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Online Censorship in Russia and Turkey – New Social Media Legislation

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ANALYSIS

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1. Introduction

Russia and Turkey have been cracking down on social media in their crusade against free speech and journalism. Both countries seek to get social media platforms to comply with government requests or punish journalists if they cannot stop them from posting.¹

Russia has been using legislation and security agencies' powers to prevent "undesirable" content online, not only against journalists but also regular citizens. Journalists can be charged huge fines and be jailed on charges of "spreading fake news" for reporting the news. Turkey, where 97 percent of media are in government hands, has followed a similar course through increasingly harsh treatment of journalists and most recently with new legislation that will cut off bandwidth of platforms who do not comply with government requests. Both countries have adopted restrictive legislation. Russia has given the government body Roskomnadzor (RKN) and Turkey has given the Supreme Radio and TV Supervision Board (RTÜK) broad social media censorship powers.

This online censorship is worrying as in both countries social media remains the only influential sphere left for the dissemination of independent information and the mobilization of civil society. How can journalists reach their audience without bowing to censorship in the two countries where recent legislations threaten online space for exercising the right to free speech?

2. Current situation in Russia

In Russia, amendments to the "Federal Law on information, Information Technologies and Protection of Information", that was called "The Social Media self-regulation Law", came into force in February 2021. The law requires social media platforms to proactively monitor their content in order to block access to 'illegal content'.² Alexander Khinshtein, a Russian parliamentarian and author of the new law, explained that the goal of the legislation was to clean up the Internet from 'negative content'.³

That includes an incredibly broad range of content such as child pornography, information about drugs and suicide, information insulting to Russian society, state,

constitution, state symbols and state authorities, calls for participation in public disorders or „extremist“ activities and materials of foreign or international organisations that are recognised as "unwanted organisations" or "foreign agents".⁴ Given the fact that the Russian legislation provides a very vague definition of extremism or calls for participation in public disorders, it is hardly possible for social networks to understand how to sort out the content.⁵

The New Social Media Law

The law defines social media as websites which users use in the Russian language or other languages of the Russian Federation and which are visited daily by more than 500,000 users in the Russian Federation.⁶ Khinshtein made a point that not only Facebook, Twitter, Odnoklassniki, VKontakte, and TikTok are subject to a new law, but any Telegram channel or messenger can be considered as social media if it has a function for comments and unlimited number of people to get access to it.

The representative of social media companies who fail to block negative or prohibited information will be fined, and fines vary depending on the case from 50,000 (555 EUR) to 100,000 (1.110 EUR) Russian roubles for individuals, from 800,000 (8.893 EUR) to 4 million roubles (44.466 EUR) for companies.⁷

The duty to define which content should be taken down is assigned to a government body (RKN – Roskomnadzor), which is the country's Internet censorship agency. RKN duly monitors the internet in search of "prohibited information", then put it on a special register by IP-address or URL. Everything on this blacklist must be blocked by ISPs (Internet service providers) or owners of websites.

Recently the scheme has dramatically changed and social media platforms have to monitor and censor users' posts, videos and photos on their own. The obligation to conduct a pre-emptive censorship put social media in a difficult ethical position. They would have to block all critics of the authorities, all information about peaceful manifestations and investigations into the Kremlin corruption. This practice was adopted from China, where social networks censor their content themselves. There is no doubt that the the social media self-regulation law will dramatically affect freedom of expression in Russia.

1 This paper is the result of a panel discussion on "Autocratic copycats? Russia and Turkey stifle social media" with the authors during RightsCon 2021.

2 (22.06.2021). <https://www.interfax.ru/russia/743640>.

3 (22.06.2021). <http://duma.gov.ru/news/50660/>.

4 Article19 (22.06.2021). Russia: Laws enabling massive online censorship must be repealed. [https://www.article19.org/resources/russia-laws-](https://www.article19.org/resources/russia-laws-enabling-massive-online-censorship-must-be-repealed/)

[enabling-massive-online-censorship-must-be-repealed/](https://www.article19.org/resources/russia-laws-enabling-massive-online-censorship-must-be-repealed/).

