

UN Human Rights Council: The actions of the Russian Federation are jeopardising online freedoms everywhere

Item 4 General Debate - Oral Statement

27 June 2018

Delivered by ARTICLE 19

Thank you Mr. President,

The Russian Federation is pursuing policies that are significantly and rapidly encroaching online freedoms affecting not only the rights of people living in Russia but Internet users everywhere. Through the steady adoption of a raft of regressive legislation contravening international standards on freedom of expression, including access to information and the right to privacy, as well as placing unjustified pressure on Internet intermediaries, the Russian Federation is creating a framework, which, if fully implemented, would not only severely limit the free flow of information online but potentially give them access to the personal communication data of anyone, anywhere.

Last month, ARTICLE 19 together with 56 international and Russian human rights, media and Internet freedom organisations condemned the mass Internet disruption caused by the Russian Federation's attempts to block the Internet messaging service Telegram, which resulted in extensive violations of freedom of expression including access to information. Almost 20 million Internet Protocol (IP) addresses were ordered to be blocked causing an unprecedented level collateral website blocking.

The basis of the authorities' action was Telegram's noncompliance with the highly problematic 2016 so-called 'Yarovaya Law', justified on the grounds of "countering extremism", which requires all communications providers and Internet operators to store metadata about their users' communications activities, to disclose decryption keys at the security services' request, and to use only encryption methods approved by the Russian government - **in practical terms, to create a backdoor for Russia's security agents to access internet users' data, traffic, and communications.** In July 2018, other articles of the 'Yarovaya Law' will come into force requiring companies to store the content of all communications for six months and to make them accessible to the security services without a court order. This would affect the communications of both people in Russia and abroad, violating their right to privacy and creating a further chilling effect to freedom of expression and access to information.

Such attempts by the Russian authorities to restrict online communications and violate privacy, supposedly for the protection of national security, are neither necessary nor proportionate. The Russian Government must repeal 'Yarovaya Law' and refrain from pressuring Internet intermediaries to comply with requests that will violate their users' rights or face having their services blocked inside the country.

Since 2012, Russia has operated a blacklist of Internet websites and incrementally extended the grounds upon which websites can be blocked, including without a court order. The permanent blocking of several online media outlets and also LinkedIn – are completely unjustified and can only be seen as examples to intimidate others into compliance. Individual Internet users have also been persecuted for online expression or even simply liking or sharing content on social media platforms.

Legislation currently under consideration includes further social media regulation (Proposed Bill № 223849-7) which would among other concerns eradicate the possibility of online anonymity and pressure companies to take down "unverifiable" information; as well as proposed amendments to the Criminal Code (Article 284.2) (Proposed Bill № 464757-7) that would criminalise information leading to 'international sanctions', which could be used to prevent the media reporting on public interest matters or NGOs conducting international advocacy. Both pieces of legislation, if adopted, would have a negative impact on the free flow of information and should not be brought into law.

Signed by

1. ARTICLE 19
2. Agora International
3. Access Now
4. Amnesty International
5. Asociația pentru Tehnologie și Internet – ApTI
6. Associação D3 – Defesa dos Direitos Digitais
7. Centre for the Development of Democracy and Human Rights
8. Committee to Protect Journalists
9. Citizens' Watch
10. Civil Rights Defenders
11. Electronic Frontier Foundation
12. Electronic Frontier Norway
13. Electronic Privacy Information Centre (EPIC)
14. European Federation of Journalists
15. FIDH - International Federation for Human Rights
16. Freedom House
17. Free Word Association
18. Glasnost Defence Foundation
19. Human Rights House Foundation
20. Human Rights Watch
21. The Independent Historical Society
22. Index on Censorship
23. International Media Support
24. International Partnership for Human Rights
25. International Youth Human Rights Movement (YHRM)
26. Internet Protection Society
27. Kharkiv Human Rights Protection Group
28. Mass Media Defence Centre
29. Moscow Helsinki Group
30. Movement 'For Human Rights'
31. Norwegian Helsinki Committee
32. Open Media
33. Open Rights Group
34. OVD-Info
35. PEN America
36. PEN International
37. PEN St Petersburg
38. People in Need
39. Press Development Institute-Siberia
40. Privacy International
41. Reporters without Borders
42. RosKomSvoboda
43. Russia Beyond Bars
44. Russian Journalists' and Media Workers' Union
45. Russian LGBT Network
46. Sakharov Center
47. SOVA Center
48. Team 29
49. Transparency International Russia
50. Webpublishers Association (Russia)
51. World Wide Web Foundation
52. Xnet

