

**NON-PAPER<sup>i</sup>**

**ON THE IMPLEMENTATION OF WEBSITE BLOCKING IN THE RUSSIAN FEDERATION**

Elena Buiantueva, Natalia Chuyko and Ruslan Nurullaev

**INTRODUCTION**

1. In Russia, website blocking is regulated primarily by the Federal Law of the Russian Federation “On Information, Information Technologies and the Protection of Information” dated 27.07.2006 No. 149-FZ (the “Law on Information”). Article 15.1 of the Law on Information establishes a procedure for blocking access to information which is prohibited by law and requires Internet access providers to block access to online locations listed in the register of blocked online locations (the “Register”<sup>ii</sup>) maintained by the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications (“Roskomnadzor”).

2. The blocking procedure is further detailed in the Regulation on creation, organization and maintenance of the unified automated information data system “The Unified register of the domain names, Uniform Resource Locators (“URL(s)”), and IP addresses allowing to identify the websites containing information that is prohibited from dissemination in the Russian Federation” adopted by the Government decree dated 26.09.2012 No. 1101 (the “Regulation”)<sup>iii</sup>.

3. Roskomnadzor includes the online location in the Register under two grounds:

- Decisions of the state executive authorities in respect of the following information: a) materials with pornographic images of minors and(or) announcements about engaging minors as performers for participation in entertainment events of pornographic nature; b) information about the ways and methods of producing, making and using narcotic agents, psychotropic substances and their precursors, places where such agents, substances and their precursors can be acquired, about the methods and places of cultivating plants containing narcotic agents; c) information on ways of committing suicide, as well as calls for committing suicide; d) information about minors who have been victims of unlawful actions; e) information about illegal gambling.

- Court decisions declaring any information prohibited from dissemination in Russia. This is an open-ended provision which allows blocking access to potentially any information. Russian courts have used this provision in a variety of circumstances: from blocking VPN and similar services that allow to circumvent website blocking<sup>iv</sup> to restricting access to online Spanish jamon store (import of certain EU foodstuffs into Russia is prohibited by Russian sanctions)<sup>v</sup>.

## **WEBSITE BLOCKING PROCEDURE**

Roskomnadzor within a day after receipt via its official website an application from a government body, legal entity or private person about the presence of potentially illegal information on a certain website forwards such application to the body that is authorized to make a decision whether the potentially illegal information is in fact illegal (for example, the Ministry of Internal Affairs is authorized to decide whether an online location contains instructions on how to produce narcotic substances).

4. The authorized body makes a decision regarding legality of information and sends its reply to Roskomnadzor within a day after receipt of Roskomnadzor's request. In case when the authorized body received an application directly from the applicant, the decision about the legality of information should be provided to Roskomnadzor within one day.

5. Within one day from receiving either the court decision, or the decision of the authorized executive body declaring certain information prohibited from dissemination Roskomnadzor makes a corresponding entry into the Register adding domain names and(or) URLs containing prohibited information to the Register.

6. When adding a new entry to the Register targeting certain domain name and(or) URL Roskomnadzor notifies (both in Russian and English) the hosting provider of the targeted online location. Within 24 hours from receiving a notification from Roskomnadzor the hosting provider is required to forward the notification to the website owner requiring the website owner to delete the web page containing illegal information.

7. Within 24 hours from receiving the notification from the hosting provider the website owner is required to delete the web page containing illegal information. If the website owner fails to remove illegal information the hosting provider is required to block access to the targeted online location within 24 hours.

8. If both the hosting provider and website owner fail to restrict access to the targeted information within 3 days from the moment when Roskomnadzor sent the notification, Roskomnadzor adds the IP address of the targeted website to the Register and requires Internet access providers to block access to this website. Internet access providers have to implement website blocking within 24 hours.

9. If the website owner, hosting provider or Internet access provider notifies Roskomnadzor that the targeted information is no longer accessible at the online location, Roskomnadzor has to remove this online location from the Register within 3 days from receiving the notification.

## **MONITORING OF IMPLEMENTATION OF WEBSITE BLOCKING**

10. Compliance of Internet access providers with the website blocking regulations is monitored with the use of the automated monitoring system "Revizor". The Internet access providers are required by Roskomnadzor<sup>vi</sup> to install on their networks equipment that automatically monitors availability of online locations in the Register from the provider's network.

11. When Revizor detects that access to prohibited online resources is not restricted, it sends a notification to Roskomnadzor, Roskomandzor then fines the Internet access provider. Following adoption of the new law on 25 March 2017, the fines for Internet access providers that fail to implement website blocking were increased from 30 000 – 40 000 Rubles<sup>vii</sup> (503 – 672 US Dollars) to 50 000 – 100 000 Rubles<sup>viii</sup> (840 – 1 680 US Dollars) for legal entities.

