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Russia returns to the Council of Europe

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On 17 May, during a two-day meeting in Helsinki, the Council of Europe's Committee of Ministers (the organisation's key decision-making body) adopted a declaration in which it supported the restoration of full voting rights to the Russian delegation to the Parliamentary Assembly of the Council of Europe (PACE). The document states that all member states have the right to participate on an equal basis in the work of the Committee of Ministers and the Parliamentary Assembly, the two statutory bodies of the Council of Europe; and that one of the key obligations of member states is to pay contributions to the organisation's budget. According to unofficial reports, six countries opposed this version of the declaration. The Committee of Ministers' position must be approved by the organisation's Parliamentary Assembly, which will consider this issue during its meeting on 25 June.

The decision to suspend the voting rights of the Russian delegation to PACE was adopted on 10 April 2014 in reaction to Russia's aggression against Ukraine (the annexation of Crimea and the military operations in eastern Ukraine). Russian officials were also denied the right to assume leadership positions in the PACE, and were prevented from taking part in the organisation's monitoring missions. In retaliation, the Russian delegation stopped participating in the Assembly's work as of 2016, and from 2017 it ceased to pay its annual membership fees (€33 million annually, in Russia's case). In accordance with the organisation's internal regulations, if Russia failed to meet its financial liabilities for a period of two years, the Committee of Ministers had the right to suspend Russia's representation in the Committee and the Assembly until it paid its dues (as stated in Art. 9 of the CoE's Statutes).

Commentary

- The declaration adopted in Helsinki is a consequence of an informal political agreement worked out with the active participation of the German and French foreign ministries. It assumes that after Russia's full rights in the Council of Europe are restored, it will repay its outstanding membership fees, which will make any debate on the possible suspension of Russia's membership rights meaningless. Even before the Committee of Ministers' meeting, representatives of the French and German governments, as well as the CoE's Secretary-General Thorbjørn Jagland, had signalled that they were interested in keeping Russia in the Council of Europe. Their main argument was the desire to ensure that Russian citizens retained their rights to submit complaints concerning their government's violations of the rule of law and human rights to the European Court of

Human Rights.

- Russian government representatives (including foreign minister Sergei Lavrov) had announced that if their right of representation on the Council of Europe's statutory bodies was suspended, Russia could withdraw from the organisation; that move should primarily be considered as a negotiating trick aimed at putting pressure on the organisation, to which Russia is one of the major donors (Russia's contributions make up around 7% of the CoE's budget). Statements like these intensified in the run-up to the Committee of Ministers' most recent deliberations. The likelihood of Russia withdrawing from the Council of Europe was mentioned by the president of the Russian Constitutional Court, Valery Zorkin; and Russia's permanent representative on the Council of Europe, Ivan Soltanovsky, threatened to withdraw his country from the European Convention on Human Rights.
- Although the Committee's declaration significantly increases the probability that the Russian delegation to PACE will have its rights restored, it is still by no means guaranteed. On the one hand, the attitude of the parliamentary delegations of the Council of Europe's member states towards Russia is still very critical. This was demonstrated during the last session by the adoption of two resolutions: one calling for the extension of the so-called Magnitsky Act to cover all the countries of Europe, and the other calling for Russia to release the Ukrainian sailors detained in the Kerch Strait in November 2018. On the other hand, however, in December 2018 PACE's statutory committee relaxed the strictures on Russia's voting rights: Moscow recovered its right to participate in selecting the organisation's Secretary-General, the judges on the European Court of Human Rights, and the Council of Europe's Human Rights Commissioner.
- This document from the Committee of Ministers represents a political success for Moscow. If PACE accepts it, Russia will have its full membership rights of the Council of Europe restored without having made any concessions, including any modification of its aggressive policy towards Ukraine. Moscow would only be obliged to pay its outstanding membership fees, estimated at around €60 million. Germany's representatives have insisted that Russia's return to the Council of Europe will not mark the first step towards the lifting of Western sanctions (including the so-called sectoral sanctions) which were imposed on Russia in connection with its aggression against Ukraine. Nevertheless, the Kremlin will try to use the Council of Europe's decisions as an argument to justify the need to normalise relations between Russia and the West in other spheres. At the same time, Moscow will be confirmed in its belief that it does not have to make any concessions, which will make it even harder to end the war in the Donbas. For that reason, Ukraine's foreign minister Pavlo Klimkin made a sharply critical statement, and he boycotted the meeting of the Committee of Ministers (he was replaced by the deputy minister).
- Russia's accession in 1998 to the European Convention on Human Rights – which is a key component of the Council of Europe system (although Moscow has still not ratified some of the Convention's protocols) – is one of the most important results of its membership (since 1996) of the Council of Europe. This opened up the opportunity for Russian citizens to lodge complaints with the European Court of Human Rights in Strasbourg, and to obtain compensation from the state on the basis of the Court's

decisions. Russians have frequently exercised this right: for many years Russia has led the CoE's member states in terms of the number of complaints submitted (268 in 2018 alone, and with a total of 11,750 complaints pending, representing almost 21% of all the complaints; after Russia come Romania [15%], Ukraine [12.9%] and Turkey [12.6%]). In total, since Russia's accession to the CoE, the Court has issued over 2500 judgements concerning that country, mostly against the government. These judgements have covered both political issues (including the 2018 case which the opposition leader Aleksei Navalny won in Strasbourg; the Court declared unlawful his detention and arrest during political rallies) and violations of property rights, the right to a fair trial, accusations of violence by law enforcement bodies, and many others. In many cases the Russian government has sabotaged the payment of the compensation awarded, especially the highest amounts (for example in 2014 the compensation of US$2 billion which shareholders in Yukos should have received); however, it has actually paid out much smaller sums (in 2014 to 2018 the state paid €3.8 billion in compensation to various citizens). The implementation of the legislative changes recommended by the Court has been progressing much more slowly, and in addition, in 2015 Russia adopted a law allowing it to reject decisions by international courts if its own Constitutional Court finds that they are inconsistent with Russian law.