

September 11, 2010

Russia Uses Microsoft to Suppress Dissent

By CLIFFORD J. LEVY

IRKUTSK, Russia — It was late one afternoon in January when a squad of plainclothes police officers arrived at the headquarters of a prominent environmental group here. They brushed past the staff with barely a word and instead set upon the computers before carting them away. Taken were files that chronicled a generation's worth of efforts to protect the Siberian wilderness.

The group, Baikal Environmental Wave, was organizing protests against Prime Minister Vladimir V. Putin's decision to reopen a paper factory that had polluted nearby Lake Baikal, a natural wonder that by some estimates holds 20 percent of the world's fresh water.

Instead, the group fell victim to one of the authorities' newest tactics for quelling dissent: confiscating computers under the pretext of searching for pirated Microsoft software.

Across Russia, the security services have carried out dozens of similar raids against outspoken advocacy groups or opposition newspapers in recent years. Security officials say the inquiries reflect their concern about software piracy, which is rampant in Russia. Yet they rarely if ever carry out raids against advocacy groups or news organizations that back the government.

As the ploy grows common, the authorities are receiving key assistance from an unexpected partner: Microsoft itself. In politically tinged inquiries across Russia, lawyers retained by Microsoft have staunchly backed the police.

Interviews and a review of law enforcement documents show that in recent cases, Microsoft lawyers made statements describing the company as a victim and arguing that criminal charges should be pursued.

The lawyers rebuffed pleas by accused journalists and advocacy groups, including Baikal Wave, to refrain from working with the authorities. Baikal Wave, in fact, said it had purchased and installed legal Microsoft software specifically to deny the authorities an excuse to raid them. The group later asked Microsoft for help in fending off the police. "Microsoft did not want to help us, which would have been the right thing to do," said Marina Rikhvanova, a Baikal Environmental Wave co-chairwoman and one of Russia's best-known environmentalists. "They said these issues had to be handled by the security services."

Microsoft executives in Moscow and at the company's headquarters in Redmond, Wash., asserted that they did not initiate the inquiries and that they took part in them only because they were required to do so under Russian law.

After The New York Times presented its reporting to senior Microsoft officials, the company responded that it planned to tighten its oversight of its legal affairs in Russia. Human rights organizations in Russia have been pressing Microsoft to do so for months. The Moscow Helsinki Group sent a letter to Microsoft this year saying that the company was complicit in “the persecution of civil society activists.”

Tough Ethical Choices

Microsoft, like many American technology giants doing business in authoritarian countries, is often faced with ethical choices over government directives to help suppress dissent. In China, Microsoft has complied with censorship rules in operating its Web search service, preventing Chinese users from easily accessing banned information. Its archival Google stopped following censorship regulations there, and scaled back its operations inside China’s Internet firewall.

In Russia, leaders of advocacy groups and newspapers subjected to antipiracy raids said Microsoft was cooperating with the authorities because the company feared jeopardizing its business in the country. They said Microsoft needed to issue a categorical public statement disavowing these tactics and pledging to never cooperate in such cases.

Microsoft has not done that, but has promised to review its policies in Russia.

“We take the concerns that have been raised very seriously,” Kevin Kutz, director of public affairs for Microsoft, said in a statement. Mr. Kutz said the company would ensure that its lawyers had “more clearly defined responsibilities and accountabilities.”

“We have to protect our products from piracy, but we also have a commitment to respect fundamental human rights,” he said. “Microsoft antipiracy efforts are designed to honor both objectives, but we are open to feedback on what we can do to improve in that regard.”

Microsoft emphasized that it encouraged law enforcement agencies worldwide to investigate producers and suppliers of illegal software rather than consumers. Even so, it has not publicly criticized raids against small Russian advocacy groups.

With pirated software prevalent in this country, it is not surprising that some of these groups might have some on their computers. Yet the issue, then, is why the police choose to focus on these particular targets — and whether they falsify evidence to make the charges more serious.

Microsoft also says it has a program in Russia to provide free and low-cost software to newspapers and advocacy groups so that they are in compliance with the law.