5 Alexander Navalny's foundation was just recently declared as an extremist organization.

6 (22.06.2021). <https://www.interfax.ru/russia/743640>.

7 (22.06.2021). <http://duma.gov.ru/news/50660/>.

Last space for debate

Social media have remained the major space for mobilization and free, uncensored debate in Russian society, as the latest protests in January 2021 proved yet again. While Facebook has been the primary platform for political debate since the Moscow protests in 2011, Twitter and TikTok became instrumental in mobilizing protesters to take to the streets this winter and spring.

There are several specifics which make social media especially important in Russia: after 20 years of Putin's rule, investigative journalists by and large got squeezed out of traditional mainstream media. Instead, they founded small but agile investigative projects (such as Istories, Proekt, the Insider, the Bell), all of them online.

As a rule, they were founded by journalists with a big following on social media, which they convert into following for their niche projects, by launching the pages of their projects on Facebook, Twitter, Instagram or other platforms.

As a result, it became a rare thing for the Russian liberal public to get their news directly from traditional media – like TV, radio and newspaper. Instead, they rely mostly on social media like Facebook for getting their daily news agenda, and that includes investigations. The exceptions are rare, like Meduza⁸, which enjoys the biggest online audience in the country but has also recently been labelled a “foreign agent”. The Russian social media, like VK, Odnoklassniki, are the most popular in the country, but for several reasons, including their cooperation with the Russian secret services, Russian liberal audience keeps its distance from them. There is only one exception – Telegram, originally launched by a team of Russians led by Pavel Durov. His personal record of withstanding government's pressure made Telegram trustworthy for many Russian activists, both as a media and a way of communication. Even if Durov's service is going through big changes and getting closer to the Kremlin starting last summer – Telegram got unblocked by the authorities, and its deputy head was invited to talk at a conference in Russia along with Russia's prime minister – activists still rely on the service. Telegram also got logistical support in issuing its bonds from the VTB-Capital, a state-owned investment bank.⁹

Therefore, Russian journalists and liberal commentators become very edgy about Facebook's and Twitter's censoring policies which might lead to access to their pages being temporarily blocked. Such a blocking may be provoked by an obscene word, a frivolous picture or complaints of other users or trolls. For many journalists and commentators, their pages on social media are the best way of reaching out to their audience of dozens of

thousands of followers.

Social media in Russia are not only a place for public debate and dissemination of news and investigation – they also provide tools of secure communication. Telegram occupies the first position in the rank of most trusted services, then comes Signal, and other messengers. Not only activists communicate via messengers, but also journalists rely on these services to communicate with their sources. The new tendency is that messengers become an integral part of the editing process for many Russian independent media – Russian media and their journalists are no longer based exclusively in Russia: there are media with teams spread between several countries, with reporters in Moscow, researchers in Montenegro and the editorial office in the Baltics. Editing is the most sensitive part in the life of any publication – an investigation could last for months and for their targets it could be crucial to learn in advance of what is coming. Therefore, the security provided by messengers is getting truly paramount.

3. Current situation in Turkey

Turkey is going through a time of frequent restrictions of the right to freedom of expression and the press. In the aftermath of the failed coup attempt of 15 July 2016, at least 178 media outlets have been closed down, approximately 2500 journalists lost their jobs, dozens of journalists have been arrested and the government control on printed media outlets increased to 95 percent^{10,11}. Given the continuously intensifying pressure on offline and online media outlets, independent journalists have started to convey their news reports to their audience mainly on the internet, using social media platforms instead of traditional press organizations. In parallel, citizens seeking channels for independent news and for free expression likewise turned to social media, among them are many social groups and human rights activists that are unable to make their voices heard in the government controlled mainstream media.

Despite its “echo chamber” structure, social media has turned into a public space in Turkey where many social segments meet, different voices can be heard and journalists can share news. Meanwhile, two out of three Turkish citizens are social media users. Facebook has 37

8 Meduza (22.06.2021). The Real Russia, Today. <https://meduza.io/en>.

9 varietyinfo.com (22.06.2021). VTB Capital estimates Telegram at \$ 2.2 billion to \$ 124 billion in 2022 for bond placement – VTimes. <https://varietyinfo.com/russia/vtb-capital-estimates-telegram-at-2-2-billion-to-124-billion-in-2022-for-bond-placement-vtimes/>.

