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ARTICLES

‘When I saw the judgment, I felt joy and surprise’: human rights defenders, lawyers and applicants reflect on the importance of appealing to the ECtHR

ENGLISH

Russia is no longer a party to the European Convention on Human Rights (ECHR) and does not comply with decisions of the European Court of Human Rights (ECtHR), including providing the applicants with just satisfaction. However, the court continues to issue judgments on violations that occurred before September 2022. Recently, OVD-Info, in collaboration with the Memorial Human Rights Center, reached a significant

milestone —

1 billion rubles (~10 million EUR) of just satisfaction awarded to our applicants. To mark this achievement, we spoke with experts from other human rights initiatives, lawyers, and applicants to understand why appealing to the ECtHR remains an essential step toward justice.

SYSTEMIC CHANGE AND LAYING THE GROUNDWORK FOR FUTURE REFORMS: INSIGHTS FROM HUMAN RIGHTS DEFENDERS

Even before the war in Ukraine began in 2022, when Russia ceased to be a member of the Council of Europe, the Russian authorities made every effort to avoid implementing the decisions of the European Court of Human Rights (ECtHR). For example, in 2020, during his address to the Federal Assembly, Vladimir Putin proposed amendments to the Constitution allowing the decisions of international bodies and provisions of international treaties to be implemented only if they ‘do not entail restrictions on the rights and freedoms of individuals and citizens and do not contradict our Constitution.’ As a result, Russian courts were granted the authority to disregard certain ECtHR decisions.

At the same time, despite the long-standing shift of the Russian authorities away from international human rights standards, **the ECtHR decisions have contributed to many positive systemic changes.**

The director of the [Public Verdict Foundation](#), Natalia Taubina, highlights the changes achieved in the penitentiary system.

‘Certainly, many examples could be given. I’ll mention just one. If we look at the reform of the Russian penitentiary system over the past 30 years, the major systemic changes related to human rights within this reform were made primarily due to the judgments of the ECtHR. These include improvements in detention conditions compared to the 1990s, the introduction of alternative preventive measures to pretrial detention, and the creation of a compensatory mechanism, which allows individuals to receive compensation through courts for poor conditions without having to prove the fault of a specific staff member,’ comments the expert.

Another important argument in favour of working with the ECtHR is that, according to experts, its decisions can lay the groundwork for future legislative changes when Russia has the political will to make such changes.

Lawyer Grigory Vaypan emphasises that Russia’s implementation of ECtHR judgments will have to be addressed sooner or later. For example, this issue could become a condition for lifting sanctions against Russia and allowing its return to the Council of Europe. However, it is already possible to seek the payment of just satisfaction awarded by the ECtHR. In particular, Council of Europe member states could allow their national courts to enforce ECtHR judgments against Russia and direct frozen Russian assets toward just satisfaction payments.

‘Those who appealed to the ECtHR and received a judgment in their favour will be able to restore their rights and receive just satisfaction. As for those who didn’t, they may be left with nothing,’ summarises the expert.

It’s also important to note that the ECtHR decisions regarding Russian applicants serve as a precedent for other countries. These decisions not only address specific cases but also establish legal standards that are binding for all ECHR member states. The Court applies the doctrine of precedent, meaning its interpretation of the Convention must be considered by both national courts and the ECtHR itself when examining similar cases in the future involving other countries.

For example, if the Court has previously found a violation of the right to freedom of expression in a case involving an applicant from Russia, that ruling can be used when considering a complaint from Turkey, provided the circumstances are similar. This enables the ECtHR to ensure consistent interpretation and application of the European Convention, thus creating a stable legal system for the protection of human rights in Europe.

MOTIVATION AND A SOOTHING EFFECT: WHAT THE ECTHR MEANS FOR LAWYERS

‘Before Russia’s exclusion from the Council of Europe, the ECtHR had a motivating and soothing effect. If a person had to endure certain hardships (such as arrest, etc.) and it was impossible to resolve their case at the domestic level, the ECtHR was a motivation to fight for their rights and the rights of others, with compensation being a nice bonus. Even if the outcome was ultimately unsuccessful, it was still comforting to know that you were right,’ says Oleg (name changed at the request of the individual), who prepared about 30 complaints for ECtHR.

An activist and human rights defender, Vladimir Zhilkin, commenting on their experience with the ECtHR, stresses that their clients, even when Russia was a member of the Council of Europe, knew they would have to wait several years for a decision from the Court. Therefore, according to Vladimir, ‘the incentive to appeal was clearly of a non-material nature.’

‘Now when Russia is not a member of the Council of Europe and no longer complies with ECtHR decisions — while at the same time, the European Court of Human Rights started issuing judgments on cases from 2017 to 2022 in a flood — I see how people, almost like children, rejoice in their victories and the triumph of justice. I’m pleased to see this also as the success of my work, and most importantly, from a sociological perspective, as a vivid illustration of Russia’s remarkable human potential,’ emphasises the interviewee to OVD-Info.

