



January 2018

This Factsheet does not bind the Court and is not exhaustive

Access to Internet and freedom to receive and impart information and ideas

"[T]he 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 issues of general interest. ... Moreover, **as to the importance of Internet sites in the exercise of freedom of expression**, '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**'. User-generated expressive activity on the Internet provides an unprecedented platform for the exercise of freedom of expression ..." (*Cengiz and Others v. Turkey*, [judgment](#) of 1 December 2015, §§ 49 and 52).

Article 10 (freedom of expression) of the [European Convention on Human Rights](#):

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Measures blocking access to Internet

[Ahmet Yıldırım v. Turkey](#)

18 December 2012 (judgment)

This case concerned a court decision to block access to *Google Sites*, which hosted an Internet site whose owner was facing criminal proceedings for insulting the memory of Atatürk. As a result of the decision, access to all other sites hosted by the service was blocked. The applicant complained that he was unable to access his own Internet site because of this measure ordered in the context of criminal proceedings without any connection to him or his site. He submitted that the measure infringed his right to freedom to receive and impart information and ideas.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention, finding that the effects of the measure in question had been arbitrary and the judicial review of the blocking of access had been insufficient to prevent abuses. The Court accepted that this was not a blanket ban but rather a restriction on Internet access. However, the limited effect of the restriction did not lessen its significance,

particularly as the Internet had now become one of the principal means of exercising the right to freedom of expression and information. The Court also reiterated in particular that a restriction on access to a source of information was only compatible with the Convention if a strict legal framework was in place regulating the scope of a ban and affording the guarantee of judicial review to prevent possible abuses. However, when the criminal court had decided to block all access to *Google Sites*, it had simply referred to an opinion from the Telecommunications Directorate (TİB) without ascertaining whether a less far-reaching measure could have been taken to block access specifically to the site in question. There was further no indication that the criminal court had made any attempt to weigh up the various interests at stake, in particular by assessing whether it had been necessary to block all access to *Google Sites*. In the Court's view, this shortcoming was a consequence of the domestic law, which did not lay down any obligation for the courts to examine whether the wholesale blocking of *Google Sites* was justified. The courts should have had regard to the fact that such a measure would render large amounts of information inaccessible, thus directly affecting the rights of Internet users and having a significant collateral effect.

Akdeniz v. Turkey

11 March 2014 (decision on the admissibility)

This case concerned the blocking of access to two websites ("myspace.com" and "last.fm") on the grounds that they streamed music without respecting copyright legislation. As a regular user of the websites in question, the applicant mainly complained about the collateral effect of the measure taken under the law on artistic and intellectual works.

The Court declared the application **inadmissible** (incompatible *ratione personae*), finding that the mere fact that the applicant – like the other Turkish users of the websites in question – had been indirectly affected by a blocking measure against two music-sharing websites could not suffice for him to be regarded as a "victim" for the purposes of Article 34 (right of individual application) of the Convention. While stressing that the rights of internet users are of paramount importance, the Court nevertheless noted in particular that the two music streaming websites in question had been blocked because they operated in breach of copyright law. As a user of these websites, the applicant had benefited from their services, and he had only been deprived of one way among others of listening to music. The Court further observed that the applicant had at his disposal many means to access to a range of musical works, without thereby contravening the rules governing copyright.

Cengiz and Others v. Turkey

1 December 2015 (judgment)

This case concerned the wholesale blocking of access to *YouTube*, a website enabling users to send, view and share videos. The applicants, who were active users of the website, complained in particular of an infringement of their right to freedom to receive and impart information and ideas.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention, finding that the interference resulting from the application of the impugned provision of the law in question did not satisfy the requirement of lawfulness under the Convention and that the applicants had not enjoyed a sufficient degree of protection. The Court noted in particular that the applicants, all academics in different universities, had been prevented from accessing *YouTube* for a lengthy period of time and that, as active users, and having regard to the circumstances of the case, they could legitimately claim that the blocking order in question had affected their right to receive and impart information and ideas. The Court also observed that *YouTube* was a single platform which enabled information of specific interest, particularly on political and social matters, to be broadcast and citizen journalism to emerge. The Court further found that there was no provision in the law allowing the domestic courts to impose a blanket blocking order on access to the Internet, and in the present case to *YouTube*, on account of one of its contents.