But the review of these cases indicates that the security services often seize computers whether or not they contain illegal software. The police immediately filed reports saying they had discovered such programs, before even examining the computers in detail. The

police claims have in numerous instances been successfully discredited by defendants when the cases go before judges.

Given the suspicions that these investigations are politically motivated, the police and prosecutors have turned to Microsoft to lend weight to their cases. In southwestern Russia, the Interior Ministry declared in an official document that its investigation of a human rights advocate for software piracy was begun “based on an application” from a lawyer for Microsoft.

In another city, Samara, the police seized computers from two opposition newspapers, with the support of a different Microsoft lawyer. “Without the participation of Microsoft, these criminal cases against human rights defenders and journalists would simply not be able to occur,” said the editor of the newspapers, Sergey Kurt-Adzhiyev.

The plainclothes officers who descended upon the Baikal Wave headquarters said they were from the division that investigated commercial crime. But the environmentalists said they noticed at least one officer from the antiextremism department, which tracks opposition activists and had often conducted surveillance on the group.

The officers said they had received a complaint from a man named Dmitri Latyshev, who claimed that he had been in the headquarters and spotted unlicensed Microsoft software on the computers. The police produced a handwritten complaint from Mr. Latyshev, dated Jan. 27. The raid occurred the next day.

People at Baikal Wave said they had never seen or heard of Mr. Latyshev. Located in Irkutsk recently, Mr. Latyshev said by phone that he had filed the complaint but would not say why.

Baikal Wave’s leaders said they had known that the authorities used such raids to pressure advocacy groups, so they had made certain that all their software was legal.

But they quickly realized how difficult it would be to defend themselves.

They said they told the officers that they were mistaken, pulling out receipts and original Microsoft packaging to prove that the software was not pirated. The police did not appear to take that into consideration. A supervising officer issued a report on the spot saying that illegal software had been uncovered.

Before the raid, the environmentalists said their computers were affixed with Microsoft’s “Certificate of Authenticity” stickers that attested to the software’s legality. But as the computers were being hauled away, they noticed something odd: the stickers were gone.

In all, 12 computers were confiscated. The group’s Web site was disabled, its finances left in disarray, its plans disclosed to the authorities.

The police also obtained personnel information from the computers. In the following weeks, officers tracked down some of the group's supporters and interrogated them.

"The police had one goal, which was to prevent us from working," said Galina Kulebyakina, a co-chairwoman of Baikal Wave. "They removed our computers because we actively took a position against the paper factory and forcefully voiced it."

"They can do pretty much what they want, with impunity," she said.

A Company's Pollution

The paper factory is located on Lake Baikal, the world's oldest and deepest lake, which is home to hundreds of species that exist nowhere else, including a freshwater seal. Over the years, the factory has spewed mercury, chlorine, heavy metals and other pollutants into the water.

Baikal Wave rejoiced when the factory closed in 2008, having succumbed to sizable losses, as well as pressure from environmentalists. But after the financial crisis hit, the Kremlin worried about unrest from unemployment. In January, Mr. Putin reopened the factory, which has employed as many as 2,000 people, saying that it no longer polluted the lake.

Baikal Wave, which was founded in Irkutsk, one of Russia's largest cities, as the Soviet Union was collapsing, began planning a protest. That was when the officers showed up.

In a statement, the Irkutsk police said the raid was proper. "The inspection of Baikal Environmental Wave was intended to protect intellectual property and had no connection whatsoever with the activities of the advocacy organization," the statement said.

It said a forensic examination of the computers in February showed that several contained illegal software that would have cost more than \$3,300. Baikal Wave said the examination was fraudulent.

Prosecutors say they are now weighing whether to press charges against Baikal Wave or its leaders. It is possible, though unlikely, that they could face jail time if convicted.

Neither Microsoft's Moscow office nor its local lawyer contacted Baikal Wave to hear its side. The lawyer did provide testimony to the police about the value of the software that Baikal Wave was accused of illegally obtaining.

