

European Union's Security Policy in the Digital Age. A Study of the Ban on Russian Media in Response to New Disinformation Threats

Muhammad Nabil Rahdiga¹, Henny Saptatia Drajati Nugrahani²

Universitas Indonesia

Email: muhammad.nabil26@ui.ac.id, henny.saptatia@ui.ac.id

ABSTRACT

This research investigates the European Union's (EU) security policies in the digital culture, focusing on the new threats posed by disinformation during the Russian-Ukraine conflict in early 2022. The EU identified disinformation as a significant threat to European society and responded by imposing strict sanctions on Russian media outlets, including banning the broadcasts of RT and Sputnik and closing their offices in several EU member states. These measures are aimed to counter disinformation and pro-Kremlin propaganda related to the conflict. Using qualitative methods, the study applies Securitization Theory by Barry Buzan and Communicative Action Theory by Jurgen Habermas. Securitization Theory helps analyze the EU's framing of Russian media as threats to regional and global security. Meanwhile, Communicative Action Theory examines the EU's use of specific communication strategies and narratives to legitimize its policies, while questioning the ban's legitimacy. Preliminary findings reveal the EU's ban on Russian media as a contentious policy. Critics argue that it undermines freedom of speech and press, sparking debates over democratic values. Conversely, the EU defends its actions as necessary to combat propaganda and disinformation, which are viewed as threats to national security and the integrity of democratic institutions. This research underscores the tension between security imperatives and the preservation of fundamental freedoms, highlighting the complexity of addressing disinformation in a digital age.

Keywords: *European Union, Russian media outlets, ban, disinformation and propaganda, securitization theory, communicative action theory*

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INTRODUCTION

In the digital age, the discussion revolves around the delicate balance between security concerns related to disinformation and propaganda, and the principles of freedom of speech and press. The EU ban on a Russian media outlet highlights the tension between these two aspects. The proliferation of information has sparked debates on how to address the threats posed by disinformation and propaganda, while still upholding the essential principles of freedom of speech and press. The ban exemplifies the challenges in finding equilibrium between security concerns and preserving the right to express and access information.

In February 27, 2022, Ursula von der Leyen, the President of the European Commission, made a highly debated announcement to prohibit RT and Sputnik from operating within the European media landscape. The ban was justified by claiming that these outlets were engaged in disseminating falsehoods to legitimize Putin's military actions and create divisions within the European Union. Additionally, the distribution of any content from the Russian media outlets was explicitly prohibited through various means, including cable, satellite, internet service providers, and video-sharing platforms (Dyson & Konstadinides, 2013).

Notably, the ban was implemented under the provisions of Article 29 of the Treaty on European Union and Article 215 of the Treaty on the Functioning of the European Union. These articles pertain to EU foreign policy and grant the Council the authority to impose "restrictive measures" on individuals, groups, or non-state entities, as well as take "necessary measures" to interrupt or diminish economic and financial relations with third countries.

Before delving into the debate surrounding the EU decision to ban Russian media outlets, it is essential to provide some context about definition of disinformation and propaganda, as well as their potential impact on society in the information era (Head, 2008). Laswell's definition of the term 'propaganda' describes it as a purposeful and organized endeavor to shape perceptions, manipulate thoughts, and guide behavior to elicit a response that advances the propagandist's desired objectives. Meanwhile the definition of disinformation according to the European High-Level Expert Group on fake news and disinformation, disinformation is defined as deliberate dissemination of false, inaccurate, or misleading information with the intention to cause harm to the public or for personal gain. In scholarly literature, disinformation is commonly defined as a coordinated effort wherein malicious individuals strategically introduce or disseminate "plausible falsehoods" through news stories or simulated documentary formats, aiming to promote specific political objectives. These deceptive tactics are designed to appear highly credible to the targeted audience.

METHOD

This research aims to examine the digital security policies of the European Union (EU) concerning emerging challenges posed by disinformation. With the onset of the Russian-Ukraine military conflict in early 2022, the EU identified new threats in the form of disinformation impacting European society. In response, the EU intensified sanctions against Russia in relation to the Ukrainian conflict, including imposing sanctions on Russian media. As part of these measures, the EU decided to prohibit the broadcasting of Russian TV and Radio stations RT and Sputnik, while also closing their offices in several EU member states. In the next section, we will review existing literature and official documents that examine and frame the EU's perspective on disinformation and propaganda as significant threats to the stability and security of the European Union. These literature sources will provide valuable insights into the EU's perception of these threats and its efforts to address them through various policy measures, including the ban on Russian media outlets.

