different forms of “narrative support”, whereby individuals contribute to legitimising, normalising, or amplifying the policies of the Russian government, irrespective of whether they are formally affiliated with state-controlled media. This evolution can be observed along two main axes: (1) the diversification of the types of restrictive measures adopted to counter disinformation, and (2) the expansion of the categories of targeted actors, as illustrated below.

2.1. – A first major development in the adoption of “sanctions packages” against Russia concerns the introduction, alongside individual listings, of measures of general application targeting *certain media outlets*. Targeted media were considered to engage in continuous and concerted propaganda actions targeted at civil society in the Union and neighbouring countries, gravely distorting and manipulating facts. The shift from designations to sectoral sanctions represents one of the most unprecedented decisions in the history of EU sanctions. In fact, this represented the first instance in which the Council opted to impose a comprehensive prohibition on the dissemination of certain audiovisual content in the European information space. In this sense, it reconceptualised the work of certain media outlets as a threat to European security and stability, a hybrid threat.

More precisely, on 1 March 2022, the Council decided to introduce a comprehensive prohibition ‘to broadcast, or to enable, facilitate or otherwise contribute to broadcast, any content’ by certain Russian media outlets (see Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, in OJ L 65/5). The first outlets to be targeted by the ban were RT (Russia Today) and Sputnik, while the Council has today identified over 30 additional entities. Unlike individual listings, which target specific persons or entities, this media ban operates at the level of information flows, restricting access to entire sources of content. Its effects extend beyond the sanctioned entities themselves, impacting internet service providers, digital platforms, and ultimately EU audiences, who are prevented from accessing the relevant content.

The exceptional context of the war in Ukraine played a key role in justifying the adoption of this ban. In the words of the Council, ‘the gravity of the situation’ called for the adoption of unprecedented measures (Recital 10, Decision (CFSP) 2022/351, *supra*). Moreover, the Council justified this measure by emphasising the need to strengthen the Union’s resilience against hybrid threats, including foreign information manipulation. The targeted outlets were described as being under the permanent direct or indirect control of the Russian leadership and as playing an essential role in supporting the aggression against Ukraine and destabilising neighbouring countries. Similarly, the Commission President Ursula von der Leyen affirmed that ‘[i]n this time of war, words matter’ (see Press release ‘Ukraine: Sanctions on Kremlin-backed outlets Russia Today and Sputnik’, 2 March 2022, at ec.europa.eu/commission/presscorner/detail/en/ip_22_1490), and the European Parliament also condemned the ‘use of information warfare’ (see Resolution of 1 March 2022 on the Russian aggression against Ukraine (2022/2564(RSP))).

It is noteworthy that, when introducing the media ban, the Council did not mention the concept of ‘propaganda of war’, as regulated by art. 20 of the International Covenant on Civil and Political Rights (ICCPR). On the contrary, it made explicit reference to ‘hybrid threats’, ‘media manipulation’, ‘distortion of facts’, ‘continuous and concerted propaganda actions’. The language use by the Council suggests that the focus is not propaganda, nor propaganda of war (as prohibited under international law), but actions that gravely distort and manipulate facts – in the context of a war. Disinformation was thus framed as *a systematic and coordinated instrument of hybrid warfare*. Notably, the media ban was presented as a temporary and preventive measure, subject to two cumulative conditions for its lifting: (i) the cessation of the aggression against Ukraine and (ii) the discontinuation of propaganda and disinformation activities. This formulation suggests that the media ban is neither punitive nor definitive. Nonetheless, even beyond the end of the conflict, restrictions on media dissemination could be maintained where information manipulation persists—thereby reinforcing the characterisation of disinformation as an independent security threat for Europe.

The breadth of the media ban has attracted significant criticism. Concerns

have been raised regarding its compatibility with freedom of expression and media pluralism, particularly in light of its impact on both transmitters and recipients of information. These critiques highlight the risk of overbroad restrictions on access to information in the name of countering disinformation (see, *inter alia*, D. Voorhoof, *EU silences Russian state media: a step in the wrong direction*, in *Inform Blog* (2022); I. Popović, *The EU Ban of RT and Sputnik: Concerns Regarding Freedom of Expression*, in *EJIL Talk!* (2022); L. Lonardo, *Censorship in the EU as a result of the war in Ukraine. Case T-125/22 RT France v Council*, in 48 *Eur. L. Rev.* 707 (2023)).