10 Free Web Turkey Platform (20.01.2021). End of News:

Internet censorship in Turkey. <https://www.freewebturkey.com/free-web-turkey-report-42-of-blocked-news-are-related-to-government-and-its-close-circles/>.

11 Amnesty International (2017). Turkey: Journalism is not a crime. <https://www.amnesty.org/en/latest/campaigns/2017/02/free-turkey-media/>.

million users in Turkey, Twitter 13.6 million.¹² In an attempt to catch up with this new digital reality, the government has started to target the internet, the sole remaining channel to share different opinions.

The “Censorship Law” No. 7253

In addition to trials of thousands of people for their posts on the internet, access bans to websites, and content removals, a new law tightening the use of social media platforms has been adopted in July 2020.

The “Law No. 7253 Amending the Law on the Regulation of Internet Publications and the Prevention of Crimes Committed through such Publications” (“Social Media Law”) entered into force on October 1, 2020. It creates the category of “social network providers” for “real or legal entities allowing users to create, view or share online content such as text, visual content, voice recordings and locations online for social interaction purposes”. Consequently, it also introduces a range of obligations for online platforms such as Twitter, Facebook, Instagram and YouTube, which fall under the category of social network providers.

In line with the new legislation, all foreign-based social network providers with more than one million daily accesses from Turkey are obliged to appoint a legal representative in the country.

Moreover, the social network providers are required to store the data of their users from Turkey inside the country. The local storage of personal data results in the possibility of judicial and administrative authorities to request this data. All social platforms obtain data from their users about their age, physical characteristics, health conditions, tastes, thoughts, behaviors that may be desired to remain private, and various other elements that make up a person’s personality. With Law No. 7253, it becomes legal to provide such personal data to the state. This raises the possibility that government officials may use personal data for political purposes against users.

Another regulation of the law requires social network providers to respond to individual requests to take down content violating privacy or personal rights within 48 hours. In the case of failure to provide a reply, social network providers face fines of up to 5 million Turkish Lira (484.000 Euro) and will be held liable for compensation for any damages occurred. This obligation implies that the right to be forgotten and similar rights will be prioritized. This is problematic insofar as the regulation can be abused by politicians or public officials who can request the removal of content that is relevant for the public but sheds a negative light on them under reference to the “right to be forgotten”. Thus, the law extends the tools of censorship that can be used to restrict the freedom of

expression and the press.

Additionally, the law obliges social network providers to remove or block access to content deemed unlawful within 24 hours after a court order. Lastly, the law stipulates the establishment of biannual reports in Turkish on decisions that were taken to remove or block content.

Compliance of social media companies with the law

From the submission of the draft law into parliament in July 2020 until today, the Social Media Law has remained strongly contested. NGOs, journalists and activists working to protect the news flow and freedom of expression called repeatedly for social media companies not to comply with the law. Calling it “Censorship Law”, they drew attention to its role of taking censorship to a more suffocative level and of creating potentially dangerous consequences for citizens by completely removing data security.

The Social Media Law includes staggered penalties for the companies that resist the law and do not appoint a legal representative in Turkey. According to Yaman Akdeniz, an internet rights activist and law professor at Istanbul Bilgi University, Facebook executives declared in October 2020 in a conversation with him not to be willing to comply with the law. Until the enforcement of the first penalty by the Information and Communication Technologies Authority (BTK), an administrative fine of 10 million Turkish Lira (957.000 Euro) on November 4, 2020, only the Russia-based VKontakte had complied with the new law. Most platforms also resisted the second financial penalty of 30 million Turkish Lira (2.871.000 Euro) imposed on December 11. However, following further penalties and advertisement bans Twitter, YouTube, Facebook, WhatsApp, Instagram and Pinterest had all agreed to appoint representatives by mid-April of 2021.