RESULTS AND DISCUSSION

EU's Perception of Disinformation Threats

The ban on RT and Sputnik by the European Union (EU) requires strong justifications considering that the EU is not in a state of war with Russia and Ukraine is not an EU Member State. Therefore, there must be compelling reasons to demonstrate that the EU's ban on RT and Sputnik is relevant, proportionate, and necessary. In the last decade, scholarly research on disinformation and propaganda has experienced a significant surge. Several scholars concur that disinformation can have far-reaching implications for society and stability, leading to a consensus on its potential to cause various troubles (Paul & Matthews, 2016). Nevertheless, consequently, individuals now regularly come across an expanding array of false and deceptive content, which includes disinformation - intentionally misleading or distorted claims employed

strategically to mislead people. The widespread proliferation of disinformation globally has raised concerns that it is eroding the fundamental pillars of democratic societies by undermining the factual foundation upon which citizens rely to anticipate the outcomes of their decisions. This exacerbates public policy debates and impedes citizens' capacity to make informed choices when selecting elected representatives.

Some scholars have argued that Russian government have effective control over domestic mass information channels. However, their ability to enforce widespread censorship on foreign media beyond their jurisdiction is limited. Nonetheless, the Russian government and pro-Kremlin actors have a vested interest in propagating pro-Kremlin narratives about events to gain support for their actions. When persuasion proves challenging, these actors' resort to campaigns aimed at obfuscating or confusing individuals by propagating them with a barrage of information until the line between fact and fiction becomes blurred. In open media environments, such regimes and their supporters employ disinformation techniques to disseminate false claims about events to shape international opinions (Tonra, 2015).

These studies acknowledge that Russia has utilized its state-owned media to disseminate disinformation and garner support on the international stage. However, questions remain regarding the European Union's decision to ban the broadcasting of RT and Sputnik. While there are alternative approaches to curbing the spread of disinformation that do not involve a complete ban, implementing such measures carries the risk of infringing upon the principles of free speech and expression. By banning media outlets within the European Union, the Council encroaches upon member states' responsibility for media regulation, an area traditionally under their jurisdiction. Despite this, many member states remained silent, prioritizing unity against Russia over the erosion of their authority in shaping the media landscape.

Similar study finds that despite censorship of Russian media attempts by the Ukrainian government, many Ukrainian users were able to bypass the restrictions, likely through tools like VPN. However, the government's efforts did succeed in reducing overall online activity on the Russian platform among Ukrainians. The impact of curbing Russian influence was observed not only among users with pro-Russian attitudes but also among those with pro-Ukrainian perspectives (Oğuz, 2016). The response to censorship was primarily driven by the increasing costs associated with using the banned platform, rather than social ties or political attitudes towards the conflict parties.

The EU's Common Foreign and Security Policy (CFSP) utilizes strategic bargaining as the primary mode of decision-making for imposing unilateral sanctions, usually driven by member states' interests. However, decisions concerning ethical and moral questions, particularly the justification for the EU to resort to coercive measures, cannot be adequately reached through bargaining. In the case of the EU's imposition of sanctions on Russian media outlets RT and Sputnik, which involves legally ambiguous and controversial obligations owed *erga omnes*, strategic bargaining is unlikely to facilitate a thorough deliberation on the "general interest" of the international community.

Despite the dominance of strategic bargaining in CFSP decision-making, there is growing evidence to suggest that deliberation and argumentation play a significant role, even in the context of EU sanctions. Deliberative CFSP committees, which often include the Commission and prepare proposals for sanction regulations, are involved in "pre-cooking"

decisions on sanctions. This inclusion of deliberative processes at the committee level indicates that the EU's decision-making mode is critical in determining its moral authority to impose unilateral sanctions on third countries, such as the case of Russian media outlets.

The decision-making processes within the EU are crucial to establishing the moral authority of the EU in resorting to unilateral sanctions against non-EU states. Strategic bargaining, which primarily represents member state interests or the lowest common denominator, does not necessarily align with decisions in the "general interest" of the international community. Hence, a theoretical framework is needed to assess whether the EU's decisions to impose unilateral sanctions on third countries, including Russian media outlets RT and Sputnik, are driven by deliberation focused on acting in the general interest or by strategic cost-benefit calculations of EU member states (Hedling, 2021). Habermas's theory of communicative action provides a valuable analytical point of departure to address the challenge mentioned above. It offers a framework to determine whether the EU's decisions on unilateral sanctions against non-EU states, specifically in the case of Russian media outlets, are primarily driven by deliberation aimed at serving the general interest of the international community or by strategic considerations of EU member states. By applying Habermas's theory, we can critically analyze the decision-making processes within the EU and evaluate the extent to which due deliberation has prevailed in determining the imposition of coercive measures such as sanctions on Russian media (Mareš & Mlejnková, 2021).

Theoretical Framework: Securitization and Communicative Action Theory

Securitization

Securitization offers an alternative approach to analyzing security matters and provides a perspective on the concept of security. The Copenhagen school introduced securitization as a novel way of understanding security, challenging the traditional narrow definition. According to Buzan, Waever, and de Wilde (2003), security should not be limited to military aspects alone. They argue that when a particular issue is perceived as an existential threat, it becomes a security issue, and extraordinary measures are employed to address the threat. The crucial aspect of securitization lies in the process of determining what qualifies as an existential threat. Initially, policymakers present an issue as an existential threat, asserting that it cannot be resolved through normal political means and requires exceptional measures. However, the completion of securitization relies on the acceptance and recognition of the issue as a security concern by society.