2.2 – Alongside the media ban, the Council has continued—and significantly expanded—the use of individual designations, under both the Ukraine territorial integrity regime (Decision 2014/145, *supra*) and the more recent framework addressing Russia’s destabilising activities (Decision 2024/2643, *supra*).

On the one hand, Decision 2014/145 allows the Council to designate individuals who *support* the actions or policies undermining Ukraine’s territorial integrity, sovereignty and independence: this encompasses a broad spectrum of individuals, ranging from manufacturers of ammunitions in Russia who provide *material support* to the military aggression, to presenters on national television channels who provide *narrative support* to the government (such as Mr. Kiselev). On the other hand, Decision 2024/2643 enables the Council to target individuals who are responsible for ‘planning, directing, engaging in, directly or indirectly, supporting or *otherwise facilitating the use of coordinated information manipulation and interference*’. Notably, this legal basis does not explicitly require a link to the Russian government. Instead, it focuses on the nature of the conduct itself—namely, participation in disinformation activities—thereby marking a shift from *who* is supported to *what* type of speech is disseminate.

This shift is further reflected in the terminology employed. Decision 2024/264 does not make any reference to propaganda (nor to the propaganda of war), but centres instead on *facilitating information manipulation*. This distinction is not merely semantic. While propaganda may encompass partisan or biased communication that remains protected by freedom of expression, supporting disinformation is understood as the intentional dissemination of false or misleading information with the aim of deceiving or manipulating audiences. It is this latter category (namely, harmful fake news) that the EU seeks to capture through its sanctions regime. In doing so, the Union conceptualises disinformation not simply as a feature of public discourse, but as a security threat, and indeed as an integral component of contemporary hybrid warfare (G.F. Lendvai, *Media in War: An Overview of the European Restrictions on Russian Media*, in 8 *Eur. Papers* 1235 (2024)). From this perspective, the systematic dissemination of false or misleading narratives is framed as a tool of hybrid warfare and, as such, a legitimate target for EU sanctions. The objective is therefore not to censor persuasive speech or pro-Kremlin ideas as such, but to prevent the manipulation of information environments, especially in a context of ongoing conflict. For instance, recent designations target individuals whose public conduct is characterised by the systematic dissemination of false or manipulating narratives, including expressions of extreme hostility towards Ukraine, denial of its statehood, justification of military aggression, or the promotion of antagonistic narratives vis-à-vis the Union and its partners (see European External Actions Service, 4th Report on Foreign Information Manipulation and Interference Threats, 2026, www.eeas.europa.eu/eeas/4th-eeas-annual-report-foreign-information-manipulation-and-interference-threats_en).

In this way, the sanctions regime against Russian destabilising activities elevates disinformation to an autonomous ground for designations against

individuals. This development appears to dilute the degree of proximity traditionally required between the sanctioned individual and the targeted government, raising important questions as to the outer limits of the Council's discretion. Ultimately, it signals a profound transformation in the logic of EU sanctions. The Union does no longer target those who provide support foreign regimes or political leaders, but increasingly those who *contribute to shaping the informational environment in which their policies are legitimised*. The critical question is therefore not whether freedom of expression is affected, but *how far such interference can be justified within the EU legal order*. It is precisely this question that has begun to emerge in the case law of the CJEU, to which the next section now turns.

3. – The CJEU is protagonist in ensuring the review (in principle, the full review) of EU sanctions (see case C-402/05 P, *Kadi I*, § 326). Despite foreign policy matters are generally immune from the Court's judicial scrutiny, restrictive measures constitute a well-established exception (see Article 24 TEU and Article 275 TFEU). Given their 'direct rights-relevance', sanctions are highly contested in Luxembourg (see C. Eckes, *The law and practice of EU sanctions* in P. Koutrakos, S. Blockmans (Eds.), *Research Handbook on the EU's Common Foreign and Security Policy*, London, 2018, 206–229; see also F. Finelli, *Sanctions Litigation before the European Union's Court of Justice in Internat. Spectator* 1 (2026)).

