



MONITORING OF DIGITAL RIGHTS VIOLATIONS

Analytical report

JUNE 2020

I. GENERAL VIOLATIONS OF DIGITAL RIGHTS (violations affecting an unlimited number of individuals)

Access to the Internet

The Decree of the President of Ukraine of May 14, 2020 No 184/2020 entered into force the decision of the National Security and Defence Council of Ukraine On the Application, Lifting and Amendment of Personal Special Economic and Other Restrictive Measures (Sanctions)¹. This Decree continues blocking websites on the basis of two Decrees of the President of Ukraine of 15 May 2017² and 14 May 2018³ that was criticized more than once⁴.

In sum, during the reporting period **one (1)** violation of digital rights was spotted in the form of restrictions on access to the Internet, covering 240 web resources.

¹ <https://www.president.gov.ua/documents/1842020-33629>

² <https://www.president.gov.ua/documents/1332017-21850>

³ <https://www.president.gov.ua/documents/1262018-24150>

⁴ <https://www.ppl.org.ua/monitoring/monitoring-cifrovix-prav>

II. INDIVIDUAL VIOLATIONS OF DIGITAL RIGHTS (infringements affecting individual right-holders and with no direct impact on wide audience).

1. Violations of the right to freedom of expression online

1) *Internet and dissemination of rumors*

The experts of HRP analyzed 38 court decisions in cases of administrative offenses under article 173-1 of the Code of Administrative Offenses (dissemination of rumors), which had been published in the Unified State Register of Judgments in June 2020. Most of the cases related Covid-19 issues.

As a result, **nine (9)** violations of digital rights were recorded, connected to right to freedom of expression online:

- 1) **Incomplete establishment of circumstances:** courts do not study full text of messages, which become reasons for starting the proceeding. So, having a court decision, it is impossible to understand what information the court analyse (and whether it analyse the information at all), whether information is true, and whether the available information can lead to panic or disturbance.

For instance, Sambir City District Court of Lviv Region found the person guilty of disseminating of rumors, which could lead to panic or disturbance in its decision of June 9, 2020. The facts that the court included in the decision are: *"The person commented a post on its Facebook page, which contained false information, which could have lead to panic among the Facebook users"*.

Neither the content of this user's comment nor the content of the message he commented on - the court did not cite.

- 2) **Lack of evidence:** often there are no evidences of someone's intent to cause panic or disturbance.

For instance, in the court ruling above-mentioned the fault was justified by: *"materials of the case, in particular the data contained in the protocol on administrative offense, which had been signed without any comments"*⁵.

So, absence of comments was the reason why the court found the person guilty.

- 3) **Lack of assessment of reliability of messages,** which would be carried out by courts:

The Dniprovskiy District Court of Dniprodzerzhynsk found a person guilty of disseminating of rumors, in particular publications stating that the Government has decided to extend the national quarantine due May 15, 2020⁶. The court recognized the information false despite the fact that at the moment of consideration of the case the quarantine was already extended.

- 4) **Lack of rationale for someone's intent to cause panic or disturbance**⁷.

On June 22, 2020, the Gorokhovskiy District Court of the Volyn Region found a person guilty of an offense of posting a message that the global coronavirus pandemic is a fake. The person

⁵ <http://www.reyestr.court.gov.ua/Review/90062395>

⁶ <http://reyestr.court.gov.ua/Review/89774684>

⁷ Узагальнення судової практики та детальний звіт з цього питання будуть оприлюднені орієнтовно в липні 2020 року

pleaded partly guilty and explained that accidentally pressed the wrong button. However, the court found the person guilty, without explaining why it rejected the arguments and what evidence they refute⁸.

In sum, **nine (9)** violations of digital rights related to dissemination of rumors were recorded.

2. Other violations of right to disseminating and getting information

Putivl district court of Sumy region found two people guilty of propaganda for publishing image of St. George's ribbon on its Facebook page^{9 10}. The court acted beyond its competence because such cases are not the subject to district, district in cities, city and city district courts (judges)¹¹.

3) Access to public information

The Department of Organizational Work of the Kharkiv City Council billed Rukh CHESNO for scanning the minutes of sessions and commissions, which had already been published in scanned form on the official website of the council¹².

4) Recognition of information inaccurate, imposition of a duty to refute / delete it without observing the requirements of the law and European standards in the field of freedom of expression

On June 16, 2020, Darnytskyi District Court of Kyiv ruled to to refute false information published on Facebook. Having concluded that "the author presents a personal opinion by analyzing various sources of information", the court at the same time did not distinguish between evaluative judgments and facts, obliging to refute the disputed messages as a whole¹³.