Through the securitization lens, the question arises regarding why disinformation and propaganda through Russian-backed media outlets are considered a security issue. To address this question, it is crucial to understand the concept of securitization (Zimmermann & Kohring, 2020). Buzan et al. define securitization as a process by which: In the process of securitization, an actor employs a rhetoric that frames an issue as an existential threat, thereby removing it from the realm of "normal politics." This process can be understood as a speech act, where the act of uttering certain words itself brings about consequences.

The objective of this research is to examine whether the discourse surrounding media disinformation and propaganda has been securitized and, if so, how this securitization process impacts the perception of information. The securitization perspective offered by the Copenhagen School is the most relevant framework for this research. Numerous actors openly

present disinformation and propaganda as a threat, and studying their discourses allows for the identification of potential attempts to securitize the issue. By analyzing the speech acts of these actors, we can ascertain whether the disinformation, fake news and propaganda debate has become politicized or securitized. Once those issues are framed as an existential threat, preventive measures are proposed, some of which may be regarded as emergency measures. The Copenhagen School's approach is well-suited for understanding the relationship between the discourses of securitizing actors and subsequent policy changes resulting from those discourses (Nataf, n.d.).

In the context of the issue at hand, the securitization approach provides a framework to understand the perception of disinformation and propaganda through Russian-backed media outlets as a security concern. According to the Copenhagen school, the process of securitization occurs when these phenomena are discursively framed as existential threats. This framing legitimizes the use of extraordinary measures beyond ordinary political procedures to address the perceived threat. By analyzing the discursive rhetoric surrounding the issue, we can examine how the securitization process shapes the perception of disinformation and propaganda as security issues and justifies actions taken to mitigate their impact (Bjola, 2005).

Communicative Action Theory

According to Habermas, achieving shared understanding through rational arguments is essential for social integration and democracy. He believes that communication, particularly language, is the primary means of attaining this shared understanding through grounded reasoning. Habermas focuses on language from a formal pragmatics perspective. By imbuing language with intent, the speaker exerts an illocutionary force that can effectively change the listener's perspective and ultimately foster cooperation based on a shared understanding of reality. This process, referred to as communicative action by Habermas, can be initiated by various types of illocutionary forces, but particularly relies on shared knowledge, mutual trust, and agreement among participants. Habermas emphasizes that language and communication carry intent, and the interpretation of utterances plays a significant role in shaping understanding. With this, researchers can analyze the rhetoric and narratives employed by EU officials to frame Russian media outlets as threats and justify the ban. They may question whether the EU's communication effectively conveys rational arguments and fosters a shared understanding among its citizens.

“Under the pragmatic presuppositions of an inclusive and non-coercive rational discourse between free and equal participants, everyone is required to take the perspective of everyone else and thus to project herself into the understandings of self and world of all others; from this interlocking of perspectives there emerges an ideally extended ‘we-perspective’ from which all can test in common whether they wish to make a controversial norm the basis of their shared practice (Habermas, 1987).

Additionally, Communicative Action Theory can help us scrutinize the EU's motivations behind the ban and assess whether the communication strategies employed align with the principles of open dialogue, rationality, and inclusivity advocated by Habermas. They may evaluate whether the EU's communication effectively addresses the concerns related to disinformation and propaganda without infringing on the principles of freedom of speech and press. Additionally, it will help to critically examine the EU's communication practices,

narratives, and arguments used to legitimize the ban on Russian media outlets. They may question whether the EU's communication aligns with the principles of communicative action, characterized by shared knowledge, mutual trust, and agreement. Researchers may explore whether the EU's communication fosters a genuine exchange of ideas and contributes to democratic discourse.

Habermas's theoretical framework encourages open and inclusive communication, where participants engage in rational discourse and consider different perspectives. The goal is to foster a shared understanding and facilitate the evaluation of controversial norms or practices. In the context of the ban, Habermas's ideas suggest that the EU should employ communication strategies that promote transparency, reasoned arguments, and the inclusion of diverse viewpoints, rather than imposing a total prohibition on communication between Russia and the EU.