12. Internet access providers are allowed to implement website blocking by blocking access to URL, domain name or IP address. However, in case of blocking by IP address, Internet access providers are required to block all IP addresses associated with the targeted online resource, even if the owner of the blocked website later changes its IP address after the blocking<sup>ix</sup>. This means that Internet access providers have to look up IP addresses used by the target website and block access to new IP addresses, even if they are not contained in the Register.

## NOTE

The left column summarises the Regulation as initially adopted on 26 October 2012, this version was in force when access to Kharitonov's www.digital-books.ru website was blocked and when all the court proceedings related to this event took place in the Russian courts. The right column summarises the current amended version of the Regulation (as amended on 21 March 2017). The amendments are highlighted in **bold**.

<b>The original version of the Regulation (in force when Kharitonov's website was blocked)</b>	<b>Current version of the Regulation</b>
<p>I. The Register is maintained by Roskomnadzor and contains the following information:</p> <ol style="list-style-type: none"> <li>1) domain names and(or) URLs containing information that is prohibited from dissemination in Russia;</li> <li>2) IP addresses allowing to identify the websites containing information that is prohibited from dissemination in Russia.</li> </ol> <p>II. The grounds for including the online location in the Register:</p> <ol style="list-style-type: none"> <li>1) decisions of the federal executive bodies authorities in respect of the following information that can be disseminated through the Internet: <ol style="list-style-type: none"> <li>a. materials with pornographic images of minors and(or) announcements about engaging minors as performers for participation in entertainment events of pornographic nature (decisions of Roskomnadzor);</li> </ol> </li> </ol>	<p>I. The Register is maintained by Roskomnadzor and contains the following information:</p> <ol style="list-style-type: none"> <li>1) domain names and(or) URLs containing information that is prohibited from dissemination in Russia;</li> <li>2) IP addresses allowing to identify the websites containing information that is prohibited from dissemination in Russia.</li> </ol> <p>II. The grounds for including the online location in the Register:</p> <ol style="list-style-type: none"> <li>1) decisions of the federal executive bodies authorities in respect of the following information that can be disseminated through the Internet: <ol style="list-style-type: none"> <li>a. materials with pornographic images of minors and(or) announcements about engaging minors as performers for participation in entertainment events of pornographic nature (decisions of Roskomnadzor);</li> </ol> </li> </ol>