5) Interference in journalistic activities

1) Judge of the Administrative Court of Appeal Kostiantyn Babenko tried to knock the phone out of the hands of online media NV journalist Khrystyna Berdyskykh¹⁴.

2) On June 6, 2020, Bohdan Vasylenko, the editor-in-chief of the Hvozdy portal, was prevented from videotaping a fire at a shoe factory in Zaporizhia.¹⁵

6) Pressure on journalists and bloggers that cause chilling effect on freedom of speech

On September 10, 2019, the initiators of the flash mob, Iryna Zemlyana and Yelyzaveta Kuzmenko, filed a complaint with the Cyber Police Department of the National Police of Ukraine regarding harassment and threats against them on social networks¹⁶.

⁸ <http://www.reyestr.court.gov.ua/Review/90001090>

⁹ <http://reyestr.court.gov.ua/Review/89827602>

¹⁰ <http://reyestr.court.gov.ua/Review/89827601>

¹¹ <https://zakon.rada.gov.ua/laws/show/80732-10#n45>

¹² <https://www.chesno.org/post/4056/>

¹³ <http://reyestr.court.gov.ua/Review/89875463>

¹⁴ <https://imi.org.ua/news/u-kyievi-suddya-sprobuвав-vybyty-telefon-u-zhurnalistky-nv-pislya-zapytannya-pro-borgy-i33478>, <https://www.facebook.com/kristina.berdinskikh/videos/10160214658446164/>

¹⁵ <https://imi.org.ua/news/u-zaporizhzhii-zhurnalistku-pereshkodzhaly-znimaty-pozhezhu-na-vzuttievyj-fabrytsi-i33514>, <https://gvozdi.zp.ua/26519/>, <https://www.facebook.com/vasilenko.bogdan/videos/3057579270990498/>

¹⁶ <https://imi.org.ua/news/ekspertka-imi-dva-roky-poterpaye-vid-kiberbulingu-cherez-yatobinedorogenka-i33466>

7) Seizure of intellectual property rights that arise from Internet users when using websites

The National Commission for State Regulation of Communications and Informatization has published a list of 39 sites to be blocked by Internet providers in accordance with the decision of the Pechersk Court of Kyiv of June 10, 2020¹⁷.

In sum, in June 2020, **sixteen (16)** violations of freedom of speech online were recorded.

2. Privacy and Data Protection

1) Collecting and processing of personal data of users

The State Bureau of Investigation collects personal data of users who participate in the election of candidates to the Public Oversight Board. The voting system for the competition to the DBR Public Control Council collects personal data of citizens, namely the series, passport number, as well as email and phone number. It requires consent to the processing of this personal data, without specifying the purpose and method of processing this data, the term of their storage¹⁸.

2) Disclosure of personal data

a) In May 2020, the TV channel 1+1 released personal data of a woman, who was a victim of sexual assault committed by two police officers¹⁹.

b) Radio Svoboda photo correspondent Serhiy Nuzhnenko stated that his personal data was publicly available²⁰.

c) In the social network Telegram still operates an anonymous channel, where users are openly offered the sale of stolen personal data of Ukrainians²¹.

Thus, in June 2020, **four (4)** violations of rights to privacy and protection of personal data were recorded.

In sum, in June 2020, twenty (20) individual violations of digital rights were recorded, sixteen (16) of which - violations of freedom of speech online, four (4) - violations of right to privacy.

¹⁷<https://nkrzi.gov.ua/index.php?r=site%2Findex&pg=99&id=1935&language=uk&fbclid=IwAR1ErXebZPhI-1fZsH11dalJQEhcfgyVmM8gO-d1cRPt1M0kEtfMmO4nv4c>

¹⁸<https://netfreedom.org.ua/article/dbr-zbiraye-personalni-dani-pri-golosuvanni-za-radu-gromadskogo-kontrolyu>,
<https://www.facebook.com/ed.org.ua/posts/1405130346340563>

¹⁹<https://ms.detector.media/profstandarti/post/24821/2020-06-05-11-ictv-ta-ukraina-rozkrili-osobisti-dani-zgvaltovanoi-v-kagarliku-zhinki/>

²⁰<https://imi.org.ua/news/fotokor-radio-svoboda-zayavyv-shho-jogo-personalni-dani-opynyls-u-vidkrytomu-dostupi-i33653>

²¹<https://www.facebook.com/photo.php?fbid=3337521656287347&set=a.229041520468725&type=3&theater>,
<https://ms.detector.media/kiberbezpeka/post/24974/2020-06-30-u-telegram-dosi-prodayut-vkradeni-personalni-dani-ukraintsiv-ukrainskii-kiberalyans/>

III. POTENTIAL THREATS TO FREEDOM OF SPEECH AND PRIVACY ON THE INTERNET IN UKRAINE

1) *Hacking of email accounts and online platforms*

Nintendo previously reported hacking 160,000 accounts, but on June 9 updated those numbers to 300,000²².