According to Barnett and Finnemore (2005), IOs are created to embody, serve, or protect widely shared principles of the international community. They are expected to be more moral and authoritative compared to governments as they represent the community against self-seekers. In previous work on EU normative performance, it was identified that two aspects of Habermas' work are relevant for defining the standards of EU moral authority in relation to unilateral coercive measures. Habermas provides a comprehensive definition of ethical and moral sources of authority, distinguishing between ethical reason (what is good for us as a community?) and moral reason (what is good for all involved?). These distinctions help conceptualize the justifications for resorting to unilateral sanctions beyond the EU's individual or community-based obligations, extending to obligations owed to the international community. Secondly, Habermas elaborates on ideal-type procedural standards for legitimate decision-making processes regarding the use of coercive measures. Deliberative legitimacy is understood as the non-coerced commitment of actors to obey norms adopted through communicative action based on criteria and rules. It allows for the identification and validation of points of contention between actors' justifications for the use of coercive measures. Within the context of the EU's authority to resort to unilateral sanctions against third countries, ethical and moral reasons serve as sources of authority. Ethical reason recognizes actors' actions based on social identities and the values represented by a specific community. Ethical obligations are rooted in pre-existing community bonds, typically family ties. Habermas distinguishes ethical responsibilities based on civic solidarity within a political/legal community from responsibilities based on organic nationhood (Habermas, 2015).

To further assess the moral authority of the EU in imposing sanctions on Russian media, the concept of deliberative legitimacy is crucial. Habermas argues that legitimate decisions on ethical and moral questions, such as the use of coercive measures, must be arrived at through dialogue, argumentation, and communicative action. The decision-making process should ensure prior argumentation, inclusive processes, and a genuine interest in finding a consensus based on the "better argument."

The EU's authority to impose unilateral sanctions on third countries cannot be solely derived from its own justifications for such interventions. While the EU's official rhetoric provides insights into how it justifies coercive measures towards third countries, it reveals little about the decision-making processes leading to the use of unilateral sanctions. It is crucial to understand whether the actors involved in the decision-making process have sought a "reasoned

consensus" on the need for coercive measures or if such decisions were driven by member states engaging in power games without a visible intention to achieve argumentative consensus. Deliberative legitimacy is a key concept in addressing this question.

According to Habermas, decisions on ethical and moral questions, such as the justification for the EU to resort to unilateral coercive measures against a third country, should be reached through dialogue and argumentation in a process of communicative action. To arrive at the "better argument," all participants must be able to present, justify, and defend their specific claims regarding what is right. A prerequisite for such communication is that participants act as responsible individuals who share the commitment to a fair decision-making process (Habermas, 1987). Thus, there are three main standards for achieving deliberative legitimacy:

1. Prior argumentation: Decisions regarding the use of coercive measures should be based on truthful and complete facts, relying on the best available evidence and compelling arguments. Decisions are only considered valid if they are justified.
2. Inclusive processes: Communication and decision-making processes should allow for the participation of all affected parties, ensuring that they have equal rights to present or challenge arguments. Power games or coercion should not hinder the deliberations.
3. Genuine interest: Participating actors must genuinely demonstrate an interest in engaging in argumentative reasoning and reaching a consensus based on the "better argument" regarding the use of coercive measures. They should not be allowed to manipulate or deceive others strategically.

In the context of the EU's imposition of sanctions on Russian media outlets RT and Sputnik, the application of these standards would require an examination of whether the EU's decision-making process fulfilled the criteria of prior argumentation, inclusive processes, and genuine interest. This analysis would shed light on the moral authority of the EU's imposition of unilateral sanctions in this specific case.

Securitization of Disinformation, Propaganda and Fake News in the EU

The annexation of Crimea by Russia marked a significant turning point in Europe-Russia relations. During the Cold War era, tensions between Europe and Russia were high, with Western European countries aligning themselves with the US-led western coalition and NATO being established as a defense against potential Russian aggression in the North Atlantic. Eastern European countries, on the other hand, were under the influence of the Soviet Union. After the Cold War, Eastern European countries joined the European Union, which initially seemed to ease tensions (Austin, 1965). However, due to the aggressive actions of the Putin government, relations have once again become strained in the 21st century, Russian military interventions in Crimea (2014) have had a negative impact on relations. The conflict between Europe and Russia extends beyond the military realm, with Western organizations claiming that Russia employs hybrid warfare tactics against the EU and the West as a whole. The notion of a hybrid warfare between the West and Russia, in which media plays a part, has led to the potential justification of extraordinary measures.

In response to Russia's disinformation campaigns during the conflict in Ukraine and the annexation of Crimea in March 2014, the European External Action Service (EEAS) published an influential Action Plan on Strategic Communication in June 2014. This initiative was driven by the Member States and aimed to address and counter Russia's dissemination of

disinformation. A key outcome of the Action Plan was the establishment of the East Strategic Communication Task Force, which primarily focuses on countries in the Eastern Partnership region. One of its prominent initiatives is the EUvsDisinfo project, which aims to raise awareness and expose disinformation activities that target the EU, its member states, and neighboring countries. Over time, the Strategic Communication Task Force has expanded its scope and now includes the Eastern and Southern Neighbourhoods, as well as the Western Balkans. This expansion has led to a broader focus on strategic communications as a means to counter disinformation.