<p>b. information about the ways and methods of producing, making and using narcotic agents, psychotropic substances and their precursors, places where such agents, substances and their precursors can be acquired, about the methods and places of cultivating plants containing narcotic agents (decisions of <b>Federal Drug Control Service of the Russian Federation</b> and(or) Roskomnadzor);</p> <p>c. information on ways of committing suicide, as well as calls for committing suicide (decisions of Federal Service for Consumer Rights and Human Welfare Protection and(or) Roskomnadzor);</p> <p>d. information about minors who have been victims of unlawful actions (omission to act), if dissemination of this information is prohibited by federal laws;</p> <p>e. -</p>	<p>b. information about the ways and methods of producing, making and using narcotic agents, psychotropic substances and their precursors, places where such agents, substances and their precursors <b>and new potentially dangerous psychoactive substance and their precursors</b> can be acquired, about the methods and places of cultivating plants containing narcotic agents (decisions of <b>Ministry of Internal Affairs of the Russian Federation</b> and(or) Roskomnadzor);</p> <p>c. information on ways of committing suicide, as well as calls for committing suicide (decisions of Federal Service for Consumer Rights and Human Welfare Protection and(or) Roskomnadzor);</p> <p>d. information about minors who have been victims of unlawful actions (omission to act), if dissemination of this information is prohibited by federal laws;</p> <p>e. <b>information which violates the provisions of Federal Law No. 244-FZ of December 29, 2006 on the State Regulation of the Organisation and Conduct of Gambling and on Amendments to Some Legislative Acts of the Russian Federation and of Federal Law No. 138-FZ of November 11, 2003 on Lotteries concerning ban on the organisation and conduct of gambling and lotteries on Internet (decisions of Federal Tax Service of Russia);</b></p>
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<p>f. information disseminated via the Internet in respect of which a corresponding authorized body or a court have made a decision that the dissemination of such information is prohibited in the Russian Federation.</p> <p>2) Court decision declaring any information prohibited from dissemination in Russia.</p> <p>III. An application form is available on the official website of Roskomnadzor for receiving applications from different authorized bodies, legal entities or private persons regarding the facts of presence of potentially illegal information on certain websites.</p> <p>IV. Roskomnadzor within a day after receipt of the application via its website as indicated in the paragraph III above forwards such application to the authorized body as indicated in paragraph II above.</p> <p>V. The authorized body makes a decision regarding legality of such information and sends the response to Roskomnadzor within a day after receipt of the corresponding Roskomnadzor's request indicated in paragraph IV above.</p> <p>VI. In case when the authorized body received an application, as indicated in the paragraph III above, directly from the applicant, the decision about the legality of information should be provided to Roskomnadzor within one day.</p> <p>VII. -</p>	<p>f. information disseminated via the Internet in respect of which a corresponding authorized body or a court have made a decision that the dissemination of such information is prohibited in the Russian Federation.</p> <p>2) Court decision declaring any information prohibited from dissemination in Russia.</p> <p>III. An application form is available on the official website of Roskomnadzor for receiving applications from different authorized bodies, legal entities or private persons regarding the facts of presence of potentially illegal information on certain websites.</p> <p>IV. Roskomnadzor within a day after receipt of the application via its website as indicated in the paragraph III above forwards such application to the authorized body as indicated in paragraph II above.</p> <p>V. The authorized body makes a decision regarding legality of such information and sends the response to Roskomnadzor within a day after receipt of the corresponding Roskomnadzor's request indicated in paragraph IV above, <b>and in case if an expert examination is needed - within 7 days from the date of receipt of the request from Roskomnadzor.</b></p> <p>VI. In case when the authorized body received an application, as indicated in the paragraph III above, directly from the applicant, the decision about the legality of information should be provided to Roskomnadzor within one day.</p> <p>VII. <b>The information indicated in the paragraph VI hereof should contain the following:</b></p>
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<p>VIII. Within one day from receiving either the court decision, or the decision of the authorized executive body declaring certain information prohibited from dissemination Roskomnadzor makes a corresponding entry into the Register. Such entry should contain the following information:</p> <p>a) a domain name and(or) URL of a website with the prohibited information;</p>	<p>a) <b>the name of the corresponding authorized body that sent the decision;</b></p> <p>b) <b>the number, date and time of the decision;</b></p> <p>c) <b>name, surname and patronymic and the official capacity (job title) of a civil servant who made a decision to consider the information disseminated via a corresponding website prohibited;</b></p> <p>d) <b>a domain name and(or) URL of a website with the prohibited information;</b></p> <p>e) <b>description of the prohibited information that enables to identify such information, including (if applicable) its name, with the enclosure of a copy of the Internet web page, certified with the enhanced encrypted and certified digital signature of a corresponding civil servant of the relevant authorized body.</b></p> <p>VIII. Within one day from receiving either the court decision, or the decision of the authorized executive body declaring certain information prohibited from dissemination Roskomnadzor makes a corresponding entry into the Register. Such entry should contain the following information:</p> <p>a) a domain name and(or) URL of a website with the prohibited information;</p>
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<p>b) description of such prohibited information that allows to identify such information, including (if applicable) its name, with the enclosure of a copy of the web page, certified with the enhanced encrypted and certified digital signature of a corresponding civil servant of the applicable authorized body;</p> <p>c) the decision of a corresponding authorized body on inclusion of a corresponding domain name and(or) the URL of a website containing such prohibited information in the Register or a court decision declaring the information on such website prohibited from dissemination. Such decision should be presented in a form of an electronic document certified with the enhanced encrypted and certified digital signature;</p> <p>d) date and time of receipt of the decision.</p> <p>e) -</p> <p>IX. In case the information in the decision of the authorized body is not complete, Roskomnadzor requests the missing information from such authorized body and the missing information should be provided to Roskomnadzor within one day. Until Roskomnadzor receives the required information the new Register entry will not be made.</p>	<p>b) description of such prohibited information that allows to identify such information, including (if applicable) its name, with the enclosure of a copy of the web page, certified with the enhanced encrypted and certified digital signature of a corresponding civil servant of the applicable authorized body;</p> <p>c) the <b>information (as per paragraph VII) on a</b> decision of a corresponding authorized body on inclusion of a corresponding domain name and(or) the URL of a website containing such prohibited information in the Register or a court decision declaring the information on such website prohibited from dissemination. Such decision should be presented in a form of an electronic document certified with the enhanced encrypted and certified digital signature;</p> <p>d) date and time of receipt of the <b>information on the</b> decision;</p> <p>e) <b>information about the hosting provider and, in case if it is listed in a court decision or decision of the authorized body, the information about the website owner (name and contact details).</b></p> <p>IX. In case the information in the decision of the authorized body is not complete, Roskomnadzor requests the missing information from such authorized body and the missing information should be provided to Roskomnadzor within one day. Until Roskomnadzor receives the required information the new Register entry will not be made.</p>