When confronted with challenges based on freedom of expression, the CJEU performs a rigorous review, balancing sanctions effectiveness with harmful consequences on targeted individuals. In this context, the Court acknowledges that designations have 'by definition' consequences which affect fundamental rights, thereby causing harm to their targets – and even to persons who are in no way responsible for the situation which led to the adoption of the sanctions (see Case C-72/15, *Rosneft*, § 149). At the same time, it holds that the rights invoked by the applicants are often *not absolute rights*, and their exercise may be subject to restrictions justified by objectives of public interest pursued by the European Union. In other words, fundamental rights are not unfettered prerogatives and may, therefore, be limited, under certain conditions (see Article 52(1) EU Charter). It follows that even free speech can be restricted in certain circumstances.

Three strands of litigation are particularly instructive: (i) challenges brought by sanctioned journalists (e.g., case T-262/15, *Kiselev v Council*), (ii) challenges brought by sanctioned media outlets (e.g., case T-125/22, *RT France*), and (iii) challenges brought by non-designated intermediaries (e.g., case T-307/22, *A2B Connect*). Taken together, these cases reveal a consistent judicial approach: while the Court formally acknowledges the importance of freedom of expression, it dismisses their actions and upholds the legality of EU sanctions. It defers to the Council's foreign policy assessment, thereby legitimising interferences with free speech.

First, when assessing individual designations, the General Court consistently recognises that journalists play a fundamental role in a democratic society and that restrictions on their freedom of expression require 'the greatest care' (see *Cabello Rondón*, *supra*, § 103). Yet, it also considers that the right of journalists to impart information requires them to act in good faith, rely on an accurate factual basis, and provide 'reliable and precise' information in accordance with the ethics of journalism (*Cabello Rondón*, *supra*, § 104). Therefore, if sanctioned journalists are found to act in a manner that is inconsistent with their 'duties and responsibilities', such as inciting repression, threatening the political opposition or supporting a government which lead to human rights violations and repression, the Court finds that their designations cannot be regarded as a disproportionate

interference with free speech. In *Kiselev*, the Court accepts that the work of journalists may constitute a form of ‘active support’ to a third-country government – particularly as it ‘contribute[s] to the continuance of the actions and policies of the Russian Government destabilising Ukraine’ (*Kiselev, supra*, § 114). In doing so, the Court endorses a broad interpretation of support, encompassing activities that *contribute* to the promotion or legitimisation of governmental policies.

Second, when assessing the legality of the media ban in *RT France*, the Court accepts that the imposed restriction entails an interference with freedom of expression, including the right to impart information. However, it considers that this restriction is justified and proportionate in light of the objectives pursued. In the *RT France* ruling, the General Court upheld the legality of the media ban, emphasising the exceptional context of the war in Ukraine and the need to counter a hybrid threat from the Russian Federation to the Union’s public order and security. Importantly, the Court articulates a twofold objective pursued by the Council: *externally*, preserving peace and strengthening international security; *internally*, protecting the Union’s public order against destabilising information flows. This dual framing significantly reinforces the legitimacy of the media ban. The Court acknowledges that the Council’s objective of preventing securities crises (in light of art. 21(2)(c) TEU) can be complemented by an internal (constitutional) objective of protecting the Union’s public order and security (in light of art. 21(2)(a) TEU) (§ 161-3). Disinformation becomes not merely as problematic speech, but as a security threat with both external and internal dimensions. (see B. Baade, *The EU’s “Ban” of RT and Sputnik: A Lawful Measure Against Propaganda for War*, in *Verfassungsblog* (2022); see also V. Szép, R. Wessel, *Balancing restrictive measures and media freedom: RT France v. Council*, in *60 Comm. Mkt L. Rev.* 1384 (2023)).

Third, the *A2B Connect* case introduces a new dimension: the position of non-designated actors, such as internet service providers (ISPs), who are indirectly affected by sanctions. The applicants challenged the media ban not as primary targets—unlike listed individual or media outlets—but on the ground that the broadcasting prohibition restricts their own right to impart information.

