

A symbolic victory for Navalny in Strasbourg

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On 15 November, the Grand Chamber of the European Court of Human Rights in Strasbourg ruled that the detention of Russian opposition activist Aleksei Navalny during rallies in 2012-2014 and the administrative penalties imposed on him were politically motivated and constituted a breach of Article 18 of the European Convention on Human Rights, and awarded damages in the amount of €63,000. Navalny came to Strasbourg to be present when the decision was announced. The decision by the Grand Chamber partially modifies the ECHR's verdict in 2017, which recognised the violation of Navalny's rights, but did not deem the activities of the Russian government to have been politically motivated.

For years Russia has been the leader at the Council of Europe in terms of complaints to the Court in Strasbourg, and has lost the majority of cases. In 2017 the Court considered 1156 complaints from Russia, and has confirmed that Russia violated at least one statute of the European Convention on Human Rights in 293 of the 305 cases resolved this year. Russia also holds the record for failing to implement the Court's judgements: only 608 of the 2380 verdicts issued since 1998, while the average waiting time for the implementation of verdicts was as much as 9 years, 8 months. Russia is also the only Council of Europe member state whose legal system allows for partial or complete non-implementation of ECHR verdicts if the Russian Constitutional Court considers that they are unconstitutional.

Commentary

- The judgement by the Court is of great importance for Navalny; for years the ECHR's rulings have acknowledged the violation of Russian opposition leaders' rights, but have not stated that the actions of the Russian authorities had political grounds. The Court's last verdict recognising a political motivation for persecution came as far back as 2004 and concerned the oligarch Vladimir Gusinsky, who came into conflict with the Kremlin, was accused of embezzlement and arrested, and then left Russia, losing most of his assets.
- Navalny's victory in Strasbourg, however, has only a symbolic dimension. Russia's attitude to the enforcement of the Court's verdicts leads to the assumption that Navalny may not receive the compensation he was awarded, and the Russian authorities will not guarantee the opposition the right to hold peaceful demonstrations. It is worth noting that the judgement of the Court only covers the years 2012-14, whereas Navalny has been repeatedly arrested, fined and held in custody also in subsequent years (twice in 2018, spending a total of 50 days in custody).

- Since 2014, Russia has been in conflict with another body of the Council of Europe, the Parliamentary Assembly, which after the annexation of Crimea deprived the Russian delegation of its voting rights. Moscow responded by boycotting its meetings and suspending the payment of Russia's membership fees. This gives the organisation a formal basis for the exclusion of Russia as soon as in June 2019. Prominent Russian politicians have long mentioned the possibility of leaving the Council of Europe (including the speakers of the two houses of parliament, Valentina Matviyenko and Vyacheslav Volodin, as well as Foreign Minister Sergei Lavrov), and the chairman of RE Thorbjørn Jagland has used the term 'Ruxit' in his statements. Russia's departure from the Council of Europe would not only be another step in the direction of Moscow's isolation from Western structures, but would also deprive thousands of Russian citizens of the possibility of asserting their rights before the Court in Strasbourg.