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<p>X. When adding a new entry to the Register targeting certain domain name and(or) URL Roskomnadzor:</p> <p>a) identifies a hosting provider of the online location;</p> <p>b) sends a notification (both in Russian and English) to the hosting provider regarding such entry in the Register;</p> <p>c) adds the data on such hosting provider to the entry in the Register (including the date and time of when Roskomnadzor sent the notification to the hosting provider).</p> <p>XI. The website owner and(or) hosting provider are required to take measures to either delete the prohibited information from such website or to restrict access to such website within 3 days from the moment when Roskomnadzor sent the notification. After these 3 days Roskomnadzor checks such domain name or URL.</p> <p>If the prohibited information can no longer be accessed on the domain name and(or) URL or the prohibited information was deleted, Roskomnadzor removes such domain name and(or) URL from the Register and makes a corresponding entry in the Register indicating the date and the time of such removal.</p>	<p>X. When adding a new entry to the Register targeting certain domain name and(or) URL Roskomnadzor:</p> <p>a) identifies a hosting provider of the online location;</p> <p>b) sends a notification (both in Russian and English) to the hosting provider <b>and (in case Roskomnadzor has the relevant information) to a website owner</b> regarding such entry in the Register;</p> <p>c) adds the data on such hosting provider <b>and on a website owner (if applicable)</b> to the entry in the Register (including the date and time of when Roskomnadzor sent the notification to the hosting provider <b>and a website owner</b>).</p> <p>XI. The website owner and(or) hosting provider <b>take measures</b> to either delete the prohibited information from such website or to restrict access to such website within 3 days from the moment when Roskomnadzor sent the notification. After these 3 days Roskomnadzor <b>checks a corresponding website for such prohibited information using either a domain name or the URL contained in the Register.</b></p> <p>If the <b>prohibited information was deleted from the website identified with a corresponding domain name or URL that were contained in the Register</b>, Roskomnadzor removes such domain name and(or) URL from the Register and makes a corresponding entry in the Register indicating the date and the time of such removal.</p>
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<p>In case the prohibited information may be accessed at the domain name and(or) URL, the corresponding IP address (that enables to identify the corresponding website with the prohibited information) is included in the Register's entry (with the indication of a date and time of the inclusion of such information in the Register).</p> <p>XII. The list of domain names, URLs and IP addresses is updated daily.</p> <p>Within 24 hours from the update of such information in the Register Internet access providers have to block access to such website with the prohibited information.</p> <p>XIII. Roskomnadzor:</p> <p>a) Within 24 hours from receiving a court decision overruling the decision of the authorized body regarding the inclusion of a domain name, URL and an IP address in the Register, deletes such domain name, URL and an IP address from the Register and adds to the Register the date and time of such deletion, and informs of such deletion the hosting provider and(or) the Internet access provider.</p>	<p><b>In case the prohibited information may not be accessed via a domain name and(or) URL, Roskomnadzor does not include a corresponding IP address (that enables to identify a corresponding website with the prohibited information).</b></p> <p>In case the prohibited information may be accessed at the domain name and(or) URL, the corresponding IP address (that enables to identify the corresponding website with the prohibited information) is included in the Register's entry (with the indication of a date and time of the inclusion of such information in the Register).</p> <p>XII. The list of domain names, URLs and IP addresses is updated daily.</p> <p>Within 24 hours from the update of such information in the Register Internet access providers have to block access to such website with the prohibited information <b>and reinstate the access to such website if the IP address is deleted from the Register.</b></p> <p>XIII. Roskomnadzor:</p> <p>a) Within 24 hours from receiving a court decision overruling the decision of the authorized body regarding the inclusion of a domain name, URL and an IP address in the Register, deletes such domain name, URL and an IP address from the Register and adds to the Register the date and time of such deletion, and informs of such deletion the hosting provider and(or) the Internet access provider.</p>
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<p>b) Within 3 days from receiving a notification from the website owner, hosting provider or Internet access provider, Roskomnadzor deletes the corresponding domain name, URL and IP address from the Register and adds the date and time of such deletion, and simultaneously notifies such hosting provider and(or) Internet access provider.</p> <p>XIV. –</p> <p>XV. Within 24 hours from receiving the Roskomnadzor’s notification (described in paragraph XIII hereof) the hosting provider and(or) Internet access providers must reinstate access to such website.</p> <p>XVI. The Register contains the consecutive Register entries that are organized in an orderly fashion (the Register entries are added and as Roskomnadzor carries out all the procedures indicated above). Removal of information from the Register is not allowed.</p> <p>XVII. The Register entries (besides the information indicated in the paragraph VIII above) contain the following information:</p>	<p>b) Within 3 days from receiving a notification from the website owner, hosting provider or Internet access provider, Roskomnadzor deletes the corresponding domain name, URL and IP address from the Register and adds the date and time of such deletion, and simultaneously notifies such hosting provider and(or) Internet access provider.</p> <p>XIV. <b>The removal of the domain name, URL and the IP address from the Register is done by Roskomnadzor after the examination of the information provided in the notification (referred to in the paragraph XIII (b)) and confirmation of the fact of removal of the prohibited information and(or) restriction of access to the website with such prohibited information that is identified with the URL, domain name and(or) IP address.</b></p> <p>XV. Within 24 hours from receiving the Roskomnadzor’s notification (described in paragraph XIII hereof) the hosting provider and(or) Internet access providers must reinstate access to such website.</p> <p>XVI. The Register contains the consecutive Register entries that are organized in an orderly fashion (the Register entries are added and as Roskomnadzor carries out all the procedures indicated above). Removal of information from the Register is not allowed.</p> <p>XVII. The Register entries (besides the information indicated in the paragraph VIII above) contain the following information:</p>
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<p>a) date and time of the receipt of the court decision or a decision of an authorized body declaring the information prohibited from dissemination;</p> <p>b) information on the hosting provider (with the indication of date and time the notification on inclusion of a domain name and(or) the URL in the Register was sent);</p> <p>c) time and date of inclusion of a domain name and(or) the URL in the Register;</p> <p>d) information regarding notification of a hosting provider;</p> <p>e) date and time of deletion of the domain name and(or) the URL from the Register;</p> <p>f) IP address;</p> <p>g) date and time of inclusion of the IP address in the Register;</p> <p>h) date and time of deletion of the IP address from the Register.</p>	<p>a) date and time of the receipt of the court decision or a decision of an authorized body declaring the information prohibited from dissemination;</p> <p>b) information on the hosting provider (with the indication of date and time the notification on inclusion of a domain name and(or) the URL in the Register was sent);</p> <p>c) time and date of inclusion of a domain name and(or) the URL in the Register;</p> <p>d) information regarding notification of a hosting provider;</p> <p>e) date and time of deletion of the domain name and(or) the URL from the Register;</p> <p>f) IP address;</p> <p>g) date and time of inclusion of the IP address in the Register;</p> <p>h) date and time of deletion of the IP address from the Register.</p>
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<sup>i</sup> This non-paper was drafted for the purpose of informing discussion on regulation of website blocking in the Russian Federation to provide background information in relation to *Kharitonov v Russia*, App. No. 10795/14, and does not request the European Court of Human Rights to continue the analysis or initiate any other type of action on the issues described in this paper.