Pending applications

Kharitonov v. Russia (no. 10795/14)

Application communicated to the Russian Government on 27 April 2017

The applicant alleges in particular that the blocking of a third party's website located on the same IP address as his own had the disproportionate effect of blocking access to his website.

The Court gave notice of the application to the Russian Government and put questions to the parties under Articles 10 (freedom of expression) and 13 (right to an effective remedy) of the Convention.

Kablis v. Russia (no. 59663/17)

Application communicated to the Russian Government on 8 September 2017

This case concerns the applicant's complaint related to the blocking of his *Vkontakte* account and of three entries of his blog.

The Court gave notice of the application to the Russian Government and put questions to the parties under Article 10 (freedom of expression) of the Convention.

Restrictions placed on prisoner's access to certain Internet sites

Internet sites containing legal information

Kalda v. Estonia

19 January 2016 (judgment)

This case concerned a prisoner's complaint about the authorities' refusal to grant him access to three Internet websites, containing legal information, run by the State and by the Council of Europe. The applicant complained in particular that the ban under Estonian law on his accessing these specific websites had breached his right to receive information via the Internet and prevented him from carrying out legal research for court proceedings in which he was engaged.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention, finding that the refusal to grant the applicant access to Internet websites containing legal information had breached his right to receive information. The Court noted in particular that Contracting States are not obliged to grant prisoners access to Internet. It found, however, that if a State was willing to allow prisoners access, as was the case in Estonia, it had to give reasons for refusing access to specific sites. In the specific circumstances of the applicant's case, the reasons, namely the security and costs implications, for not allowing him access to the Internet sites in question had not been sufficient to justify the interference with his right to receive information. Notably, the authorities had already made security arrangements for prisoners' use of Internet via computers specially adapted for that purpose and under the supervision of the prison authorities and had borne the related costs. Indeed, the domestic courts had undertaken no detailed analysis as to the possible security risks of access to the three additional websites in question, bearing in mind that they were run by an international organisation and by the State itself.

Internet sites providing educational information

Jankovskis v. Lithuania

17 January 2017 (judgment)

This case concerned a prisoner's complaint that he had been refused access to a website run by the Ministry of Education and Science, thus preventing him from receiving education-related information. He had written to that Ministry requesting information about the possibility of enrolling at university in order to acquire a degree in law, and the Ministry had written back to him, informing him that information about study programmes could be found on its website. However, the prison authorities and

subsequently the administrative courts all refused to grant the applicant Internet access to this website, essentially referring to the legal ban on prisoners having Internet access (or the ban on prisoners' telephone and radio communications and implicitly therefore also Internet) and security considerations.

The Court was not persuaded that sufficient reasons had been put forward by the Lithuanian authorities to justify the interference with the applicant's right to receive information which, in the specific circumstances of the case, could not be regarded as having been necessary in a democratic society. It therefore held that there had been a **violation of Article 10** (freedom of expression) of the Convention. The Court noted in particular that Article 10 could not be interpreted as imposing a general obligation to provide access to the Internet, or to specific Internet sites for prisoners. However, since access to information relating to education was granted under Lithuanian law, the restriction of access to the Internet site in question had constituted an interference with the applicant's right to receive information. That interference was prescribed by law and pursued the legitimate aim of protecting the rights of others and preventing disorder and crime. However, the website to which the applicant wished to have access contained information about learning and study programmes in Lithuania, and it was not unreasonable to hold that such information was directly relevant to the applicant's interest in obtaining education, which was in turn relevant for his rehabilitation and subsequent reintegration into society. The Court also observed that the Internet played an important role in people's everyday lives, in particular since certain information was exclusively available on the Internet. The Lithuanian authorities had however not considered the possibility of granting the applicant limited or controlled Internet access to that particular website administered by a State institution, which could hardly have posed a security risk.

Further reading

See in particular:

- [Internet : case-law of the European Court of Human Rights](#), report prepared by the Research Division of the Court, June 2015
 - Council of Europe [web page](#) on "Internet Users Rights"
-

Media Contact:

Tel.: +33 (0)3 90 21 42 08