[RU] The Supreme Court of Russian Federation Partially Cancels the Decree on SORM

IRIS 2000-10:1/19

Natalie Boudarina
Moscow Media Law and Policy Centre

On 25 September 2000, the Supreme Court of the Russian Federation considered a complaint that had been lodged regarding the Decree regulating the implementation on the so-called Operational-Investigative Activity on telephone, mobile, wireless connection and personal radio communication network (SORM), issued by the Ministry for Communication and Informatization (see IRIS 2000-8: 11).

The complainant Pavel Neptunskiy asserts that under the Decree, neither service providers nor supervising bodies can check who is subject to eavesdropping and what is the volume of security services' activity in this area. For this reason, it was alleged that certain provisions of the Decree were not compatible with the Constitution of the Russian Federation and the Federal Statutes O svjazi (On Communication) and Ob operativno - rozysknoi deyatelnosti (On Operational Investigation) and, hence, were illegal.

The Supreme Court decision confirms that Article 2.6 of the Decree is illegal and thus not applicable. The Court held that in essence this rule prevented service providers from adhering to their obligation to respect the right to privacy of telephone conversations, established by Article 32 of the Federal Statute On Communication. Article 32 further envisages that any restriction of privacy in communication, such as eavesdropping, inspection of communication messages, as well as a delay, examination, and suppression of messages may be allowed only by a court ruling.

The Supreme Court did not take into account the Ministry's representatives' argument that the officials of the bodies, who are entitled to conduct operationalinvestigative activity, bear the liability for such measures, because this disclaimer did not release the service providers from their own obligation to observe privacy in communications at any time. The Supreme Court concluded that as a result of the introduction of SORM activity, service providers de facto disclose private correspondence without the consent of the subscribers or the court's permission.

The Supreme Court did not uphold the complainant's second claim with regard to the legality of Article 1.4 of the Decree on SORM related to a number of measures

© European Audiovisual Observatory (Council of Europe) 2026

on installation of the system of technical means to provide for operative investigative activity on telephone, mobile, wireless communication and personal radio communication networks. According to the Supreme Court decision, the Decree on SORM introduced these measures in order to implement the Federal Law "On Operational Investigation". Article 1.4 in fact indicates the necessity to observe the technical specifications, which were originally introduced by the earlier decrees of the State Committee on Communication of 20 April 1999 No. 70, the State Committee on Telecommunication No. 15 of 9 July 1999, and the Ministry for Communication No. 2 of 29 November 1999. The applicant, however, argued that a number of these decrees on installing the technical means affect human rights, and had not been officially promulgated and therefore were not subject to the application.

The Ministry's representatives referred to the argument that the orders have a technical but not a normative character and therefore their promulgation in a departmental publication had been sufficient. Following this argument, the Supreme Court found Article 1.4 to be legal and rejected the claim of the applicant in this respect.

Prikaz Ministerstva Rossijskoj Federatsii po sviazi i informatizatsii No. 130 "O poriadke vnedreniya tekhnicheskikh sredstv po obespecheniju operativno-rozysknykh meroprijatiy (SORM) na setiakh telefonnoy, podvizhnoy i bezprovodnoy sviazi i personal'nogo radiovyzova obshchego polzovaniya", Zakonodatelstvo i practica sredstv massovoy informazii journal # 10, 2000

Ministry of Communication and Informatization of the Russian Federation, decree No. 130 On the order of implementation of technical means of providing the operational-investigative measures on telephone, mobile, and wireless communication and personal radio communication network, Zakonodatelstvo i practica sredstv massovoy informazii # 10, 2000

-

Judgment of the Supreme Court of Russian Federation, 25 September 2000, Zakonodatelstvo i practica sredstv massovoy informazii, # 10, 2000

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026