<sup>ii</sup> The public version of the Register is available at <https://eais.rkn.gov.ru/>

<sup>iii</sup> The Regulation was subsequently revised several times, the latest version is dated 21 March 2017. See annex to the present non-paper, p. 5.

<sup>iv</sup> ‘Prosecutors set up blocking of anonymizer websites, proxy and VPN-services’, *Roskomsvoboda* (03 November 2016) <<https://rublacklist.net/22701/>> accessed 16 July 2017

<sup>v</sup> ‘Ulyanovsk court declares jamon a threat to Russian constitution’, *Lenta* (21 January 2017) <<https://lenta.ru/news/2017/01/21/jamon/>> accessed 16 July 2017

<sup>vi</sup> Order of Roskomnadzor No. 103 dated 17.07.2014 “On approving the procedure for providing Internet access providers with technical requirements for monitoring compliance by the Internet access provider with requirements set forth in articles 15.1-15.4 of the “Law on Information”.

<sup>vii</sup> Article 14.1 part 3 of the Code of Administrative Offences of the Russian Federation

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<sup>viii</sup> Article 13.34 of the Code of Administrative Offences of the Russian Federation

<sup>ix</sup> 'Problematic issues on restrictions on access to information, the dissemination of which is prohibited on the territory of the Russian Federation': online conference organized by Roskomnadzor (response to a question No.120), Roskomnadzor (28 February 2017) <<https://rkn.gov.ru/press/conference/conf19.htm>> accessed 16 July 2017