

European Court of Human Rights: Violation of Big Tech's free speech rights by Russia

IRIS 2025-9:1/4

*Tarlach McGonagle
Institute for Information Law (IViR), University of Amsterdam*

The European Court of Human Rights' judgment in the case, *Google LLC and Others v. Russia*, is the latest contribution to an emerging theme in its case-law: the right of online platforms to freedom of expression. In its judgment, delivered on 8 July 2025, the Court (Third Section) held that Russia had violated Google's rights under Article 10 of the European Convention on Human Rights (ECHR) due to penalisations by the Russian courts for allowing the dissemination of certain content via its platforms and for refusing to allow the dissemination of other content.

Background and facts

In December 2020, Russia introduced new administrative offences which gave the telecommunications regulator, *Roskomnadzor*, wide powers to impose heavy fines on online platforms for failure to comply with "notifications on restricting access to the information resource", i.e. take-down requests (TDRs). *Roskomnadzor* subsequently served numerous TDRs on Google, in respect of various types of political content on YouTube. Google complied with some TDRs, but refused to block, for example, Mr. Aleksey Navalnyy's YouTube channel and reporting on Russia's invasion of Ukraine by independent news outlets. Very high fines based on opaque calculations were imposed on Google for non-compliance. Google's appeals against the decisions and fines were all rejected.

Tsargrad is a Russian media group owned by a Russian businessman who was sanctioned by the EU, the US and Canada for his material support to Russian-backed separatists in Eastern Ukraine. In response to those sanctions, Google suspended Tsargrad TV's YouTube and Gmail accounts. Tsargrad challenged this decision before the courts, which ordered Google to restore the accounts and content, under pain of a daily fine, which would double every week until the order was complied with. Google refused to comply with the order, leading to rapidly escalating fines. In March 2022, a court bailiff seized Google Russia's corporate bank account to access funds to secure enforcement of Tsargrad's claims. The courts also found Google liable for non-compliance with the court order. Appeals against the decision were dismissed. The success of Tsargrad's claims prompted more than 20 repeat or "copycat" claims. Google Russia ultimately filed for bankruptcy in June 2022. Google Russia calculated that by September 2022, the

accrued amount of penalties was over 16 trillion US dollars.

Preliminary issues

The Court first dispensed with some preliminary issues arising from the cessation of Russia's membership of the Council of Europe: cessation of membership does not release a state from its duty to cooperate with the ECHR bodies and the Court has jurisdiction to rule in the case as the alleged interference with the applicants' right to freedom of expression took place prior to 16 September 2022 (the date on which Russia ceased to be a party to the ECHR).

Substantive issues

Within the above set of facts, the Court discerned two main focuses: (i) the penalisation of Google for the content that it refused to remove and (ii) for the accounts of Tsargrad TV which it refused to reinstate.

First complaint: non-compliance with TDRs

The Court reaffirmed its earlier case-law recognising the contemporary importance of the Internet for freedom of expression, due to its capacity for storing and communicating vast amounts of information and its key role in enhancing access to news and in facilitating the dissemination of information generally. It recalled that platforms and their end users enjoy the right to freedom of expression and that YouTube can be seen as a "unique platform", due to its characteristics, accessibility and potential impact in enabling users' freedom of expression. As such, the Court considers that any measure compelling a platform operator to restrict certain content under threat of penalty amounts to an interference with the platform operator's right to freedom of expression.

Whereas the domestic courts in Russia seemed to consider national security, territorial integrity and public safety as the ostensible aims of the legislation under which the applicant company was penalised, the Strasbourg Court stressed that measures limiting the right to freedom of expression in pursuance of those legitimate aims must be applied with restraint and restrictively and only when necessary in a democratic society. The impugned measures applied to a broad range of content on YouTube (political expression, including criticism of the government; reporting on Russia's invasion of Ukraine by independent news outlets; and content supporting LGBTQ rights) in an indiscriminate way. The Court found it a tenuous argument that such content could genuinely threaten the ostensible public interests at issue. It noted that the domestic authorities did not even attempt to demonstrate how such content did - or could - harm the same interests.

All in all, the Court was not satisfied that the interference genuinely pursued any legitimate aims, but it nevertheless proceeded to examine whether the interference was necessary in a democratic society.