Initially, the EU's approach to strategic communication was more technocratic and focused on spreading counter-narratives. However, in 2016, the recognition of the systemic and domestic nature of disinformation led to a shift in perception. The watershed moment was marked by events such as the Cambridge Analytica scandal, which highlighted the need for a coordinated and interinstitutional effort. The EU's response to disinformation involved the collaboration between the European External Action Service (EEAS) and the European Commission. Several initiatives were undertaken, including the publication of reports and communications addressing strategic communication, countering hybrid threats, and tackling online disinformation. These initiatives aimed to increase awareness, resilience, and capabilities in combating disinformation. The budget for counter-disinformation was doubled, and the establishment of the High-Level Expert Group on Fake News and Online Disinformation (HLEG) further emphasized the seriousness of the threat (Walker, 2016).

In the wake of the Russian invasion of Ukraine in February 2022, which drew unprecedented condemnation from European political leaders, the European Union responded swiftly by adopting restrictive measures, commonly referred to as sanctions. These sanctions, although unexpectedly part of the EU's policy against disinformation, differ significantly from other instruments employed in this context, leading some officials to suggest they should not be considered part of disinformation policy. Unlike regulations or self-regulation, which are typically associated with disinformation policy, sanctions target specific entities and follow distinct procedures for adoption, with different objectives in mind.

The EU's restrictive measures specifically targeted European branches of Russian media outlets, rather than social media platforms. While sanctions are formally adopted by the Foreign Affairs Council through unanimous decision-making, the mention of restrictive measures against the media entities was initially made by the European Commission. On February 27, 2022, Commission President von der Leyen announced that the EU would "ban" these Russian media outlets. Just two days later, on March 1, 2022, the Council officially adopted the sanctions (Council Decision (CFSP) 2022/351) and implemented the corresponding Regulation (Council Regulation (EU) 2022/350).

However, it is important to note that the functioning of these measures indicates that it is not entirely accurate to describe them as a complete "ban." The scope of the measures is more specific, and they are not exclusively directed at Sputnik and RT. The sanctions prohibit EU operators from broadcasting or enabling the transmission and distribution of any content by the Russian media outlets, including through various means such as cable, satellite, IP-TV, internet service providers, and internet video-sharing platforms or applications (Article 1 of Decision 2022/351).

At this early stage, it is difficult to assess definitively the institutional origin of these measures. Nevertheless, it is evident that the swift action was made possible due to the importance attached to the issue by EU Member States. In fact, some Member States had already taken actions against the targeted media outlet, such as Germany's move to revoke the lawful license of RT DE (Westendarp n.d.). This marks the first instance in which restrictive measures have been adopted to counter propaganda within the EU. Previous measures had been implemented to counter Russian propaganda, but they had not been applied specifically to tackle propaganda within the EU. Consequently, the measures faced immediate legal challenges, with the French branch of RT being among the targeted companies. In a preliminary ruling, the General Court of the EU (case T-125/22 RT France v Council) affirmed the legality of the ban, deeming it proportionate to the aim of protecting public order, public security, and the political objectives of the EU as outlined in Article 3 of the Treaty on the European Union, which focuses on promoting peace, the EU's values, well-being, and compliance with international law.

In the context of securitization theory, the EU's response to the ban Russian media after the invasion of Ukraine in February 2022 can be viewed as a securitizing move. Securitization theory suggests that actors can frame certain issues as existential threats in order to justify extraordinary measures and prioritize security concerns over other considerations. In this case, the EU's swift adoption of restrictive measures (sanctions) can be seen as a securitization of the issue of disinformation. Although sanctions are not typically considered part of disinformation policy, their implementation in response to the actions of Russian media outlets indicates that the EU perceives disinformation as a significant security threat. By targeting specific European branches of Russian media outlets, the EU aimed to counter the influence of these outlets and limit the dissemination of potentially harmful information. The adoption of sanctions against media entities can be understood as a securitizing move because it involves the identification of a perceived threat (disinformation propagated by Russian media) and the justification of extraordinary measures (sanctions) to counter this threat. The decision-making process involving the European Commission and the subsequent unanimous adoption by the Foreign Affairs Council further highlights the securitization of the issue (Bennett & Livingston, 2018).

Furthermore, the legal challenges faced by the EU's measures demonstrate the contested nature of securitization. The French branch of RT, one of the targeted companies, challenged the sanctions. However, the General Court of the EU upheld the legality of the measures, emphasizing their proportionality in protecting public order, public security, and the political aims of the EU. From a securitization perspective, the EU's response to the Russian invasion and the adoption of sanctions against Russian media outlets signify the securitization of disinformation as an existential threat. By framing disinformation as a security concern, the EU justifies and implements extraordinary measures to safeguard its interests and protect its values, even in the realm of media and information dissemination.

