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THE IMPACT OF INTERNET BLOCKING MEASURES ON THE FREEDOM OF EXPRESSION

The scientific and technological advances of our globalized world have had an impact on the fundamental human rights. The emergence and development of new technologies such as the Internet have allowed the use of email, social networks, digital signature and other facilities that influence the fundamental rights. The new technologies have changed the exercise of the freedom of expression, access to information, freedom of association, freedom of thought, etc., and infringed as well upon private and family life.

In the ECHR System it was recognized that Article 10 dispenses over the right to freedom of expression, as it protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed [1, §64]. Therefore, the protection that the ECHR System grants to the freedom of expression is not only related to the object of the Convention, but also to certain means, such as the Internet, which are perceived as an element of a free and duly informed public opinion.

The Internet has generated today the exercise of freedom of expression and information to reach its maximum extents. It falls within the scope of Article 10 of the Convention, this being the reason why it is really tempting to explore how the European judges have interpreted the Article 10 of the ECHR and

particularly the impact of Internet blocking measures on the freedom of expression.

Pursuant to the ECtHR, the Internet has now become one of the principal means by which individuals exercise their right to freedom to receive and impart information and ideas, providing as it does essential tools for participation in activities and discussions concerning political issues and topics of general interest [2, §49]. With regard to the importance of Internet sites in the exercise of the freedom of expression, the ECtHR held that in the light of its accessibility and its capacity to store and communicate vast amounts of information, the Internet plays an important role in enhancing the public's access to news and facilitating the dissemination of information in general [3, §27].

One of the most known Internet blocking techniques is to target the content by means of the universal resource locator (URL), which is more targeted than IP address blocking, and it involves the risk that erroneous classification or an over-broad implementation (*e.g.* using the URL of a whole website or platform) results in over-blocking [4, pp. 6-7]. The impact of such Internet blocking technique on the freedom of expression was assessed in the case of *Ahmet Yıldırım v. Turkey* [5]. The applicant owned and run a website where he was publishing material including his academic work and opinions on various topics. The website was set up using the Google Sites website creation and hosting service. Following a court decision in the criminal proceedings for insulting the memory of Atatürk, the father of the Turkish State, the access to Google Sites was blocked and the applicant was unable to access his own website. The applicant applied to have the blocking order set aside in respect of his website, since it had no connection with the site that had been locked for reasons of illegal content, but his application was dismissed. Three years later he was still unable to access his own website even though, as far as he understood, the criminal proceedings had been discontinued.

The ECtHR held that there had been a violation of Article 10 of the Convention. This provision guarantees freedom of expression to everyone and applies not only to the content of information but also to the means of dissemination, since any restriction imposed on the latter necessarily interferes with the right to receive and impart information, as well as the right of the public to receive it [5, §50]. The effects of the measure in question had been arbitrary (the access was blocked not only for the offending website, but it consisted in the wholesale blocking of all the sites hosted by Google Sites) and the judicial review procedures were insufficient for preventing abuses [5, §68]. The Court accepted that the measure applied was not a wholesale ban but rather a restriction on Internet access which had the effect of also blocking access to the applicant's website [5, §54]. Due to the important role of the Internet in the modern society, the limited effect of the restriction did not diminish its significance [5, §54].

The Court reiterated that a restriction shall be deemed as compatible with the Convention only if there is a legal framework ensuring both tight control over the scope of bans and effective judicial review to prevent possible abuses [5, §64]. The domestic courts did not seek to weigh up the various interests at stake, did not assess the need to block all access to Google Sites and did not take into consideration the fact that the measure applied would render large amounts of information inaccessible, thus substantially affecting the rights of Internet users and having a significant collateral effect [5, §66].

Each restricting order shall be sufficiently clear and foreseeable ensuring for any person to know what kind of content may be subject to blocking, whether any particular types of content or publishers are being targeted, the geographical area to which they apply, the time-limit etc. [4, p. 13]. Furthermore, there shall be a clear process for implementation and notification to those whose content is affected [4, p.13], as well as the guarantee of an effective judicial remedy. As judge Pinto de Albuquerque pointed in the concurring opinion to the Ahmet Yıldırım case, “any indiscriminate blocking measure which interferes with lawful content, sites or platforms as a collateral effect of a measure aimed at illegal content or an illegal site or platform” would not be regarded as legal and “blocking orders imposed on sites and platforms which remain valid indefinitely or for long periods” would be “tantamount to inadmissible forms of prior restraint, in other words, to pure censorship” [5].

The collateral effect of the measures taken against a website was examined as well in the case *Cengiz and Others v. Turkey* [3], where the applicants complained of the wholesale blocking access to YouTube. The blocking was determined as a result that YouTube was hosting content that was illegal under the domestic law (concerning sexual abuse of minors and insults to the memory of Atatürk). The Court held that the applicants, academics in universities, had been prevented from accessing YouTube for a substantial period of time. As active users, the decision to block access to YouTube affected their right to receive and impart information and ideas [3, §55]. Due to its peculiarities, the YouTube is a unique platform which enables information of specific interest (especially on political and social matters) to be broadcasted, thus fostering the emergence of citizen journalism [3, §52].

In conclusion, the remarkably considerable capacity of the Internet to produce, transmit and store information, compared to other traditional means of communication, may generate potential risks that entitle states to impose certain restrictions. In spite of this, any blocking shall follow the criteria established and applied under Article 10 of the Convention, i.e. it shall be prescribed by law, pursue a legitimate aim and be necessary in a democratic society.

Literature

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CONCERNING THE LEGAL EDUCATION IN THE REPUBLIC OF POLAND

The last decade has also seen significant growth with respect to the public interest initiatives in connection with the legal education. This proves extremely beneficial for all the interested parties, as law students and interns tend to comprise excellent material for the provision of social assistance. They possess the right type of knowledge and are not yet fully engaged in their professional activities. Properly supervised and organized, they are able to replace the State in several of its social duties. In exchange, they acquire a unique type of experience, a wide range of practice and teamwork opportunities. They learn sensitivity and alertness with regard to the people and their problems and, thus, become more conscious citizens. The latter is particularly important, as Poland is still a country in transition, requiring much social awareness and activity [1, p. 27].

The 2018 Law on Higher Education and Science is based on the following principles:

1) It is the responsibility of public authorities to provide the best possible conditions for the freedom of scientific research and artistic creation, freedom of teaching and autonomy of the academic community; 2) Every scholar takes responsibility for the quality and reliability of the research conducted and for the education of the young generation; 3) HEIs and other research institutions carry out a mission of special importance to the state and nation: they make a crucial contribution to the innovativeness of the economy and contribute to the development of culture and the development of moral standards for public life; 4) In this context, the mission of higher education and science is to provide education and conduct research of highest quality, shape civic attitudes and contribute to societal development and the creation of an innovation-based economy [2].

According to the Peer Review of Poland's Higher Education and Science