2) *Violation of right to privacy*

- A. \$ 5 billion lawsuit filed in the United States for violating users' privacy by tracking their actions even when they use Google's incognito browser²³.
- B. Google has published a recent study on the moving of people from different countries, where data about Ukraine first appeared. They were published on the COVID-19 Community Mobility Reports page²⁴.
- C. Google said that it found 70 harmful extensions for its Chrome browser, which was downloaded by about 32 million users. In addition to the functions, with which users were attracted, these extensions collected and transmitted information about the web pages that people viewed to third-party servers and also entered in various forms in the process of interacting with web services²⁵.

3) *Attacks on websites and other web resources*

a) Provider "Volia" appealed to the cyber police because of DDoS-attacks on their servers, which lasted from May 31 to June 2. In general, the complete lack of access to services lasted 12 minutes on May 31 and 45 minutes on June 1. An attack on the volia.com website was also recorded, but it was prevented²⁶.

4) *Spread of fake news*

- A. Olexander Alimov, Russia's Deputy Permanent Representative to the United Nations in Geneva posted on Twitter that children had died during the war in Donbas. The post included photo of the girl, which, as he noted, had "died from shelling of the Ukrainian army". Oleg Nikolenko, spokesman for the Permanent Mission of Ukraine to the United Nations in New

²²<https://ms.detector.media/kiberbezpeka/post/24844/2020-06-10-nintendo-zayavila-shcho-khakeri-zlamali-300-tisyach-akauntiv-koristuvachiv/>, <https://edition.cnn.com/2020/06/09/tech/nintendo-300000-accounts-hacked/index.html>

²³ <https://imi.org.ua/news/google-otrymala-pozov-na-5-mlrd-za-porushennya-konfidentsijnosti-i33418>, <https://www.bbc.com/news/business-52887340>

²⁴ <https://imi.org.ua/news/google-pochav-publikuvaty-dani-pro-peremishhennya-ukrayintsiv-i33590>, <https://ms.detector.media/it-kompanii/post/24888/2020-06-17-google-pochav-publikuvati-dani-pro-peremishchennya-ukraintsiv/>, <https://www.google.com/covid19/mobility/>

²⁵ <https://www.reuters.com/article/us-alphabet-google-chrome-exclusive/exclusive-massive-spying-on-users-of-googles-chrome-shows-new-security-weakness-idUSKBN23P0JO>, <https://ms.detector.media/kiberbezpeka/post/24902/2020-06-19-32-milioni-koristuvachiv-chrome-postrazhdali-vid-rozshiren-yaki-krali-dani/>

²⁶ <https://detector.media/rinok/article/177686/2020-06-03-volya-povidomila-pro-kiberataku-na-svoi-serveri/>, <https://volia.com/ukr/about/pr/3066/>

York, noted that the girl was Anastasiya Lutsyshina who was Russian and had been killed in 2013²⁷.

- B. Lviv Mayor Andriy Sadovy accused TV Channel 5 of spreading a fake, namely that Zelensky's team would allegedly nominate him as a candidate in the local elections in Lviv²⁸.

5) *Leak of personal data of application users*

The social network Twitter sent a letter a letter with a warning about a possible leak of personal data, in particular its business partners²⁹.

6) *Internet fraud*

- A. A new scam has appeared on YouTube: fraudsters have published videos in which it was reported that, in the United States, an organization was allegedly established to pay compensation for information leaked from social networks and messengers. As a result, victim may lose UAH 400, and in the worst case - all the money from the bank card³⁰.
- B. Fraudsters who collect funds allegedly for victims of the collapse of a house in Kyiv have become more active on social networks³¹.

7) *Social media failures*

- A. In June 2020, a large-scale failure of the social network Facebook occurred. In particular, 40% of users could not log in to their Facebook account, 42% did not update the news feed, and another 17% claimed a full blackout on the social network³².
- B. On June 7, 2020, there was a large-scale failure of the Telegram. 94% of users who reported a problem reported not being able to connect to Telegram, and 5% said they could not send a message³³.
 - в) On June 2, 2020, a large-scale failure of the social network Instagram occurred. About 19% of the problems were related to login. Another 16% of complaints concerned problems with the stories, and 63% - with the tape³⁴. Another failure occurred on June 11³⁵.

