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Analysis: "EU Sanctions against Disinformation and War Propaganda: a Threat to Freedom of Expression? (T-307/22, A2B Connect and Others v Council)"

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In [Case T-307/22](#), the applicants – three legal entities established in the Netherlands – sought (i) the annulment of Council Decision (CFSP) [2022/351](#) and Council Regulation (EU) [2022/350](#); and (ii) the partial annulment of Council Decision (CFSP) [2022/884](#) and Council Regulation (EU) [2022/879](#). The former contested acts prohibit the broadcasting of content from sanctioned Russian media outlets, while the latter prohibit the advertising of products or services in content produced or broadcast by those media

outlets.

Contrary to the disputes where legal entities (e.g. [Case T-125/22](#)) or individuals (e.g. [Case T-262/15](#)) sanctioned for spreading propaganda and misinformation challenged their designations, this dispute was initiated by non-sanctioned legal entities. In this regard, the Council argued that the action is inadmissible regarding the annulment of the first set of acts because it does not satisfy the criteria laid down in Article 263(4) TFEU, and that the applicants have neither an interest in bringing proceedings nor *locus standi* with respect to the second set of acts.

Court's Jurisdiction and Admissibility of the Claims

The General Court (hereinafter, 'the Court') decided that it does not have jurisdiction to examine the legality of the contested decisions; however, it does have jurisdiction to rule on the legality of the contested regulations. As in its previous case law, the Court emphasised that 'it is the individual nature of those measures [CFSP measures] which, in accordance with the second paragraph of Article 275 TFEU, permits access to the Courts of the European Union.' The Court explicitly ruled that since the applicants' names do not appear in the relevant Council decisions and Annexes attached thereto, the contested decisions are measures of general application and not restrictive measures against the applicants. Thus, the Court has no jurisdiction to assess their legality.

However, the regulations implementing the

abovementioned EU sanctions adopted pursuant to Article 215 TFEU 'constitute European Union acts, adopted on the basis of the FEU Treaty, and the Courts of the European Union must, in accordance with the powers conferred on them by the Treaties, ensure the review, in principle the full review, of the legality of those acts.'

The Court decided not to rule on the issue of admissibility, although the Council, supported by the Commission, advanced claims of inadmissibility.

Arguments on the Merits

On the merits, the applicants put forward three pleas in law: '(i) that the Council lacked competence to adopt the contested regulations; (ii) infringement of the right to freedom of expression and information enshrined in Article 11 of the Charter of Fundamental Rights of the European Union ('the Charter'); and (iii) infringement of the right to good administration guaranteed in Article 41 of the Charter.'

The applicants argued that the Council exceeded its competences in CFSP matters by adopting the contested regulations because these regulations 'are intended rather to regulate certain media content directly, in order to protect citizens of the European Union from harmful disinformation for an indefinite period and without there being any connection with the war in Ukraine.'

The Court disagreed with this line of argumentation. By relying upon Articles 3(5), 21, 23, 24 and 29 TEU, the Court concluded that the Council has a broad

discretion to determine the persons and entities which will be subject to EU restrictive measures. Furthermore, the Court observed that the challenged restrictive measures are directly linked to the aims of the EU's CFSP. Since the Council was competent to adopt the contested decisions, it was also competent to adopt the contested regulations. The Court also disagreed with the applicant's claim that the Member States' right to penalise an audiovisual media outlet for inappropriate editorial content prevents the Council from imposing EU sanctions prohibiting the broadcasting of certain media content.

According to the applicants, the right to good administration guaranteed in Article 41 of the Charter was violated by non-compliance with the obligation to state reasons enshrined in Article 296 TFEU. The Court recalled that 'the question of whether the statement of reasons is sufficient must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question' and applied this standard to the facts of the present case. As a result, the claim was rejected as unfounded.

The applicants submitted that their freedom, as 'neutral' internet service providers, to impart information was infringed. The Court presumed that internet service providers might have such a right, yet emphasised that Article 52(1) of the Charter allows limitations on its exercise. Such limitations must satisfy four conditions: be provided by law, respect the essence of those rights, refer to an

objective of general interest, and be proportionate. In the Court's view, these conditions were satisfied in the present case.

The applicants also claimed that their users' right to freedom to receive or to impart information was violated. The Court observed that the applicants cannot rely upon a right that they do not hold to support their action for annulment.

Implications of the Court's Decision

This decision of the Court is in line with its previous jurisprudence, in which it made an effort to balance between its limited jurisdiction in CFSP matters and its desire to provide legal remedies to review EU sanctions against natural and legal persons. An important aspect of this decision is that it bolsters the existing case law, enabling non-sanctioned legal entities potentially to challenge the legality of EU sanctions before the Court (e.g. [Case T-797/22](#)). To put it differently, not directly sanctioned entities – such as internet service providers – might seek annulment of regulations adopted pursuant to Article 215 TFEU, and a successful challenge may result in an annulment of regulation as such, and not only insofar as it applies to an individual or a legal entity.

Furthermore, the Court acknowledged the risks emanating from propaganda and disinformation campaigns conducted by media outlets as posing a threat to the public order and security of the European Union, thus justifying the use of EU restrictive measures prohibiting the broadcasting of

such content and the advertising of products or services in such content. This is an important finding considering the growing number of hybrid threats, and the EU's intention to tackle them *inter alia* with the help of sanctions. For example, on 16 December 2024, the Council sanctioned, for the first time, 16 individuals and three entities responsible for Russia's destabilising actions abroad. The list of sanctioned entities includes: Groupe Panafricain pour le Commerce et l'Investissement, described as 'a disinformation network carrying out pro-Russian covert influence operations, particularly in the Central African Republic and Burkina Faso'; and African Initiative, 'a news agency involved in spreading Russian propaganda and disinformation on the African continent'.

The Court's approach in *A2B Connect and Others v Council* justifies the use of EU sanctions to safeguard EU's values and interests in the face of emerging threats to the Union and its Member States.

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