The EU Sanctions against Jacques Baud and the Crisis of Freedom of Expression

On the Fundamental Rights Problem of Individual Restrictions on Grounds of "Disinformation"

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On 15 December 2025, the Council of the European Union placed (a further) twelve individuals and two entities on a sanctions list, intended to counter Russian "information manipulation and interference". Among them – as number 57 – is the Swiss military analyst, former colonel and long-serving UN and NATO official Jacques Baud. His assets are frozen, any financial or other economic support is prohibited, and he may neither enter nor leave EU territory. Since Baud already lives in Brussels, he is in effect stranded there; without functioning accounts, without income and without any lawful means of travelling to his Swiss homeland, which has not adopted the relevant EU sanctions regime.

The measure forms part of a (mis)development that has so far attracted surprisingly little legal attention: since the 17th sanctions package of May 2025, the toolkit of "restrictive measures" – originally aimed at the office-holders of despotic regimes – has increasingly also been hitting journalists, analysts, and publicists, including, on occasion, EU citizens. The Baud case shows in exemplary fashion how far this practice has drifted from minimum rule-of-law standards. As early as October 2025, a legal opinion by the former CJEU judge Ninon Colneric and the international-law scholar Alina Miron (Université d'Angers) concluded that the present regime is, taken as a whole, incompatible with the EU Charter of Fundamental Rights and the ECHR.

The supposedly "smart" sanctions directed against private "disinformers" are not only contrary to fundamental rights, but also foolish. They amplify the reach and impact of the very propaganda they seek to combat, while at the same time discrediting the Union itself. Instead of trusting in the power of the fundamental right to freedom of expression, an overly anxious Union renders itself legally vulnerable.

The Legal Framework: Decision (CFSP) 2024/2643 and Regulation (EU) 2024/2642

Baud's listing is based on Council Decision (CFSP) 2024/2643 of 8 October 2024 and the Regulation (EU) 2024/2642 adopted to implement it. The framework permits restrictive measures against individuals involved in actions or policies of the Russian government which undermine or threaten the fundamental values of the EU and its Member States, their security, independence and integrity, as well as those of international organisations and third countries. Individual listing is effected by a Council implementing regulation on a proposal from the High Representative or a Member State, unanimously, with the public excluded and without any prior hearing of the person concerned. The measures consist in the freezing of all funds and economic resources, the prohibition of economic support by third parties (Art. 2 of Regulation 2024/2642) and, for natural persons, a complete ban on entry and transit (Art. 1(1) of CFSP 2024/2643 as amended by Decision CFSP 2025/963).

The sanction takes effect immediately upon publication in the Official Journal. Anyone who continues to do business with Baud or enters into an employment or publishing contract with him risks incurring criminal and liability consequences of their own – under German law now tightened by the Sanctions Enforcement Act and the Act on the Adaptation of Criminal

Offences and Sanctions for Breaches of Restrictive Measures, adopted in January 2026 (a detailed account of how the sanctions mechanism operates can be found here).

The Diffuse Accusation

In a few lines, Implementing Regulation (EU) 2025/2568 accuses Baud of being "a regular guest on pro-Russian television and radio programmes", of acting as a "mouthpiece for pro-Russian propaganda" and of spreading conspiracy theories, "for example by accusing Ukraine of orchestrating its own invasion in order to join NATO."

Anyone who takes the trouble to look more closely at the multitude of Baud's publications and public appearances will find that these allegations – even if they are often disputed by Baud's supporters – are at least in part accurate. Thus Baud propagates the claim that Ukraine, with a view to the Western integration it sought, had an interest in its own invasion. The Russian "special military operation", he claims, was provoked by Ukraine through intensified shelling of the breakaway eastern regions and Crimea. Baud also regularly points to a 2019 statement by Zelensky's later adviser on strategic communications, Oleksij Arestowytsch, to the effect that only NATO membership could permanently protect Ukraine from forced Russification, but that the price for this would be a Russian attack on Ukraine.