Communication Strategies and Narratives: The EU's Justification and Legitimacy in Banning Russian Media Outlets

The European Union's decision to ban Russian media outlets, including Russia Today (RT) and Sputnik, has sparked controversy. The EU's robust press statement in February 2022

signaled a never-before-taken measure. European Commission President Ursula Von der Leyen stated the intention to prohibit the dissemination of what they deemed as "toxic and harmful disinformation" from these media outlets. Subsequently, Council Decision (CFSP) 2022/351 and Council Regulation (EU) 2022/350 were issued, specifically prohibiting operators from broadcasting content from RT and Sputnik and suspending their broadcasting licenses and transmission arrangements. The decision targeted RT and Sputnik subsidiaries in various European countries. This ban has raised questions about the legitimacy of the EU's actions and their adherence to principles such as freedom of speech.

The EU justified the ban on Russian media outlets, Russia Today (RT) and Sputnik, by stating the need to urgently suspend their broadcasting activities due to their alleged propaganda actions and manipulation of facts. The measures were deemed necessary until the aggression against Ukraine ceased and until Russia and its associated media outlets stopped conducting propaganda against the EU and its member states. The EU argued that Russia's continuous and concerted propaganda actions targeted civil society within the EU and neighboring countries, which posed a significant and direct threat to public order and security. The European Regulators Group of Audiovisual Media Services (ERGA) supported and welcomed the ban, emphasizing their commitment to its swift and effective implementation. However, it is important to critically assess the legal and institutional framework of the EU sanctions and examine the appropriateness of the ban on RT and Sputnik within the context of the theoretical framework. While some critics raised concerns about the potential impact on freedom of information, EU's top diplomat, Josep Borrell, dismissed these arguments and defended the EU's decision.

The EU's decision to ban RT and Sputnik is grounded in the principles and objectives set forth in Article 3(5) and (6) of the Treaty on European Union (TEU). These provisions highlight the Union's commitment to upholding its values and interests, including the promotion of peace, security, sustainable development, solidarity, mutual respect among peoples, and the protection of human rights. By acting against RT and Sputnik, the EU aims to contribute to the realization of these goals and ensure compliance with its common foreign and security policy, as articulated in Article 29 TEU. The Article grants the Council the power to adopt decisions that define the Union's approach to specific matters, be it geographical or thematic in nature. In doing so, it expects Member States to align their national policies with the positions adopted by the Union. The decision to ban RT and Sputnik falls within the realm of the EU's common foreign and security policy, enabling the Council to address the challenges posed by these media outlets. To implement this decision effectively, the Council may employ various measures, including economic and financial restrictions, which necessitate regulatory action at the Union level. By adopting such measures, the EU ensures that they are uniformly applied across all Member States.

The decision to ban RT and Sputnik is a response to the EU's assessment of the threat posed by these media outlets in relation to their values and interests. While recognizing the importance of freedom of expression, the EU has determined that the activities of RT and Sputnik undermine the objectives it seeks to achieve. The ban on these media outlets is not intended to suppress freedom of speech, but rather to address the specific challenges posed by their role as state-controlled broadcasters. The EU argues that RT and Sputnik, lacking editorial

autonomy and journalistic independence, cannot claim the same protection afforded to independent media under the right to freedom of expression.

Since the 2014 Russian occupation of Crimea in Ukraine, the EU has imposed a series of sanctions interrupting or reducing economic and financial relations with Russia. These sanctions have targeted individuals responsible for supporting the Russian government's actions or policies. The General Court of the EU rejected a legal challenge against the sanctions imposed on Dmitrii Konstantinovich Kiselev, head of the Russian news agency Rossiya Segodnya (RS). The Court deemed the sanctions against Kiselev a lawful, necessary, and proportionate restriction on his freedom of expression. It emphasized that the sanctions specifically targeted Kiselev, who played a central role in supporting the actions and policies of the Russian government destabilizing Ukraine. The Court concluded that the sanctions did not prevent other Russian journalists from freely expressing their views on political issues, and the measures were designed to address Kiselev's specific involvement as the head of RS.

Apart from that, the ban on RT and Sputnik represents a significant escalation compared to individual sanctions. It restricts the freedom of expression of these media outlets and severely curtails the public's right to receive their programs. While it can be argued that RT and Sputnik, as state broadcasters under direct control of the Russian government, lack sufficient editorial autonomy and journalistic independence, the curtailment of the public's right to access their content remains problematic. Citizens, media professionals, and other stakeholders in the EU are no longer able to engage with RT and Sputnik programs to assess their attempts to mislead or manipulate public opinion. Internet providers, social media platforms, and search engines are also limited in their freedom of expression as they are prohibited from transmitting or facilitating RT and Sputnik content. An explanatory document by the EU clarifies that while journalists may refer to RT and Sputnik news pieces to objectively and completely inform their readers/viewers, the freedom of speech cannot be used to circumvent the ban. This non-circumvention principle equally applies to journalists, warning that integrating RT and Sputnik content into reports on the war in Ukraine or how Russian media covers it, must be done objectively and without broadcasting their content to the public. Journalists who fail to adhere to these guidelines risk being sanctioned for not complying with the EU ban on RT and Sputnik.

