

Russia has refused to execute the European Court of Human Rights' judgment

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On 19 April, the Russian Constitutional Court (CC) concluded that it was impossible to execute judgment issued by the European Court of Human Rights (ECHR) in Strasbourg, the judicial authority operating as part of the Council of Europe's system of legal protection. The decision passed by the ECHR on 4 July 2013 imposed on Russia the obligation to amend the regulations depriving detainees of the right to vote (active suffrage). Pursuant to article 32 of the Constitution of the Russian Federation, any citizen placed in detention under a court verdict is deprived of active suffrage.

The amended Constitutional Court Act came into force in December 2015 and grants the CC with the right to rule that it is impossible to carry out a decision of an international court if the decision contradicts the principle of prevalence of the norms set under the Constitution of the Russian Federation.

Commentary

- The Russian Constitutional Court's decision has set a precedent in the context of relations between Russia and the Council of Europe. This decision violates the obligations Russia took on when it joined the organisation. Article 46 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Russia in 1998) imposes the obligation on the parties to carry out the judgments of the ECHR. Russia did not raise any reservations that would have restricted or made conditional the execution of these judgments in the process of the convention's ratification.
- The CC's decision is the first case when the act of December 2015 was put into practice. The direct reason behind the hasty implementation of the legislative changes vesting the Russian Constitutional Court with new rights were the judgments passed by the ECHR and the Permanent Court of Arbitration in The Hague (PCA) in July 2014 in the cases that had been launched upon a motion from former shareholders of the Russian oil company Yukos, which were unfavourable for Russia. The ECHR ruled that Russia should pay damages of 1.9 billion euros, while the PCA ruled that it should pay around 50 billion euros. The amendments are also a consequence of the discussion underway over the past few years in Russia about the need to restrict external institutions' 'interference' with the functioning of the Russian legislative and political system. The ECHR's judgments

quite often assume that legislative changes are necessary, while these changes frequently contradict the guidelines of the Russian government's domestic policy. According to statistics, Russia is the third country – after Turkey and Italy – in terms of the number of judgments stating that the country's obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms have been violated.

Moscow's moves also need to be viewed in the context of strained political relations with the West in consequence of the Russian aggression on Ukraine. The Russian delegation's right of vote at the Parliamentary Assembly of the Council of Europe has been suspended since 10 April 2014. In response to this Moscow has suggested it may leave the organisation.

- It is rather unlikely that the Russian Constitutional Court's decision is a sign that all rulings passed by international courts with regard to Russia will be rejected. However, it indicates that Moscow, by reserving the right to make arbitrary evaluations, will most likely reject those international solutions that it views as being politically disadvantageous.