The problem with the allegations therefore lies – contrary to what is regularly assumed in the discussion so far – not primarily in their lack of truth. The allegations are problematic because, by their content and their substantive indeterminacy, they are incapable of justifying the massive interferences with fundamental rights based on them. Even someone who – like the author of this contribution – regards the allegation that Ukraine provoked its own invasion as misleading will readily classify this assertion as an expression of opinion protected by Art. 11 of the EU Charter of Fundamental Rights (on the interferences with further fundamental rights and freedoms not pursued further here, see here). Precisely because the European Union, in response to the Russian war of aggression, is engaged on Ukraine's side with financial, military, logistical and humanitarian assistance, it must be possible to conduct the public debate within the Union openly as to the occasion, sense, nature and aims of this support. Sanctioning dissenting expressions of opinion appears, particularly in times of war, as a problematic narrowing of discourse.

The EU sanctions regime, and indeed Baud's specific listing, do acknowledge this problem. For that reason – at least according to the wording of the decisions – Baud's expressions of opinion are not in themselves made the occasion for the sanctions. Rather, the sanctions are justified by the additional accusation that they stand in an inner connection with "actions or policies attributable to the government of the Russian Federation which undermine or threaten the stability or security in a third country (Ukraine)". Baud, it is said, is responsible for these governmental measures, implements them or supports them.

From what this asserted connection to measures of the Russian government actually derives, however, is not explained in publicly accessible documents. Baud points out – rightly, as far as can be seen – that since the Russian assault on Ukraine he has no longer appeared in Russian media, so as not even to give rise to any suspicion of closer ties to Russia. The EU's sanctioning order also speaks only very vaguely of "pro-Russian television and radio programmes" and of the dissemination of "pro-Russian propaganda". What counts as "pro-Russian", however, is a matter of definition and may serve the EU as a means of sanctioning critics of its own political positions on a broad scale. The notion of "support" for Russian governmental measures likewise appears entirely without contours. Apparently it is enough in this respect merely to spread a hostile narrative agreeable to the Kremlin. Against this background, the wording used by the deputy German government spokesman Martin Giese with regard to the sanctioning of Baud at the Federal Press Conference of 17 December 2025 ("everyone who is active in this field must reckon with it happening to them too") sounds, less like that of a government representative in a Union subject to the Charter of

Fundamental Rights than like the threat of a Russian official.

The Indeterminacy of the Sanctions Regime and the Idea of Freedom of Expression

The indeterminacy of the accusations directed against Baud is an emanation of the indeterminacy that already characterises the constituent elements of the legal bases of the sanctions regime. Particularly problematic in this respect appears Art. 2(3)(a)(iv) of Regulation (EU) 2024/2642, which also forms the legal basis for the measures taken against Baud. Under it, it is sufficient for the sanctioning of private individuals that they engage in the "planning, directing, direct or indirect participation in, support for or other facilitation of the use of coordinated information manipulation and interference". These terms leave the Council an almost unlimited margin of discretion. Does not every expression of opinion deviating from the official political positions of the EU "facilitate" the coordinated information manipulation and interference of the Russian government? Where the constituent elements themselves display no contours, the sanction threatens to become an instrument of political disciplining. The case of Jacques Baud shows in exemplary fashion that the EU institutions are prepared to interpret these self-created sanction grounds as broadly as conceivable.

The sanctions regime as such therefore already appears incompatible with Art. 11 of the EU Charter of Fundamental Rights. It is true that the General Court, in its RT France judgment of 27 July 2022 (T-125/22, paras. 75 et seq.) regarded the relevant legal bases as suitable to justify a prohibition on the broadcasting activity of the channel RT (Russia Today). It did so, however, by relying decisively on the fact that the channel "was under the continuous direct or indirect control of the leadership of the Russian Federation" (para. 174) and had carried out "continuous and concerted propaganda activities" on its behalf. And in its judgment on the sanctions imposed on Dmitrii Kiselev, head of the Russian news agency "Rossiya Segodnya" (T-262/15 of 15 June 2017), the General Court rightly emphasised that the notion of "supporters" of Russian propaganda must, in the interest of the effective protection of freedom of expression, remain confined to a circle of persons narrowly delimited in an objective manner (paras. 74 et seq.). The exceptional justification of the sanctions imposed on Kiselev followed, against this background, from his position as head of a state Russian news agency, from the radical character of his propagandistic statements, from his integration into the Russian apparatus of power and from the in fact only very relative restriction of his freedom of expression.