Furthermore, the ban on RT and Sputnik extends beyond the media outlets themselves and affects various intermediaries, such as internet providers, social media platforms, and search engines. These intermediaries are now constrained in their freedom of expression, transmission, and reception as they are prohibited from facilitating the dissemination of RT and Sputnik content. This additional restriction raises questions about the broader implications for the digital landscape, where intermediaries play a crucial role in the flow of information. The ban places a burden on these entities to comply with the EU's regulatory measures, potentially impacting their ability to provide diverse sources of information and limiting the public's access to alternative viewpoints.

The EU ban also raises concerns regarding its legitimacy as it appears to have been implemented hastily and displays characteristics of arbitrary and disproportionate interference with the right to freedom of expression and information. This interference directly contravenes Article 10 of the European Convention on Human Rights (ECHR), which protects the freedom of expression "regardless of frontiers," and Article 11 of the EU Charter of Fundamental Rights,

which guarantees freedom of the media. The European Court of Human Rights (ECtHR) has previously ruled that a complete prohibition or blocking of news media, websites, or online platforms based on their journalistic content is likely to violate Article 10 of the ECHR. This principle was established in cases such as *OOO Flavius and Others v. Russia* (23 June 2020). The ECtHR emphasized that targeting online media or websites with blocking measures solely because they are critical of the government or political system can never be deemed a necessary restriction on freedom of expression. These legal precedents highlight the potential violation of fundamental rights inherent in the EU ban on RT and Sputnik. The ban's implementation without clear legal justifications and procedural safeguards raises concerns about arbitrary decision-making processes. Moreover, the ban's proportionality is called into question, particularly when considering the limited distribution and impact of RT and Sputnik broadcasts in most EU countries. It is crucial to evaluate whether less restrictive measures could effectively address the alleged threats posed by these media outlets without disproportionately infringing upon freedom of expression and media pluralism.

It is worth noting that during the announcement of the sixth package of sanctions against Russia, Von der Leyen reiterated the rationale behind targeting those accused of spreading disinformation about the war in Ukraine. She emphasized the decision to ban three major Russian state-owned broadcasters from distributing their content within the EU through various channels such as cable, satellite, internet, and smartphone apps. Von der Leyen expressed her concern about these television channels serving as platforms that aggressively amplify what she referred to as Putin's lies and propaganda. The intention behind the ban, as stated by Von der Leyen, was to prevent the dissemination of such misinformation by denying these broadcasters a stage to spread their false narratives. At the time of writing this Article, the sixth package of EU sanctions against Russia had not received unanimous approval from all member states. However, it was reported that the existing ban on RT and Sputnik has been extended to include additional broadcasters, namely RTR Planeta, Rossiya 24, and TV Centre. This extension of the ban indicates a continued effort by the EU to address what it perceives as disinformation and propaganda spreading from Russian state-owned media outlets.

These developments highlight the ongoing debate over the legitimacy of the EU ban on RT and Sputnik. While proponents argue that the ban is necessary to counter the dissemination of false information and protect public order and security, critics raise concerns about the potential infringement on freedom of expression and the media. The ban's proponents, including Von der Leyen, contend that it is a necessary measure to combat what they perceive as an aggressive amplification of propaganda. However, opponents argue that such a ban undermines the principles of free expression and media pluralism, particularly without clear and specific criteria for determining the basis for the ban and the potential for arbitrary application.

The determination of whether the EU ban on Russian media outlets pursues a legitimate aim, is proportionate, and is necessary from a legal perspective falls within the jurisdiction of the EU courts, namely the Court of Justice and/or the General Court. These judicial bodies will be responsible for assessing the ban's legality, proportionality, and necessity. The EU General Court or the Court of Justice may consider a significant principle outlined in the case law of the European Court of Human Rights (ECtHR). The ECtHR has held that Article 10 of the Convention does not prohibit the discussion or dissemination of information, even if there are

strong suspicions regarding its truthfulness. To suggest otherwise would deprive individuals of their right to express their views and opinions about statements made in the mass media, which would impose an unreasonable restriction on the freedom of expression guaranteed by Article 10 of the Convention (Fiscaro, 2024). This principle serves as a crucial reference point in evaluating the compatibility of the EU ban with the principles of freedom of expression and information. It emphasizes the importance of allowing individuals to engage in discussions and express their opinions, even when dealing with potentially untruthful information. The EU courts may take this principle into account when examining the legal basis and proportionality of the ban, ensuring that the restriction on freedom of expression is justified and necessary to protect public order and safety.