From a procedural perspective, the *A2B Connect* case raises several questions in relations to the Court’s jurisdiction and the admissibility of the action brought – such as whether ISPs, as part of a broad and abstract category of ‘operators’, are entitled to challenge sanctions of general application on the basis of freedom of expression under Articles 275(2) and 263(4) TFEU. Are such actors directly concerned by the restriction, or are they merely subject to indirect obligations—such as blocking access to sanctioned media content? The General Court does not resolve these issues.

It instead relies on considerations of procedural economy (applying the *Boehringer* jurisprudence), and avoids clarifying “who” can initiate litigation and invoke free speech to challenge the validity of sanctions (of a general application, see § 38).

On the merits, the Court adopts a cautious and hypothetical line of reasoning – largely following the approach in *RT France*, without definitively clarifying whether ISPs enjoy an autonomous right to impart information. As the Court states, ‘*even assuming*’ that ISPs may be regarded as holders of such a right, despite their ostensibly neutral role in the transmission of content, the restriction at issue remains justified (§ 110). In other words, even if ISPs were to benefit from an independent right to freedom of expression—a point the Court deliberately leaves open—the broadcasting ban would not constitute a disproportionate interference. Implicitly, the judgment suggests that even the public’s access to certain forms of information, including disinformation, may lawfully be restricted in pursuit of broader security objectives. This reasoning is significant. It implies that new applicants could potentially invoke free speech before the CJEU: not only

designated individuals (such as journalist and propagandists), but also operators, companies, intermediaries, such as A2B Connect.

A further development, however, pushes this logic even further. In the pending preliminary ruling from Germany, *Traugott Ickeroth* (Case C-67/25), the Court of Justice is now asked to clarify the scope of the concept of ‘operator’ in the implementation of the broadcasting ban. In particular, the referring court questions whether this notion may extend to natural persons operating a website (without any economic activity), yet disseminating prohibited content. Unlike earlier litigation—concerning designated journalists (*Kiselev*), media outlets (*RT France*), or intermediaries (*A2B Connect*)—the issue here is whether any actor involved in the dissemination of content may fall within the scope of the prohibition. Advocate General Norkus supports a broad interpretation of the prohibition, encompassing any person exercising control over the dissemination of content. Such an approach is justified by the need to prevent circumvention and ensure the effectiveness of the media ban. However, this interpretation has significant implications. It suggests that the application of the broadcasting prohibition no longer depends on a structural link with state-sponsored media, but rather on the functional role played in the dissemination of content. In other words, individuals may be caught by the restriction not because of their affiliation with the sanctioned media outlet, but because of their participation in the information flow. This raises a critical question: if the media ban applies to any actor capable of disseminating prohibited content, where does the boundary lie between targeted sanctions and censorship? The forthcoming judgment will be decisive in determining whether the scope of EU sanctions extends beyond specific actors to encompass a broader category of participants in the digital information environment.

4. – The evolution of EU restrictive measures in the context of Russia’s war of aggression against Ukraine reveals a profound transformation in the logic of sanctions. The Union is no longer targeting only those who provide material or financial support to a foreign regime. It is increasingly targeting those who contribute to shaping the informational and narrative environment in which such policies are legitimised. In this sense, “*narrative support*” emerges as a new, albeit still undefined, category of sanctionable conduct.

The case law of the CJEU, while formally grounded in the protection of fundamental rights, appears to endorse this evolution. By accepting a broad interpretation of ‘support’, and emphasising the exceptional context of hybrid threats and war, the Court has thus far upheld restrictive measures affecting freedom of expression. Yet, several fundamental questions remain open, such as to what extent pro-Kremlin and anti-Western narratives alone can justify designation, or whether intermediaries and private individuals participating in information flows can be affected by the media ban. What is clear, however, is that EU sanctions are entering a new frontier—one in which the regulation of information, narratives, and influence becomes central.

For now, the balance between sanctions effectiveness (and the pursuit of foreign policy objectives) and freedom of expression remains unsettled. The evolution of the CJEU’s case law warrants close attention.

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