The content that was subject to the TDRs included expressions of support for an imprisoned opposition figure (Mr. Navalnyy); calls for peaceful demonstrations; information on Russia's invasion of, and military attacks on, Ukraine. These are all "undoubtedly" matters of "significant public interest, particularly in the context of an armed conflict with profound implications for European and global security". Public debate on such matters is crucial in a democratic society and any restrictions on such debate must be subject to the Court's closest scrutiny.

None of the content amounted to hate speech or incitement to violence or discrimination against any group. The "sole basis" for requiring its removal was its capacity to inform public debate on matters which the authorities wished to suppress. The domestic courts did not make an assessment of the actual impact or reach of the impugned content, nor did they evaluate the (likely) harm caused. Instead, the national courts "proceeded on the presumption that any divergence from official narratives" - decreed by the national authorities - "inherently threatened national interests", without any substantiation.

The Court returned to the significance of the forum-providing role of YouTube, where "users can share diverse viewpoints on matters of public interest, including those that may not find expression in traditional media". It noted that when Internet intermediaries manage content available on their platforms or play a curatorial or editorial role, including through the use of algorithms, their important function in facilitating and shaping public debate engenders duties of care and due diligence, which may also increase in proportion to the reach of the relevant expressive activity .

The Court found that penalising Google for hosting content that is critical of government policies or presenting alternative perspectives on the invasion of Ukraine - topics falling within the wide limits of permissible criticism of governments - "strikes at the very heart of the Internet's function as a means for the free exchange of ideas and information".

The heavy nature and large scale of the penalties were moreover liable to have a chilling effect on Google's willingness to host content that is critical of governmental policies, prompting fears of private censorship of content that does not favour the government.

The above factors led the Court to conclude that there had been a violation of Article 10 in respect of this complaint.

Second complaint: non-restoration of Tsargrad TV's YouTube and Gmail accounts

As to the second complaint: the Court recalled that the right to freedom of expression, as guaranteed by Article 10 ECHR, may also encompass a negative aspect, namely a right not to be compelled to express oneself. The holistic protection of freedom of expression comprises a right to express one's views and a right to remain silent. In the specifics of the present case, the Court found that the judicial decisions compelling YouTube to host specific content (thereby overriding its decision not to host Tsargrad TV's content), "backed by financial penalties, directly impacted Google LLC's right to determine what content it was prepared to host on its platform". Such a right falls under Article 10, notwithstanding that it is exercised in a commercial context.

The Court had "serious doubts" as to whether the "prescribed by law" criterion was met in the present case, but it proceeded to an assessment of the "necessary in a democratic society" criterion nevertheless.

The Court pointed to "certain objective inconsistencies" in the Russian authorities' approach to "the alleged protection of the right to freedom of expression"; "while purporting to defend freedom to receive information in Tsargrad's case, the Russian authorities were simultaneously demanding that the applicant companies remove content critical of government policies". The Court found that these inconsistencies cast doubt on whether there was a "genuine" pressing social need.

The Court was very critical of the "grossly disproportionate" penalties, describing them as "astronomical sums", bearing no relationship to any harm suffered by Tsargrad TV. It was also critical of how the penalties served as a model for copycat claims. The Court also alluded to "the bad faith in the enforcement proceedings". For all these reasons, the Court found a violation of Article 10.

The Court also found a breach of Article 6 – right to a fair trial – due to the Russian authorities' failure to provide adequate reasoning in the courts' decisions.

Concurring Opinion

Judge Pavli penned a Concurring Opinion, focusing on the rights and responsibilities of major online platform operators, and the need for the Court to further elaborate on the nature of their rights, duties and responsibilities under Article 10. Judge Pavli also focused on the possible future direction of the Court's "right of forum" doctrine. He asked whether the next steps of doctrinal development could lead to the recognition of a right to a forum and procedural safeguards for users. Amongst other points and reflections, Judge Pavli stated that for him, the interference with Google's right to freedom of expression had much to do with the failure of the domestic courts to engage in a meaningful assessment of the applicant companies' Article 10 rights and their failure to

provide relevant and sufficient reasons in that respect. This was more persuasive, in his view, than the “certain objective inconsistencies in the authorities' approach to the alleged protection of freedom of expression”, that held so much sway for the majority.

Google LLC and others v. Russia, no. 37027/22, 8 July 2025
ECLI:CE:ECHR:2025:0708JUD003702722

<https://hudoc.echr.coe.int/?i=001-243982>

