



Article 19 and SOVA Center

RECOMMENDATIONS at the working session 3 “Freedom of the media”

These recommendations to the Russian Federation are an abridged and updated version of those submitted to the UN Human Rights Council, as part of a shadow civil society report during the third cycle of the Universal Periodic Review of the Russian Federation. Read the full submission here:

<https://www.article19.org/wp-content/uploads/2017/10/Russia-UPR-Submission-Oct-2017.pdf>

LEGAL FRAMEWORK UNDERMINING FREEDOM OF EXPRESSION ONLINE AND OFFLINE

1. Amend legislation aimed at countering violent extremism, to ensure that complies with international standards on freedom of expression:
 - Amend vaguely-termed provisions, including ‘extremist activity’, ‘ideology of terrorism’, ‘label against USSR policy in WW2’, ‘degrading human dignity’ on various basis, and ‘calls aimed at violating the territorial integrity of the Russian Federation’, and replace with language in line with international law, prohibiting only actual incitement to violent acts.
 - Repeal provisions introduced by the “Yarovaya package” requiring communications providers to store Internet users’ data and grant access to security services without a court order.
2. Repeal Article 148 parts 1 and 2 of the Criminal Code on ‘insulting religious feelings’.
3. Decriminalise defamation, by repealing Articles 128.1, 298.1 and 319 of the Criminal Code.
4. Amend the Right to be Forgotten Law to ensure that information already in the public domain is not removed unless this is strictly necessary to avoid harm, and to safeguard against the removal of information in the public interest.

DIGITAL DEVELOPMENTS AFFECTING FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION

5. Guarantee internet users’ right to publish and browse anonymously and ensure that any restrictions to online anonymity are subject to a court order, fully comply with Article 19(3) of the ICCPR:
 - Reform the SORM Programme to ensure that security services do not have direct access to communications data;
 - Repeal provisions in the Yarovaya package requiring ISPs to store telecommunications data for up to six months and imposing mandatory cryptographic backdoors, and the 2015 Data Localisation law, which grant security service easy access to users’ data without sufficient safeguards. Desist from requiring messaging services, such as Telegram, to provide decryption keys in order to access users private communications.
 - Repeal Federal Laws № 241-FZ and № 276-FZ, which ban anonymity for users of online messaging applications prohibit Virtual Private Networks and Internet anonymisers from providing access to websites banned in Russia respectively.
6. Ensure the free flow of information along and reform legislation and practice to prevent arbitrary and/or politically-motivated blocking of websites, including by:
 - Amending Federal Law 149-FZ on Information, IT Technologies and Protection of Information so that the process of blocking websites meets international standards: any website blocking should be undertaken by an independent court and be limited by requirements of necessity and proportionality. No system can ensure that legitimate content is not wrongfully restricted and as has already happened in Russia, legitimate sites may be blocked because they use the same IP address as “unlawful” sites.

- Repealing Federal Law 208-FZ requiring search engines to check the truthfulness of public information, and refraining from introducing new legislation imposing liability on search engines for third party content.
 - Repealing Federal Law 327-FZ enabling the General Prosecutor or his/her Deputies to block, without a court order, access to any online resources of a foreign or international non-governmental organisation labeled as 'undesirable', 'information providing methods to access' any resources banned under the "Lugovoi Law", including hyper-links to sites with announcements about unapproved rallies.
7. Cease politically motivated prosecutions of Internet users, including those supposedly "justified" on the grounds of preventing extremism, separatism and offending religious believers, and those administrating anonymising services. Immediately and unconditionally release those currently imprisoned on such charges.

MEDIA FREEDOM AND SAFETY OF JOURNALISTS

8. Guarantee media freedom by refraining from stigmatising independent media outlets through terms such as 'foreign agent' and amending legislation to ensure that it complies with Article 19 of the ICCPR, which states everyone has a right 'to seek, receive and impart information and ideas through any media and regardless of frontiers.' In particular by:
- Repealing Federal Law 239-FZ, restricting foreign ownership of media outlets to 20%.
 - Repealing the "Foreign Agents Law", including the 2017 amendments extending this law to foreign media outlets) and refraining from adopting new legislation that is unnecessary for state and public security.
9. Prevent and protect against threats and violence against journalists, media workers, human rights defenders and activists, and end impunity for such crimes, including by:
- Ensuring impartial, prompt, thorough, independent and effective investigations into all alleged crimes and holding those responsible to account.
 - Public authorities should publicly, unequivocally and systematically condemn all violence and attacks against all journalists and other media workers, as well as against activists;
 - Dedicate the resources necessary to investigate and prosecute attacks. Particular attention should be paid to investigating past murders.
10. Immediately and unconditionally release all journalists held on politically motivated charges as a result of their work. Refrain from further politically motivated prosecutions.