8) *Leak of personal data*

- a) Cybersecurity experts Noam Rotem and Ran Lokarev of vpnMentor found a leak from dating apps (3somes, Cougar, Gay Daddy Bear). In total, researchers have found 20 million files weighing 845 gigabytes in the public domain³⁶.

²⁷ <https://ms.detector.media/manipulyatsii/post/24839/2020-06-10-rosiiskii-diplomat-rozpovsyudiv-feik-pro-viinu-na-donbasi/>

²⁸ https://vybory.detector.media/2020/06/24/andriy-sadovyj-zvynuvatyv-5-kanal-u-poshyrenni-fejku/?fbclid=IwAR1JvsgrWu71h5WNYWN73GW75rK_ytxDmDKp5U4CTQxccpRgBKAI5xxUEYw,https://imi.org.ua/news/sadovyj-zvynuvatyv-5-kanal-u-poshyrenni-fejku-i33714

²⁹ <https://internetua.com/twitter-predupredil-ob-utecske-personalnyh-dannyh>

³⁰ <https://internetua.com/predlagauat-kompensaciua-ukraincev-predupredili-o-novom-moshennicestve-v-seti>

³¹ <https://internetua.com/v-socsetyah-poyavilis-moshenniki-sobirauasxie-sredstva-dlya-pomosxi-postradavshim-v-rezultate-obrusheniya-doma-na-poznyakah,https://www.facebook.com/volchenkovas/posts/3059938910753682>

³² <https://www.ukrinform.ua/rubric-technology/3041828-u-facebook-stavsya-zbij-akij-vidculi-v-ukraini.html>

³³ <https://www.ukrinform.ua/rubric-technology/3041014-globalnij-zbij-u-roboti-telegram-istotno-zacepiv-ukrainu.html>

³⁴ <https://www.ukrinform.ua/rubric-technology/3037680-u-roboti-instagram-stavsya-zbij-akij-vidculi-j-v-ukraini.html>

³⁵ <https://www.ukrinform.ua/rubric-technology/3049550-u-roboti-instagram-stavsya-zbij.html>

6) Darknet published a database with phone numbers and unique user IDs of Telegram messenger³⁷.

9) *Operation of state registries of Ukraine*

First Deputy Minister of Digital Transformation Oleksiy Vyskub said that access to most basic registers in Ukraine is completely uncontrolled³⁸.

10) *Operation of dangerous applications for smartphones*

Avast Antivirus has detected 47 applications for Android smartphones hosted on the Google Play Store, which hide very dangerous advertising software. Their only task is to display advertisements on the smartphone screen, making it unusable³⁹.

Thus, in June 2020, **ten (10)** potential threats to digital rights, in particular right to freedom of speech online and right to privacy, were recorded.

Summarizing the above, it is worth noting that the monitoring of digital rights violations in Ukraine in June 2020 revealed:

- **1 (one) fact of general violation of digital rights** in restrictions on access to the Internet, covering 240 web resources;
- **20 (twenty) facts of individual violation of digital rights, specifically:**
 - **sixteen (16)** violations of freedom of speech online;
 - **four (4)** violations of rights to privacy and protection of personal data.

Also, **10 potential threats to the freedom of speech and the right to privacy on the Internet** have been identified in Ukraine.

³⁶<https://ms.detector.media/kiberbezpeka/post/24879/2020-06-16-v-merezhi-viyavili-sotni-gigabaitiv-danikh-z-devyati-dodatktiv-dlya-znaiomstv/>, <https://www.vpnmentor.com/blog/report-dating-apps-leak/>

³⁷https://meduza.io/news/2020/06/24/v-darknete-opublikovali-bazu-s-dannymi-millionov-polzovateley-telegram?fbclid=IwAR3J91LM0_xs4Bh2kJUIXHNfYgmWRPieJdCw4JnhCimdY87qqadNCIT-nYQ, <https://kod.ru/darknet-sliv-baza-telegram-jun2020/>, <https://ms.detector.media/kiberbezpeka/post/24934/2020-06-24-u-darkneti-opublikovali-bazu-z-danimi-milioniv-koristuvachiv-telegram/>

³⁸<https://www.ukrinform.ua/rubric-technology/3040710-v-ukraini-absolutno-nekontrolovanij-dostup-do-bilsosti-bazovih-reestriv-mincifri.html>

³⁹<https://tecnologia.libero.it/47-app-android-cancellare-quali-sono-37242>, <https://www.ukrinform.ua/rubric-technology/3053692-nazvali-piv-sotni-nebezpechnih-dodatktiv-dla-smartfoniv-na-android.html>