It is important to note that RT France's request for the suspension of the prohibition was rejected by the President of the General Court on the grounds of its non-urgent nature in terms of interim measures. RT France argued that the ban violated Article 11 of the EU Charter of Fundamental Rights, which guarantees the right to expression, information, and media freedom. However, the President of the General Court concluded that the blocking of RT France's programs in the EU did not warrant an immediate assessment in interim relief proceedings and determined that the restriction on freedom of expression and media did not cause serious and irreparable harm to RT France. In a recent interim decision, the ECtHR ordered the Russian government to refrain from taking any action or decision aimed at blocking or terminating the activities of the news platform Novaya Gazeta. The ECtHR stated that blocking or terminating Novaya Gazeta's activities posed a significant risk of irreparable harm to the exercise of freedom of expression by the publication.

This contrast between the Luxembourg EU General Court and the Strasbourg European Court of Human Rights raises concerns about the level of urgency attributed to evaluating and potentially halting the blocking of media outlets. The fact that the General Court appeared to be less concerned about the urgency of the matter in comparison to the ECtHR is seen as a negative indication. It suggests that there may be a disparity in the level of importance attached to assessing the blocking of media outlets between the two courts.

The position of Norway, a non-EU state closely associated with the EU as an EFTA/EEA member, highlights the potential devaluation of European values such as media freedom and the rule of law in the EU's approach. Prime Minister Jonas Gahr Støre emphasized the high threshold for restricting freedom of expression and announced that the Norwegian government would conduct thorough assessments of the legal and constitutional dilemmas before deciding whether to implement the EU ban on RT and Sputnik. Minister of Culture Anette Trettebergstuen later stated that Norway would not implement such sanctions, citing the high threshold for restricting freedom of expression under the Norwegian Constitution's Article 100 and the absence of a legitimate justification based on threats to basic societal functions.

This firm stance by the Norwegian government in support of journalism and media freedom aligns with the recommendations of the Norwegian Media Authority (NMA). The NMA acknowledged the risks posed by Russian aggression in Ukraine and the manipulation attempts by Russian state-owned media but expressed confidence in the ability of Norwegian society and the public to resist such manipulation. The fact that Norway consistently ranks first in the press freedom ranking of Reporters Without Borders further reinforces the country's commitment to upholding media freedom.

In the context of Jürgen Habermas' theory, these writings suggest that the legitimization of the ban on Russian media by the EU may not align with the principles of deliberative democracy and the ideal communication situation. Habermas argues that a legitimate decision-making process should involve inclusive and rational deliberation, where all affected individuals can participate as free and equal agents. The EU's imposition of a ban on certain Russian media outlets across all member states without allowing individual competent authorities to make their own decisions raises concerns about the erosion of democratic values, the rule of law, and media freedom within the EU. By disregarding the specific circumstances and assessments of each member state, the EU Council and Commission risk undermining the principles of democracy, deliberation, and media freedom that are crucial to the functioning of a healthy public sphere. This approach may lead to a situation where the EU's actions are perceived as arbitrary and lacking in legitimate justification, potentially undermining public trust and the credibility of EU institutions in the long run.

CONCLUSION

The EU's ban on Russian media outlets, specifically RT and Sputnik, requires a critical examination encompassing securitization theory, legitimacy, and the principles of communicative action. The securitization of information and the perceived threats posed by disinformation and propaganda have led the EU to justify the ban as a means of safeguarding public order and security. However, the legitimacy of this ban raises concerns from multiple angles.

From a legal standpoint, the vagueness of the ban's legal basis and the lack of procedural safeguards have been questioned, suggesting the potential for arbitrary application. Critics argue that such an approach undermines the principles of the rule of law and due process, casting doubt on the ban's legitimacy. Moreover, the proportionality of the ban comes into question, considering the limited distribution and impact of RT and Sputnik broadcasts in most EU countries. The principles of freedom of expression and media pluralism, which are fundamental to democratic societies, necessitate a careful evaluation of whether the ban effectively addresses the alleged threats without unduly suppressing dissenting voices. The discussion surrounding the EU's ban also intersects with the theory of communicative action. The European Court of Human Rights has emphasized the importance of allowing the dissemination of information, even when doubts exist regarding its truthfulness. This principle underscores the significance of open dialogue, diverse perspectives, and the ability of individuals to express their views, even in the face of potential disinformation. By imposing a ban, the EU risks stifling communicative action and impeding the robust exchange of ideas necessary for a vibrant public sphere.

Furthermore, the response of non-EU states like Norway to the ban sheds light on alternative perspectives. Norway's refusal to implement the ban demonstrates its commitment to protecting freedom of expression and media freedom, emphasizing the high threshold it places on restricting these rights. This stance aligns with the recommendations of the Norwegian Media Authority, highlighting the country's belief in its society's ability to withstand manipulation attempts from Russian state-owned media. The securitization of information and the EU's centralized decision-making process run the risk of undermining the principles of deliberative democracy and the ideal communication situation. To maintain a

robust and inclusive public sphere, it is crucial to strike a careful balance that effectively addresses legitimate security concerns while upholding the principles of freedom of expression, media pluralism, and democratic deliberation.

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