

Memorandum on the implementation of media sanctions imposed due to the war in Ukraine in light of the Open Internet Regulation

Several rounds of media sanctions have been imposed in Europe in response to the war in Ukraine. Traficom has received questions about the implementation of the sanctions, particularly about the blocking measures operators are allowed to implement under the Open Internet Regulation (EU) 2015/2120¹.

The purpose of this memorandum is to present the Finnish Transport and Communications Agency Traficom's view on the implementation of the sanctions in light of the Open Internet Regulation and thereby help operators implement the sanctions.

1 Relevant sanctions regulations

Council Regulation (EU) 2022/350²

This Regulation and Council Decision (CFSP) 2022/351 amend Regulation (EU) No 833/2014 as follows:

It shall be prohibited for operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by the legal persons, entities or bodies listed in Annex XV, including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications, whether new or pre-installed.

Any broadcasting licence or authorisation, transmission and distribution arrangement with the legal persons, entities or bodies listed in Annex XV shall be suspended.

The following text is added as Annex XV to Regulation (EU) No 833/2014:

- RT – Russia Today English
- RT – Russia Today UK
- RT – Russia Today Germany
- RT – Russia Today France
- RT – Russia Today Spanish
- Sputnik

Council Regulation (EU) 2022/879³

In Annex XV to Regulation (EU) No 833/2014, the following entities are added:

- Rossiya RTR / RTR Planeta
- Rossiya 24 / Russia 24
- TV Centre International

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015R2120>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0350>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0879>

The Regulation has been implemented by Council Implementing Regulation (EU) 2022/994.

Council Regulation (EU) 2022/2474⁴

In Annex XV to Regulation (EU) No 833/2014, the following entities are added:

- NTV/NTV Mir
- Rossiya 1
- REN TV
- Pervyi Kanal

The Regulation has been implemented by Council Implementing Regulation (EU) 2023/180.

Council Regulation (EU) 2023/427⁵

In Annex XV to Regulation (EU) No 833/2014, the following entities are added:

- RT Arabic
- Sputnik Arabic

The Regulation has been implemented by Council Implementing Regulation (EU) 2023/722. The sanctions apply from 10 April 2023.

2 Open Internet Regulation (EU) No 2015/2120

In accordance with the principle of net neutrality, operators must treat all traffic equally and without discrimination, restriction or interference, irrespective of the sender and receiver, the content accessed or distributed, the applications or services used or provided, or the terminal equipment used. Operators may thus not restrict traffic to certain internet addresses or impose restrictions on certain types of traffic, for instance.

As regards the implementation of sanctions, however, it is possible to deviate from the main rule of equal traffic management as necessary, and only for as long as necessary, in order to comply with legislation or with orders by courts or public authorities.

In terms of compliance with legislation, it is essential whether an obligation applies to the operator in question, in which case compliance with the obligation can be considered necessary. The Regulation does not, however, allow for self-imposed decisions by operators on the grounds that another operator has been obliged to take certain measures, for example.

3 Interpretation regarding the implementation of the Open Internet Regulation

Traficom concludes that the Open Internet Regulation does not prevent the implementation of the sanctions referred to in section 1 above. In our view, the Sanctions Regulation (EU) 833/2014 also obliges operators to block websites that distribute content by the entities listed in Annex XV to the Regulation. Therefore, operators can block domains related to the entities (e.g. rt.com), including all of

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R2474>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0427>

their subdomains (*.rt.com, such as de.rt.com and mundo.sputniknews.com). BEREC's interpretation⁶ is also consistent with Traficom's view.

Traficom's interpretation is also supported by the information published by the Council of the EU and the European Council, according to which the restrictive measures also apply to the subsidiaries of Sputnik and Russia Today.⁷

The entities listed in Annex XV are not legal persons but rather channels (e.g. Russia Today English and Russia Today Germany). Therefore, in Traficom's view, any blocking measures may be targeted at least at those websites that the legal persons behind the entities use to distribute content covered by the sanctions. This also applies to the different language versions of the channels.

However, Traficom wishes to remind that the responsibility for ensuring the implementation of the measures laid down in the sanctions regulations lies primarily with telecommunications operators.

3.1 Websites identified by Traficom

Traficom has currently identified the following websites as websites that operators should at least be allowed to block under the Sanctions Regulation. As regards domains marked with a separate indication (*xx.yy), we have also identified one or more subdomains that distribute sanctioned content.

Websites identified by Traficom:

- rt.com (*.rt.com)
- rtarabic.com
- armeniasputnik.am
- sputnik.az
- sputnik.by
- sputnikarabic.ae
- sputniknews.com (*.sputniknews.com)
- sputniknews.ru (*.sputniknews.ru)
- sputniknewslv.com
- sputniknews.cn
- sputniknews.gr
- sputniknews.kz
- sputniknews.lt
- sputniknews-uz.com
- sputnik-abkhazia.info

⁶ https://berec.europa.eu/eng/news_and_publications/whats_new/9340-berec-supports-isps-in-implementing-the-eu-sanctions-to-block-rt-and-sputnik

⁷ <https://www.consilium.europa.eu/fi/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/>

- sputnik-georgia.com
- sputnik-ossetia.com
- sputnik-tj.com
- snanews.de
- ria.ru (*.ria.ru)
- tvc.ru
- tvci.ru
- rtr-planeta.com
- ntv.ru
- ren.tv
- 1tv.ru
- vesti.ru
- smotrim.ru
- vgtrk.ru