

# Reporters Without Borders

<http://www.rsf.org/tunisia-internet-filtering-danger-of-03-02-2012,41805.html>

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Middle East/North Africa - Tunisia

Next decisions

## Tunisia's highest court overturns ruling on filtering of pornography sites

22 February 2012

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The Court of Cassation, Tunisia's highest court, today overturned a judgement by a lower court last August banning pornographic Web content and referred the case back to appeal.

"This is good news, although we would have preferred that the court had given a final ruling," Reporters Without Borders said.

"We call once again on the Tunisian justice system to reject Internet filtering once and for all on appeal."

Recourse to such practices would be a worrying backward step. Taking advantage of the current legal vacuum to switch the filtering system back on could have serious implications and pave the way for the return of censorship. The next trial, which should take place within the next two or three months, will give the Tunisian Internet Agency an opportunity to remind itself of the risks associated with a resumption of Internet filtering in Tunisia and to urge the authorities to encourage the use of parental controls among Web users.

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### **Court of Cassation postpones ruling on Internet filtering 16 February 2012**

The Tunis Court of Cassation announced today that a ruling on filtering pornographic websites had been postponed until 22 February.

Pending this decision, Reporters Without Borders recalls that a resumption of filtering would entail numerous technical, legal and financial risks and, without a legal framework that observes international standards, it could soon pave the way for a return of censorship.

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### **Internet filtering – danger of return to past**

#### **3 February 2012**

The January 2011 revolution in Tunisia brought an end to Internet filtering and control of online content but old habits seem to be resurfacing and Reporters Without Borders urges the Tunisian courts not to take any decision that could lead to the restoration of filtering.

A court order requiring the Tunisian Internet Agency (ATI) to block access to pornographic websites, upheld by a Tunis appeal court in August 2011, revived the debate about censorship. As the ATI had neither the financial resources nor technical capacity to establish a filtering system, it did not comply and referred the case to the Court of Cassation, the country's highest appeal

court, which is due to issue a ruling in the coming days.

If the order is confirmed, the ATI will be forced to censor online content in accordance with a complaint brought by a group of lawyers calling for the blocking of pornographic content that poses a threat to minors and Muslim values. Although supposedly independent, the ATI would be obliged to implement censorship on behalf of the courts.

"It is legitimate to want to protect children from online porn, but this is not the ATI's job and it does not have the authority either," Reporters Without Borders said. "We favour the provision of parental control tools by Internet Service Providers rather than a return to online censorship with the ATI acting as censor, a role for which it is completely unsuited because it is, on paper, independent."

The press freedom organization added: "If the courts confirm the restoration of online filtering, we fear that what starts with the filtering of pornographic web content will subsequently be extended to other kinds of content."

## Risks

The Court of Cassation's ruling could have serious consequences. Reporters Without Borders points out that online filtering carries the following risks:

### TECHNICAL

Aside from the obvious impact it can have on connection speeds, content filtering of any kind entails a real danger of "overblocking." Flaws in the filtering mechanisms can result in the blocking of news and information websites that are not targeted. Articles about health issues, for example, could be blocked by an automated filtering system intended to block porn. Furthermore, censorship has never deterred the many Tunisians who are familiar with censorship circumvention methods.

### LEGAL

It is disturbing that judges at both the lower and appeal court level felt that they could offload their judicial authority on to the ATI, asking this agency to act as an Internet policeman and to censor content. It is the job of the courts to achieve a balance between published content and the rights of third parties. Even if the state is a shareholder, this power cannot be delegated to a company or agency, especially one whose role is purely technical.

Reporters Without Borders is not opposed to all forms of Internet regulation but it must be carried out in a way that conforms to international standards and respects the right to online freedom of expression. Measures must be taken to guarantee Net neutrality, the protection of personal data and online access as a fundamental right.

### FINANCIAL

The substantial financial outlays required to restore filtering mechanisms should not be neglected. They could force the ATI to request restoration of the subsidy of 2 million dinars (1 million euros) that it used to get from the old regime to cover censorship services, a subsidy it gave up immediately after the revolution. The agency would again cease to be independent of the government.

The consumer price of Internet connections will also go up if content filtering is restored. The cost of installing filtering equipment and software will automatically be passed on by Internet Service Providers to their customers.

Tunisia's president, the president of its constituent assembly and many constituent assembly members have all publicly opposed the restoration of Internet filtering in Tunisia because they are aware of the dangers ([watch the video](#)).

A recent report by Frank La Rue, the UN special rapporteur for the promotion and protection of

freedom of opinion and expression, recommended that the flow of information online should be restricted only in specific, exceptional and limited circumstances, and in accordance with international standards. The report also said that the right to freedom of expression should be the norm and that restrictions should be the exception, and not the other way round.

Instead of resorting to the old regime's censorship methods, the Tunisian authorities should send their citizens a strong signal by enshrining Internet access as a fundamental right in the new constitution, lifting restrictions on Internet companies, and eliminating the censorship.

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