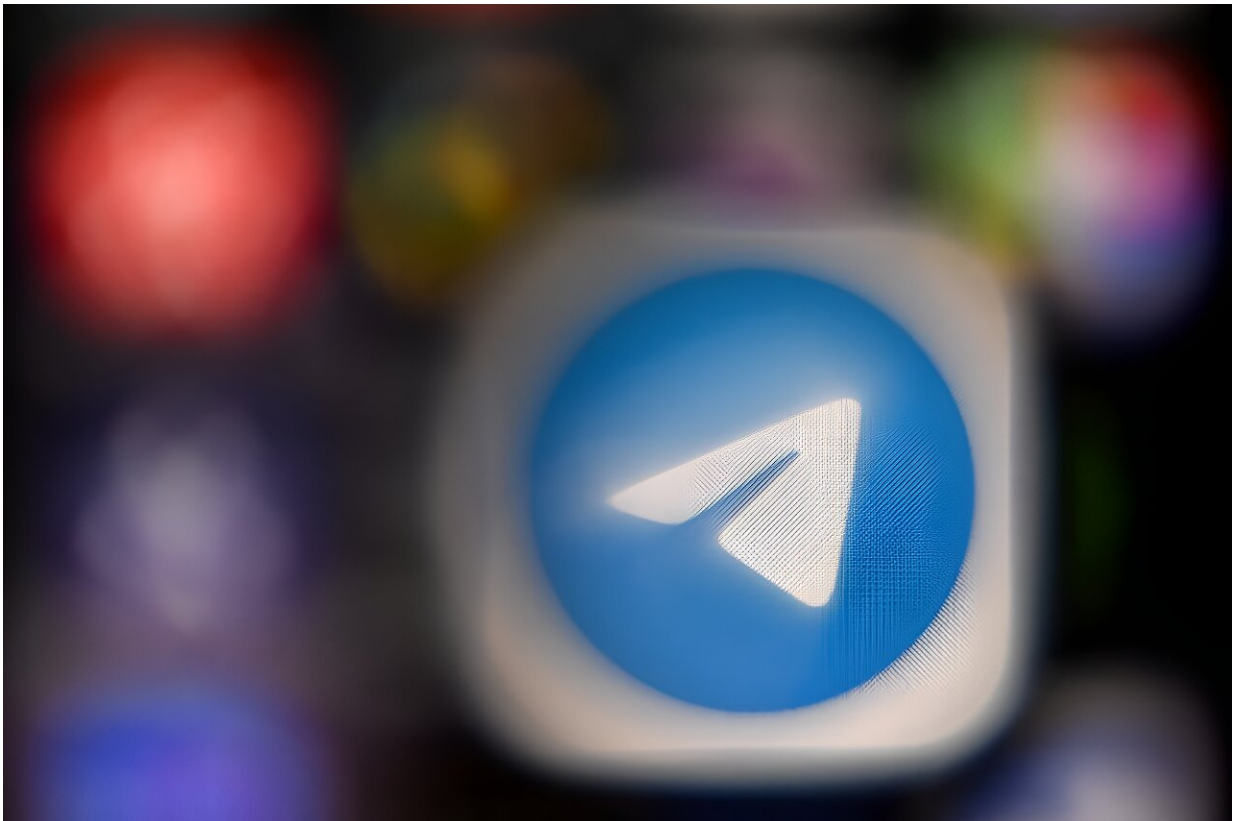


Why Telegram chief's arrest raises 'red flags' for tech bosses

August 29 2024, by Joseph Boyle and Daxia Rojas



Law enforcement agencies across the world have long argued they need access to encrypted messages to stop criminal activity.

Now that France has charged Telegram's founder with failing to stop illegal activity on his platform, other tech bosses may have reason to

weigh the wisdom of jetting into Europe themselves.

Russia-born Pavel Durov is accused of "complicity" in running an online platform that allowed illicit transactions, child sex abuse images and other illegal content.

French lawyers told AFP it was "unprecedented" for an individual to be held criminally liable for what users chose to do on a tech platform.

Chat apps like Telegram—which boasts having more than 900 million users—were almost certainly hosting illegal content whether the bosses knew it or not, experts told AFP.

"It's clear that if they take this case against Pavel Durov all the way, any other platform could be threatened with the same thing," lawyer Guillaume Martine told AFP.

However, the idea of X owner Elon Musk or Mark Zuckerberg, whose Meta group includes Facebook and WhatsApp, being arrested in Europe remained beyond the realms of likelihood.

"I would be very surprised if any EU member state, including France, arrested Elon Musk under similar charges," Jan Penfrat of the European Digital Rights (EDRi) [advocacy group](#) told AFP.

"But then again, I was also surprised that they arrested Durov."

'Limited cooperation'

Although comparing these platforms is superficially appealing—like its competitors, Telegram is not based in France, and Durov is an ally of Musk—there are key differences.

For one, Durov is a French citizen, making him a much likelier target in France.

But also, although Musk trumpets an extreme free-speech position, he generally complies with government takedown orders on X, the social platform formerly known as Twitter.

Telegram, however, refuses on principle.

"It's true that Telegram is characterised by extremely limited cooperation, if any at all," said digital rights lawyer Alexandre Lazaregue.

"They don't respond to letters, they don't respond to summonses, they don't even have legal representation in court... Whereas Facebook, Twitter, etc still have well-known lawyers in Paris."

And Penfrat said comparisons with services like Signal or WhatsApp were also misleading as they are encrypted by default—unlike Telegram.

"So Signal and WhatsApp can say, 'We're cooperating, we just don't have the information,'" he said.

"But Telegram says, 'Well, we could give you all that information because it's in plain text on our servers, but we're not going to, sorry.'"

'Red flags'

The particular position of Durov and Telegram suggests other tech bosses do not have anything immediately to worry about.

But Penfrat said he was concerned that the move against Telegram could be used as a precedent to go after other encrypted services.

Law enforcement agencies across the world have long argued they need access to encrypted messages to stop criminal activity.

But services like WhatsApp and Signal have pushed back, saying the only way to do that would be to outlaw encryption.

"It does raise a lot of red flags to see these charges, which seem random and also are just not very convincing," said Penfrat, suggesting it was like trying to blame a knife-maker for a stabbing.

Lawyer Martine said it was "extremely dangerous" to try to hold Telegram accountable for the actions of its users, likening it to prosecuting Europcar for renting a vehicle to a drug trafficker.

Lazaregue concluded that the charges against Durov were pushing the legal definition of "complicity" to breaking point.

"To be convicted of complicity, you still need to be aware that a crime is happening and intend to participate in it," he said.

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