



Fines and penalties against Google breached its free-expression rights

The case of [Google LLC and Others v. Russia](#) (application no. 37027/22) concerned court proceedings in Russia on the refusal to remove certain content from the YouTube platform, including political videos, which the Russian authorities had deemed unlawful; and the failure to restore monetisation features to the YouTube channel of Tsargrad TV, a Russian television outlet owned by a Russian oligarch who had been sanctioned by the United States and the European Union for his support for Russia's war of aggression against Ukraine. Google had incurred very heavy fines as a result of these proceedings.

In today's **Chamber** judgment¹ the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 10 (freedom of expression) of the European Convention on Human Rights concerning the administrative proceedings concerning content removal requests.

The national courts had failed to examine these requests in the light of the requirements of the Convention, proceeding on the presumption that any divergence from official narratives inherently threatened national interests without assessing whether the content had actually been untrue or posed specific risks, and without providing specific evidence of harm. The disproportionate sanctions, amounting to billions of Russian roubles, had created a "chilling effect" on hosting content critical of the authorities. The interference had therefore not been "necessary in a democratic society".

a violation of Article 10 (freedom of expression) regarding the requirement to provide services to Tsargrad TV.

The grossly excessive penalties imposed and the bad faith in the enforcement proceedings demonstrated that the interference with Google's rights had been disproportionate to whatever legitimate aim might have been allegedly pursued.

a violation of Article 6 § 1 (right to a fair trial).

Principal facts

The applicants, Google LLC (hereinafter "Google"), OOO Google, Google International LLC and Google Ireland Limited, are companies based in Ireland, Russia and the USA. They are part of the Alphabet group of companies.

In December 2020 Roskomnadzor, Russia's telecommunications regulator, was given broad powers in law to seek large fines against internet platform owners who failed to comply with "notifications on restricting access to the information resource" ("take-down requests" or "TDRs") concerning content considered unlawful under section 15.3 of the Information Act.

A series of TDRs were directed at Google in 2021 as regards its video platform YouTube. The company complied, except, where the requests related to political speech. In September of that year eight more TDRs were made. Google implemented a "geo-block" on five of the eight videos or channels, making

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

them inaccessible to users within Russia, but declined to block two videos, and one channel. One of those included a video criticising the Russian authorities' approach to the COVID-19 pandemic and proposals for amending the Constitution of Russia, with statements in support of the opposition, including politician Alexei Navalnyy.

As a result of Google's refusal of the TDRs, it was found guilty in December 2021 of an administrative offence and fined 7,221,916,235 Russian roubles (RUB – approximately 87 million euros (EUR)). The fine was 5% of Google's and its affiliates' – Google Commerce Limited, Google Ireland and Google Voice Inc. – revenues in Russia in 2020. It was not explained why these other companies' revenues had been included in the fine calculation given they were not found guilty of any offence.

In March and May 2022 Roskomnadzor again made further TDRs towards Google, which included Mr Navalnyy's YouTube channel and reporting on Russia's invasion of Ukraine. Google again declined. Fines of RUB 11,000,000 (approximately EUR 125,000) and RUB 21,077,392,312 (approximately EUR 360 million) were issued. The latter fine was based on the revenues of various Google affiliates for the year, by reference to the YouTube's Terms of Service and Privacy Policy.

On 28 July 2020 Google suspended the YouTube and Gmail accounts of Tsargrad TV, a Russian media company, following sanctions on its owner. Tsargrad complained to the Russian courts about a breach of contract.

In April 2021 the Moscow City Commercial Court asserted exclusive Russian jurisdiction over the dispute, overriding the contractual jurisdiction clauses that designated California and British courts, by relying on new Russian legislation that granted Russian courts jurisdiction over disputes involving sanctioned Russian entities. The court found Google's suspension of Tsargrad's accounts to have been unlawful. Penalties of RUB 100,000 (approximately EUR 1,000) per day were imposed to compel restoration of Tsargrad's accounts, set to double every week with no upper limit. This case served as a model for over twenty "copycat" claims by other Russian media outlets, with the accumulated penalties reaching sums that the applicants calculated to have exceeded USD 16 trillion by September 2022.

Enforcement proceedings resulted in bailiffs seizing RUB 4.6 billion from Google Russia's accounts, which were then also used to satisfy separate administrative fines imposed solely on Google LLC. Google's challenges to these enforcement actions were rejected by the courts.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), Google LLC complained that the Russian authorities had imposed arbitrary and unprecedented fines to punish it for providing a platform for content critical of their policies and of the recurring penalties imposed for the alleged non-compliance with the order to restore Tsargrad's YouTube account. Relying on Article 6 (right to a fair trial), it alleged, in particular, that the Russian courts had not provided adequate reasons for giving themselves jurisdiction over disputes outside of Russia, and levying the fines.

The application was lodged with the European Court of Human Rights on 27 July 2022.