Perception of the law in civil society and current developments

The eventual decisions of the companies to comply with the Social Media Law was met with disappointment among the Turkish civil society. Through complying, the social network providers are considered to become an instrument of the government’s censorship practices. Civil society organizations therefore called on social media companies to explain how they will protect the users’ freedom of expression resulting from their appointment of representatives in Turkey. Moreover, the companies were urged to challenge content removal and other requests from the Turkish authorities that violate human rights standards.¹³

12 Bianet (02.07.2021). There are 54 million social media users in Turkey. <https://m.bianet.org/english/society/226764-there-are-54-million-social-media-users-in-turkey>. UN Data (2020) Population: 84.339.000, Individuals using the Internet: 71 %. <http://data.un.org/en/iso/tr.html>.

13 Article 19 (24.03.2021). Turkey: Twitter becomes latest company to comply with repressive Social Media Law. <https://www.article19.org/resources/turkey-twitter-becomes-latest-company-to-comply-with-repressive-social-media-law/>.

Organizations and media outlets monitoring content removal requests already report an increase in removal orders since the entry into force of the new legislation. This puts in particular activists, journalists and minorities at risk for whom social media platforms remained one of the last few spheres for the exercise of the right to freedom of expression and access to independent news.

The government claims to protect citizens' personal data, combat cybercrime and hate speech with the new law. Yet, in the eyes of many Turkish civil society organizations, including the Media and Law Studies association (MLSA), the new Social Media Law is an attempt on the part of the government to monopolize the information flow online and to expose citizens to stricter surveillance and control. This tendency had already become clear prior to the passing of the new Social Media Law. Within only the first two months of the outbreak of the Covid-19 pandemic, between March 11 and May 21, Turkish authorities investigated 1105 social media users for alleged propaganda for a terrorist organization on the grounds of "sharing provocative Coronavirus posts".¹⁴ Between January and June 2020, Turkey ranked 4th in the number of removal requests for Twitter contents (4325 removal requests).¹⁵

4. How are Russian and Turkish journalists responding to the threat?

Parallels in both countries, Russian and Turkey, confirm that the authorities tend to learn from each other and copycat practices when suppressing activism and opposition. Online censorship is a new popular method to

control the own population and internal critics.

Journalists are responding to the threat with a growing feeling of solidarity. The case of Ivan Safronov, a former journalist, became a wake-up call for many journalists in Russia. Last summer Safronov was arrested by the FSB (Federal Security Agency) and charged with state treason. The FSB made it clear that Safronov was under surveillance for several years when he was reporting for *Kommersant* daily about the Russian military industrial complex. In general, the mood in Russia/among Russian journalists is quite depressing. More and more media outlets are labelled as "foreign agents" and journalists are leaving the country or are considering such an option. Because nowadays investigative journalism relies more and more on digital tools, they consider they could keep up working on their stories even if they are not physically present in the country. In that climate, the space for debate and communication provided by global platforms is getting ever more crucial. And this space must remain free of censorship and surveillance.

The situation in Turkey is similar – journalists in the country have been operating in an environment of "access bans" for a long time. Access bans, which could be implemented without a court order, have not stopped news outlets from reporting on topics that irk the AKP government such as corruption or human rights violations in the Kurdish region although most of them complied with URL blocking orders and removed content after being served with court orders.

Many journalists and activists have spoken out against the law, during its drafting and after its adoption. Content removal from social networks – the only remaining space for non-government journalism – at the government's request can potentially bring about the demise of independent news. Civil society called on platforms to not appoint representatives; however, that call was not heeded. Currently, none of the online outlets has a plan for meeting their audience through different channels when and if their accounts are suspended by the popular platforms for not toeing the party line.

14 Amnesty International (06.06.2020). Turkey: Stifling free expression during the COVID-19 pandemic. [https://www.amnesty.org/en/latest/campaigns/2020/06/turkey-stifling-free-expression-during-the-covid19-](https://www.amnesty.org/en/latest/campaigns/2020/06/turkey-stifling-free-expression-during-the-covid19-pandemic/)

[pandemic/](https://www.amnesty.org/en/latest/campaigns/2020/06/turkey-stifling-free-expression-during-the-covid19-pandemic/).

15 Twitter (2020). <https://transparency.twitter.com/en/reports/countries/tr.html>.