Background Information

New Legislation

- On 15 May 2018, Russia's State Duma approved in the first reading proposed amendments (Proposed Bill № 464757-7) to the Criminal Code (Article 284.2), amendments that would criminalise 'the provision of recommendations and transfer of information that has lead or might have led to the introduction' of international sanctions, providing for up to three years' imprisonment and fines of \$8,000. (see ARTICLE 19, 17 May 2018, *Russia: Proposed amendments to Criminal Code threaten media freedom* - <https://www.article19.org/resources/russia-proposed-amendments-to-criminal-code-threaten-media-freedom/>)
- On 12 April 2018, a new draft law (Proposed Bill № 223849-7) on social media regulation was adopted in the first reading by the Russian State Duma. The law draws inspiration from the German 2017 NetzDG law and would require social media companies to remove information that violated Russian law (within 24 hours) or face huge fines (up to 50 million RUB). In addition, social media companies would be required to establish representation in Russia and identify their users by their telephone numbers effectively preventing online anonymity (as all phone numbers are registered with the owner's passport in Russia).
- Both bills are awaiting their second and third readings in the State Duma.

Yarovaya Law

- Various requirements of the 'Yarovaya Law' are plainly incompatible with international standards on encryption and anonymity as set out in the 2015 report of the UN Special Rapporteur on Freedom of Expression report (A/HRC/29/32). The UN Special Rapporteur himself has written to the Russian government raising serious concerns that the 'Yarovaya Law' unduly restricts the rights to freedom of expression and privacy online (see http://www.ohchr.org/Documents/Issues/Opinion/Legislation/RUS_7_2016.pdf)

Telegram Case

- In October 2017, a magistrate found Telegram guilty of an administrative offense for failing to provide decryption keys to the Russian authorities – which the company states it cannot do due to Telegram's use of end-to-end encryption. The company was fined 800,000 rubles (approx. 11,000 EUR). Telegram lost an appeal against the administrative charge in March 2018, giving the Russian authorities formal grounds to block Telegram in Russia, under Article 15.4 of the Federal Law "On Information, Information Technologies and Information Protection".
- For Russian users, apps such as Telegram and similar services that seek to provide secure communications through the use of encrypted messages are crucial for users' safety and, inter alia, rights to freedom of expression and privacy. They provide an important source of information on critical issues of politics, economics and social life, free of undue government interference.
- Between 16-18 April 2018, almost 20 million Internet Protocol (IP) addresses were ordered to be blocked by Russia's communications regulator, Roskomnadzor, as it tried to restrict access to Telegram. The majority of the blocked addresses are owned by international Internet companies, including Google, Amazon and Microsoft and had a detrimental effect on a wide range of web-based services that have nothing to do with Telegram, including media. For more details see:
 - *Russia: Blocking Telegram is a serious violation of freedom of expression and privacy*, 13 April 2018 - <https://www.article19.org/resources/russia-blocking-telegram-serious-violation-freedom-expression-privacy/>
 - *Russia: Telegram block leads to widespread assault on freedom of expression online*, 30 April 2018 - <https://www.article19.org/resources/russia-telegram-block-leads-widespread-assault-freedom-expression-online/>
 - *Russia: 50+ international and Russian NGOs condemn Telegram block and Russia's assault on Internet freedom*, 15 May 2018 - <https://www.article19.org/resources/russia-international-and-russian-ngos-condemn-telegram-block-and-russias-assault-on-freedom-of-expression-online/>