Baikal Wave sent copies of its software receipts and other documentation to Microsoft's Moscow office to show that it had purchased the software legally. The group said it believed that the authorities would be under pressure to drop the case if Microsoft would confirm the documents' authenticity.

Microsoft declined to do so. In a letter to Baikal Wave, the company said it would forward the materials only to the authorities in Irkutsk, which already had copies of them.

“A determination of the actual circumstances of this case and the question of whether a violation of the law took place is the duty of the court,” Microsoft said.

The company also told Baikal Wave that it was willing to have its specialists assist the police in Irkutsk in evaluating the computers.

In response to written questions, Alexander Strakh, Microsoft’s chief antipiracy lawyer in Moscow, said that in all these cases, Microsoft assisted the authorities only as called for under Russian law.

Mr. Strakh was asked whether Microsoft believed that these raids were a tool to suppress the opposition. “We have no direct knowledge of decisions by authorities to use investigations in that manner,” he said.

Microsoft has hired numerous private lawyers across Russia who represent the company in piracy cases. Several of the lawyers have cropped up in these politically sensitive inquiries.

This year, prosecutors in the southwestern city of Krasnodar brought a piracy case against an immigrant rights activist named Anastasia Denisova. She said in an interview that she was surprised at the aggressive posture of Microsoft’s local lawyer.

In an official document, the Interior Ministry said the case against Ms. Denisova was begun “based on an application” from the lawyer. (Microsoft’s Moscow office said that statement was not correct.)

Ms. Denisova said the lawyer overestimated the value of the allegedly pirated software. As a result, the accusations were more serious.

“The Microsoft lawyer was very active, coming to the court all the time, even though he was not summoned,” she said. “He also claimed that he was going to sue me, despite the fact that Microsoft had publicly stated that it would not do so against an advocacy group.”

In May, after Ms. Denisova had spent several months under the threat of a prison sentence, the charges were dropped. Prosecutors acknowledged that the investigation had been mishandled.

Samara, in Russia’s industrial heartland, has been a focal point for these raids. In May 2007, when Mr. Putin was holding a summit meeting there with European leaders, the police sought to prevent protests by seizing computers from several organizations, including Golos, an election monitoring and human rights group, and the local edition of Novaya Gazeta, the country’s most influential opposition newspaper.

Last year, they took computers from another newspaper, Samarskaya Gazeta. According to case records, the police conducted that search based upon a complaint from a man who admitted that he had never been in the newspaper's offices or seen its computers.

Mr. Kurt-Adzhiyev, the editor of both newspapers, said Microsoft's lawyer in the case regularly appeared at court hearings to back prosecutors and the police. He said the lawyer testified that seized computers contained pirated software even though it was later shown that the computers had never been examined.

"Microsoft says publicly that they have no claims in these cases, but then their lawyers come into the court and say whatever the police want them to say," Mr. Kurt-Adzhiyev said.

The Damage Is Done

Prosecutors eventually dropped or suspended the charges against Mr. Kurt-Adzhiyev after he was able to discredit them. But he said the damage was done. He said the newspapers lost computers and data, and he spent an enormous amount of time ensnared in legal proceedings. The local edition of Novaya Gazeta had to close.

Mr. Kurt-Adzhiyev said he now realized that the authorities were not so much interested in convictions as in harassing opponents. Even if the inquiries are abandoned, they are debilitating when they require months to defend.

Microsoft's Moscow office said its lawyers had conducted themselves properly in the cases in Krasnodar and Samara.

In Irkutsk, Baikal Environmental Wave has also struggled to recover from the raid. It located some old computers and was still able to hold protests against the paper factory.

The seized computers were not returned by the police until July, five months after they were removed. Their hard drives had been inspected by police experts in February. The environmentalists do not know whether all their data remain, and they are sure that files were copied.

Ms. Rikhvanova, one of the group's co-founders, who has been fighting to defend Lake Baikal since the 1960s, was unable to use her computer. When she got it back, she discovered that it had been disabled by a virus.