From Vladimir's perspective, appealing to the ECtHR is also a way to assert one's agency to oneself and the world — something the Russian authorities are trying to strip away from civil society.

Therefore, according to political scientist Ekaterina Schulman, collective action **is crucial** in political regimes like Russia's. It is not necessary to immediately **achieve** a positive result — the key is the common cause and the sense of solidarity. Preparing a complaint to the ECtHR, which involves collaborating with a lawyer, often multiple lawyers, and other potential applicants, is an example of such collective work.

Restored Justice: Appealing to the ECtHR Through the Eyes of the Applicants

'For human rights lawyers, the ECtHR was, in fact, the only court where they could prove their client's case and win. Despite the court's shortcomings, this is no small thing. We've often discussed the «monetisation» of human rights violations, but for many of our clients, compensation was an important support during difficult times. And Russia did settle its debts,' says Nataliya Sekretareva, head of the legal department at the Human Rights Center Memorial. The applicants also confirm this.

Yuliya Dementiyenko participated in protests. In 2024, she was detained in Saint Petersburg while laying flowers at Mars Field. The bouquet she brought had the inscriptions 'No to War' and 'Demobilisation.' At the police station, a report was drawn up against her for discrediting the use of the Russian army (part 1, article 20.3.3 of the Code of Administrative Offences, CAO). She was released to go home, although her mobile phone was seized.

Since the detention and fine, which she considers unlawful, occurred after Russia's exclusion from the Council of Europe, it is no longer possible to appeal to the ECtHR. However, the woman has previous experience with this body: in 2021, she and other participants in the 'Freedom for Navalny' protest were detained and sentenced to 12 days of administrative detention. The

ECtHR is currently considering her complaint against the authorities' actions.

Yuliya emphasises that her appeal to the ECtHR was motivated not only by a desire to achieve justice for herself personally but also by a 'sense of the importance for the country and the growth of our society, by ensuring that civil participation plays its crucial role, not suffocated by violence or intimidated by the government.'

'By turning to the courts, we keep these institutions alive, and through them, we reach out to others, to society. When faced with dysfunctional courts, we realise the need to reform the system. It seems to me that by defending our rights in court, we are affirming our commitment to civilised methods of achieving justice — reminding ourselves and society of how things should be and what courts should be like. Moreover, our lawyers go to courts, and although the courts may not listen to their arguments, they still have the strength to defend us, which gives us the sense that we are not alone and that lawlessness does not reign infinitely,' points out Yulia.

'When I received the news about the judgment, I didn't feel many emotions because I knew I was right and that for the whole free world, the value of human life has long been unquestionable. The fact that Russia does not implement the ECtHR decisions today, means nothing from a historical perspective. But it means a lot to me. I disagreed with Russia's aggression, and I was supported in that,' says Vladislav about his feelings

Addressing those interested in defending their rights in international institutions, Vladislav advises them to 'focus on what they can do themselves,' as 'inaction could cost lives, and although our actions may not end the war, they will bring its conclusion closer.

WHAT TO DO WITHOUT THE ECTHR?

It is clear that the ECtHR was a useful institution for Russia, as its participation helped address some systemic issues. But what should be done now that Russia is no longer a party to the European Convention on Human Rights?

Currently, our lawyers are actively working on submitting complaints to the Human Rights Committee (HRC) and other United Nations committees. This procedure does not provide a direct mechanism for enforcing their 'views' and doesn't award definite compensations. Nevertheless, both the Constitutional Court and the Supreme Court of the Russian Federation have recognised that it is mandatory to follow the Committee's views. For example, in December 2021, the Supreme Court of the Russian Federation **ruled** that the views of the HRC and the UN Working Group on Arbitrary Detention could serve as grounds for reopening a case due to new circumstances.

At the same time, we are aware of cases in which applicants, after the UN HRC considered their complaints, approached Russian courts seeking compensation for pecuniary damage. The compensation may not be as large as those awarded by the ECtHR; however, in Samara, for example, the court **awarded** Darya Litvishko 100,000 rubles for unlawful detention. A similar amount for moral damage **was awarded** to activist Alexander for his unlawful administrative detention.

Furthermore, in emergency situations, the HRC can take interim measures, as **happened** on 14 August 2024 in the case of Igor Baryshnikov, who was sentenced to 7.5 years in prison for spreading 'military fakes.' The international body ordered the Russian authorities to 'provide comprehensive and proper medical care, urgently administer medical assistance, and ensure the protection of his life and mental health.' The surgery took place in September.

If you would like to submit a complaint to the UN Human Rights Committee, please email us — we will assist you: un@ovdinfo.org





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