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Judgment of the General Court in Case T-125/22 | RT France v Council

The Grand Chamber of the General Court dismisses RT France's application for annulment of acts of the Council, adopted following the outbreak of the war in Ukraine, temporarily prohibiting that organisation from broadcasting content

This is the first ruling given by the Grand Chamber under the expedited procedure

On 24 February 2022, the Russian Federation launched military operations in Ukraine. By decision and regulation of 1 March 2022 (together, 'the acts of the Council' or 'the contested acts'),¹ the Council of the European Union adopted restrictive measures intended to prohibit, until 31 July 2022, the broadcasting activities of certain media outlets, including RT France, within or to the European Union. According to the Council, the Russian Federation has engaged in a propaganda campaign justifying and supporting its aggression against Ukraine, targeting civil society in the European Union and neighbouring countries, by grievously distorting and manipulating the facts and, in order to do so, using certain media outlets under the direct or indirect control of the leadership of the Russian Federation as conduits for that propaganda campaign. RT France brought an action for annulment before the General Court against the acts of the Council.

In support of its action, RT France relies on four pleas in law, alleging infringement, respectively, of the rights of the defence, freedom of expression and information, the right to conduct a business, and the principle of non-discrimination on grounds of nationality. It also calls into question the Council's competence to adopt the contested acts.

In today's judgment, given further to an expedited procedure lasting four months and 19 days, the General Court, sitting as the Grand Chamber, observes, first, that, having regard to the purposes of the common foreign and security policy (CFSP), the Council has a great deal of latitude in defining the objective of the restrictive measures that the European Union adopts in this field. From that perspective, the Council cannot be criticised for having considered that the necessary measures to be taken in response to the serious threat to peace at Europe's borders and the infringement of international law could also include the temporary prohibition on content broadcasting by certain media outlets funded by the Russian State, on the ground that those outlets would support the Russian Federation's military aggression against Ukraine. In that connection, the General Court states that the fact that the French audiovisual and digital communication regulatory authority (Arcom) has competence to adopt sanctions against TV broadcasting bodies in respect of inappropriate editorial content does not exclude the Council's own competence to adopt restrictive measures such as those in the present case. Furthermore, the uniform

¹ 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 (OJ 2022 L 65, p. 5) and 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 (OJ 2022, L 65, p. 1).

implementation of the temporary prohibition on RT Group, and in particular RT France, broadcasts throughout the territory of the European Union can be better realised at EU level than at national level. **The General Court therefore dismisses as unfounded the complaint alleging a lack of competence on the part of the Council.**

Next, in so far as concerns the infringement, on the part of the Council, of RT France's rights of defence, the General Court finds that, bearing in mind the exceptional context and the extreme urgency in which the contested acts were adopted – that is, the outbreak of war at the Union's borders, perceived being intended to be a short conflict, requiring a rapid response on the part of the European Union – the immediate implementation of measures, such as those at issue in the present case, aimed at suspending the activity of a vehicle for propaganda in support of that military aggression, was essential to ensuring the effectiveness of those measures in the light of the objectives that they pursue and, in particular, to prevent their being devoid of any scope or effectiveness. In those circumstances, **the EU authorities were therefore not required to hear RT France prior to the decision temporarily to prohibit it from any form of content broadcasting. Consequently, the Court states that there has been no infringement of RT France's right to be heard.** As regards the complaint alleging that the statement of reasons for the contested acts is insufficient with regard to RT France, the General Court points out that **that statement can be understood and is sufficiently precise**, bearing in mind the specific context and particular circumstances in which those acts were adopted, as to allow, first, RT France to know the reasons which led the Council to decide temporarily to prohibit it from any form of content broadcasting in the light of the legal criteria application in the case at hand and to challenge the lawfulness thereof before the Courts of the European Union and, second, to allow the latter to exercise their power of review.

Furthermore, as regards the complaint alleging infringement of the freedom of expression and information, the Court recalls that the Council could adopt restrictive measures capable of limiting RT France's freedom of expression, provided that such limitations satisfy certain conditions which must be met in order for that freedom to be legitimately restricted.

In that connection, the General Court finds that **the condition that the limitations on the freedom of expression must be laid down by law is satisfied.** In so far as concerns the requirement of foreseeability, the General Court considers that, bearing in mind the significance of the role played by audiovisual media in modern society, large-scale media support for the Russian Federation's military aggression against Ukraine, provided during programmes broadcast on television and on the internet by a media outlet wholly funded by the Russian State, may be covered by restrictive measures consisting in prohibiting the broadcasting of propaganda activities in support of such aggression. The General Court adds that the nature and extent of the temporary prohibition at issue comply with the essential content of the freedom of expression and **do not call that particular freedom into question.**

In so far as concerns the condition relating to the pursuit of an objective of general interest, recognised as such by the European Union, the General Court points out that, by way of the restrictive measures at issue, the Council aims to pursue the twofold objective of, in the first place, protecting the Union's public order and security, which are threatened by the systematic propaganda campaign put in place by the Russian Federation through media outlets controlled by the Russian leadership and, in the second place, putting in place a series of restrictive measures with the ultimate aim of exerting pressure on the Russian authorities to bring an end to the military aggression against Ukraine. **Accordingly, the condition relating to the pursuit of an objective of general interest is satisfied.**

In so far as concerns the condition relating to the proportionate nature of the measures at issue, the General Court, after examining the different items of evidence adduced by the Council, finds that these constituted a sufficiently concrete, precise and consistent body of evidence capable of demonstrating that, first, RT France actively supported, prior to the adoption of the contested acts, the policy of destabilisation and aggression conducted by the Russian Federation towards Ukraine, which ultimately resulted in a large-scale military offensive, and, second, RT France broadcast, in particular, information justifying the military aggression against Ukraine, capable of constituting a significant and direct threat to the Union's public order and security. In that connection, the Court considers that the evidence put forward by RT France is not capable of demonstrating an overall balanced treatment by the latter

of information concerning the ongoing war, in compliance with the principles of the 'duties and responsibilities' of audiovisual media outlets. The General Court finds that, bearing in mind the extraordinary context of the case, the circumstances are sufficient to establish that **the limitations on RT France's freedom of expression** which the restrictive measures at issue are liable to have **are proportionate, inasmuch as they are appropriate and necessary, to the aims pursued**. The Court also finds that those measures **do not disproportionately infringe the essential content of RT France's freedom to conduct a business** since they are temporary and reversible.

Lastly, in so far as concerns the alleged infringement of the **principle of non-discrimination on grounds of nationality**, the General Court observes that the difference in treatment on which RT France relies does not fall within the scope of the Charter of Fundamental Rights of the European Union and, besides, RT France has failed to identify any other category of persons who would have been treated more favourably when in a situation comparable to its own, namely being under the direct or indirect control of the leadership of the Russian Federation.

In the light of those considerations, the General Court dismisses the action in its entirety.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

Unofficial document for media use, not binding on the General Court.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

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