Jacques Baud is not, so far as can be seen, accused of anything comparable. As a person living and working in the EU, he is restricted in his freedom of expression by the sanctions far more directly than a member of the Russian nomenklatura living in Russia. Baud may be a *"Russlandversteher"* – a "Russia-understander" – who, owing to his lifelong preoccupation with the country, brings more understanding to bear for Russian politics than the Union finds agreeable. But it is precisely the intellectual irritation caused by such statements of those who think differently that the freedom of expression guaranteed by fundamental rights is aimed at protecting.

In its settled case-law the CJEU emphasises the fundamental importance of freedom of expression for the democratic social order of the Union: "That fundamental right, guaranteed in Article 11 of the Charter, constitutes one of the essential foundations of a pluralist, democratic society, and is one of the values on which, under Article 2 TEU, the Union is founded." (CJEU, C-203/15 and C-698/15, 21 December 2016, Tele2 Sverige, para. 93). In its RT France decision cited above, the General Court additionally referred to the settled case-law of the European Court of Human Rights, which – entirely in line in this respect with the case-law of the German Federal Constitutional Court – consistently emphasises that freedom of expression constitutes one of the essential foundations of a democratic society (ECtHR, 22479/93, 28 September 1999, Öztürk v. Turkey, § 49). Subject to Art. 10(2) ECHR, this freedom applies not only to "information" or "ideas" that are favourably received or regarded as inoffensive or unimportant, but also – in accordance with the

requirements of pluralism, tolerance and broadmindedness, without which there is no "democratic society" – to those that offend, shock or disturb (ECtHR, 5493/72, 7 December 1976, Handyside v. United Kingdom, § 49; cf. also ECtHR, 28470/12, 5 April 2022, NIT S.R.L. v. Republic of Moldova, § 177 and the case-law cited therein).

How this idea of freedom of expression is supposed to be compatible with the sanctioning of Jacques Baud's statements therefore remains unclear – even if one regards his opinions, with very good reasons, as mistaken and irritating.

On the Disproportionality of the Sanctions

Even though the sanctions thus prove, in themselves, to be an impermissible interference with freedom of expression, it is worth taking an additional look at the question of their (dis)proportionality.

Under Art. 2(1) of Regulation 2024/2642, "all funds and economic resources belonging to, owned, held or controlled by the natural [...] persons [...] listed in Annex I [...] shall be frozen". Under Art. 2(2) of Regulation 2024/2642, no funds or economic resources may be "made available, directly or indirectly, to or for the benefit of" the sanctioned persons. Exceptions are possible under Art. 3 of Regulation 2024/2642 only insofar as they concern the satisfaction of the basic needs of the sanctioned persons and their family members and the financing of their legal defence. As the comparable case of the Berlin journalist Hüseyin Doğru shows, this is understood, at least by the German authorities, to mean merely financial provision at the level of the subsistence minimum. Under Art. 1(1) of CFSP 2024/2643, the Member States are moreover obliged "to prevent the entry into, or transit through, their territories of the natural persons listed in the Annex".

In their severity, their comprehensiveness and their procedurally ambush-like character, these measures move clearly outside any proportionality. According to the original intention of the sanctions regime, their restrictive force was meant to correspond to the power of the power-politicians and oligarchs to be sanctioned. In Baud's case, these instruments are directed against a Swiss pensioner. Confiscation of assets, prohibition on making funds available, a ban on entry and exit, a de facto occupational ban and monthly subsistence allowances are severe, fundamental interferences. That those affected are, by contrast, relegated to onerous and time-consuming legal protection obtainable only after the event makes their situation particularly problematic. That all this is supposed to be a legally acceptable, proportionate Union response to unwelcome expressions of opinion cannot be maintained with a clear conscience.

Foolish Sanctions and the Crisis of Freedom of Expression

The Union justifies its sanctions against Baud and other private individuals by reference to the war, the threat posed by hybrid operations, and the public interest in a resilient information space. These are concerns to be taken seriously. But they do not justify a practice that undermines the rule-of-law architecture of the Union itself. By its conduct, the EU violates not only the fundamental rights of the sanctioned persons. It also damages its own standing as a community of law and values. This will give further impetus to the anti-European narrative cultivated by pro-Russian, Trumpist and right-wing populist quarters. The unlawful, hysterical-seeming and foolish sanctions are thus an expression of a wider-reaching crisis of freedom of expression. It is to be hoped that the Union's judiciary will put a sufficiently powerful stop to this misguided development.

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