Judgment was given by a Chamber of seven judges, composed as follows:

Darian **Pavli** (Albania), *Acting President*,
Peeter **Roosma** (Estonia),
Oddný Mjöll **Arnardóttir** (Iceland),
Úna Ní **Raifeartaigh** (Ireland),
Mateja **Đurović** (Serbia),
Canòlic **Mingorance Cairat** (Andorra),
Vasilka **Sancin** (Slovenia),

and also Olga Chernishova, *Deputy Section Registrar*.

Decision of the Court

The Court [established that it had jurisdiction](#) to deal with the applications as they concerned facts which had occurred prior to 16 September 2022, the date on which Russia had ceased to be a contracting Party to the European Convention.

[Article 10 regarding administrative proceedings for failure to remove content](#)

Firstly, the Court found that the substantial fines and the threat of further sanctions had placed considerable pressure on Google to censor content on YouTube, thereby interfering with its role as a provider of a platform for the free exchange of ideas and information and with its freedom of expression.

The Court noted Google's arguments concerning the quality of the Russian law under which the Russian courts had acted, but did not consider it necessary to rule on this point. As to the legitimate aim, the Court was not satisfied that the interference had genuinely pursued any legitimate aims, finding it difficult to ascertain how political expression and independent reporting could constitute a genuine threat to national security, territorial integrity or public safety.

Regarding necessity in a democratic society, the Court found that the measures had been applied indiscriminately to political expression, criticism of the Russian Government, reporting on Russia's invasion of Ukraine by independent news outlets and content supporting LGBTQ rights. The national courts had failed to examine these requests in the light of the requirements of the Convention, proceeding on the presumption that any divergence from official narratives inherently threatened national interests without assessing whether the content had actually been untrue or posed specific risks, and without providing concrete evidence of harm. The content, including support for an imprisoned opposition figure and reporting on Russia's invasion of Ukraine, had undoubtedly been of public interest. The disproportionate sanctions, amounting to billions of roubles, had created a "chilling effect" on hosting content critical of the authorities.

The Court thus found that the interference with Google's right to freedom of expression had not been "necessary in a democratic society". There had therefore been a violation of Article 10 of the Convention in respect of Google in connection with the sanctions imposed for the failure to comply with TDRs.

[Article 10 \(freedom of expression\) regarding the requirement to host content by Tsargrad TV](#)

The Court reiterated that the right to freedom of expression includes a negative aspect: the right not to be compelled to express oneself. The Russian courts' orders compelling Google to host specific content on its platform had constituted an interference with that right.

The Court had serious doubts as to whether that interference had been prescribed by law, in particular the manner in which Article 308.3 of the Civil Code had been applied.

As to legitimate aim, the domestic courts had considered they were protecting Tsargrad's rights as a platform user against unlawful suspension. However, the Court noted objective inconsistencies in the authorities' approach: whilst purporting to defend freedom of expression for Tsargrad, the Russian authorities were simultaneously demanding that Google remove content critical of government policies, including reporting on Russia's invasion of Ukraine.

Regarding proportionality, the Court found the penalties to be unprecedented and manifestly disproportionate. The initial penalty of RUB 100,000 per day, doubling weekly with no upper limit, bore no relationship to any harm suffered by Tsargrad, whose average advertising revenue was merely RUB 24,400. The automatic ratcheting up of financial penalties and their extension through "copycat"

claims, had rendered it unfeasible for Google to maintain its subsidiary in Russia. Furthermore, even after Tsargrad's access had been restored, bailiffs obtained a decision to continue to seize Google's property based on an expert report prepared within 24 hours without notice to Google, effectively expanding the scope of the original court order in a manner incompatible with legal certainty.

The grossly excessive penalties imposed and bad faith in the enforcement proceedings demonstrated that the interference with Google's rights had been disproportionate to whatever legitimate aim that might have been allegedly pursued, in violation of Article 10.

Article 6 § 1 regarding alleged deficient reasoning

The Court reiterated that judgments of courts and tribunals should adequately state the reasons on which they are based. In the administrative proceedings, the Russian courts had imposed fines on Google LLC based on the aggregated revenue of multiple entities, without providing adequate justification for this approach. In the enforcement proceedings, the courts had issued decisions without detailed analysis of the legal basis for holding a separate legal entity liable for another's fines. In the civil proceedings involving Tsargrad, the courts had failed to provide adequate reasoning for asserting jurisdiction despite express contractual jurisdiction clauses. The Court concluded that these shortcomings in the reasoning had violated Article 6 § 1 in respect of all applicant companies.

Other complaints

The Court considered that it had dealt with the main legal complaints raised as regards the enforcement procedure, and the jurisdiction of the Justice of the Peace in Moscow over Google LLC (both Article 6), the imposition of fines and other penalties (Article 1 of Protocol No. 1) and so there was no need to give a separate ruling.

Separate opinions

Judge Pavli expressed a concurring opinion. This opinion is annexed to the judgment.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.