

Doc. 10760
9 December 2005

Honouring of obligations and commitments by the Russian Federation

Recommendation 1710 (2005)

Reply from the Committee of Ministers
adopted at the 950th meeting of the Ministers' Deputies (7 December 2005)

1. The Committee of Ministers has carefully examined Recommendation 1710 (2005) on the honouring of its obligations and commitments by the Russian Federation and, noting the progress made by Russia in the fulfilment of its commitments, would like to provide the Assembly with the following information:
2. As regards the co-operation and assistance programmes, the Committee of Ministers agrees with the Assembly's recommendation that Russia must continue to benefit from these programmes in order to foster pluralist democracy, respect for the rule of law and the protection of human rights. The Committee of Ministers recalls its reply to PACE Recommendation 1553 (2002), in which it stated that this co-operation serves a two-fold objective: fulfilling the commitments undertaken when joining the Council of Europe and contributing to further developing and strengthening democratic structures and processes at all levels of the country. The numerous activities conducted under both the bilateral co-operation programmes and the Joint Programmes with the European Commission aim to achieve this objective.
3. The ongoing co-operation and assistance programmes with the Russian Federation in the legal field aim to encourage the Russian authorities to ensure that the country's legislation is in line with the Council of Europe standards and by the same token to overcome the obstacles for the ratification of the Council of Europe conventions.
4. Under these programmes, the Council of Europe provides assistance to the Russian authorities towards the signature and ratification of these conventions, notably in criminal matters, the fight against terrorism, money laundering and corruption, the protection of personal data, regional or minority languages, children's rights and bioethics. Work towards ratification of the Revised European Social Charter has been pursued by the Russian Federation with the support of specific Council of Europe assistance activities. The Committee of Ministers expects that these efforts will result in ratification in 2006 at the latest.
5. Legislative assistance and expertise is also provided to the Russian authorities in order to complete the judicial, administrative and penitentiary reforms as well as the reform on the division of competences between the different levels of public authorities, in conformity with the European standards. Legal expertise is supplemented, as necessary, with specific training activities focusing on the independence of the judiciary.
6. The Committee of Ministers agrees that the speedy ratification of Protocols Nos. 6, 12, 13 and 14 to the European Convention on Human Rights is important. The Committee of Ministers has already taken action in this respect. At its regular twice-yearly debates on the abolition of the death penalty in all member states of the Council of Europe, including most recently at its 941st meeting (13 October 2005), the Committee of Ministers has insistently called on the Russian Federation to ratify Protocol No. 6 and to take the necessary steps to transform the existing moratorium on executions into *de jure* abolition of the death penalty. In the same vein, the Committee regularly reviews the state of ratification of certain instruments, including Protocols Nos. 12, 13 and 14, at each of the six meetings held every year to supervise the execution of the Court's judgments. The ratification of Protocol No. 14 by all Parties to the Convention, including the Russian Federation, in order to secure its entry into force within the time-frame decided at the 114th Session is a matter of the utmost importance for the Committee and this was confirmed by the Third Summit.

7. As regards the compatibility of the Russian legislation with the Organisation's principles and standards, the Committee of Ministers refers to its Recommendation Rec(2004)5 on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the ECHR, adopted at its 114th Session on 12 May 2004 and to the Third Summit's commitment to ensuring this is done. Such reviews help strengthen the domestic implementation of European human rights standards, including in the Russian Federation, and are an effective means of identifying and addressing issues which otherwise might become the subject of applications to the European Court of Human Rights. The Committee considers that the establishment of such a review mechanism by all member states, including the Russian Federation, would contribute to improving the domestic implementation of ECHR standards and to the ongoing efforts to reduce the caseload of the Court. At the same time, the Council of Europe stands ready to provide expertise on the compatibility of draft legislation with the human rights standards of the Organisation, including in areas referred to by the Assembly.

8. As regards the execution of the Court's judgments by Russia, the Committee has noted with satisfaction Russia's constructive efforts to comply with Court judgments, notably by adopting comprehensive general measures to prevent new violations similar to those found by the Court (for example progress in the penitentiary reform to improve the conditions of detention, see Interim Resolution (2003) 123 in *Kalashnikov v. Russia*). The direct effect increasingly granted to the Convention and the Court's judgments in Russian law through decisions by the Russian courts is of particular importance in this connection.

9. By contrast, the Committee has expressed serious concern at the fact that steps taken to date have not been sufficient to implement fully the judgment in *Ilascu v. Moldova and Russia*, which concerns the applicants' continuing detention in the territory of the "Moldovan Republic of Transnistria". The Committee has been led to adopt two Interim Resolutions. In the second Interim Resolution adopted in July 2005, the Committee of Ministers insisted that the Russian authorities take all the necessary steps to put an end to the arbitrary detention of the applicants still imprisoned and secure their immediate release, while encouraging the Moldovan authorities to continue their efforts in this connection. As indicated in the same resolution, the Committee of Ministers will continue to examine this case at each of its meetings, until the applicants have been released. In this context, the Chairman-in-office of the Committee of Ministers, Mr Diogo Freitas do Amaral, addressed a letter to the Minister for Foreign Affairs of the Russian Federation regarding the execution of the Court's judgment in this case. In his letter, the Chairman referred to the position of the Committee of Ministers and expressed the strong hope that the applicants be released promptly. A reply was sent by the Minister for Foreign Affairs of the Russian Federation on 7 November 2005. A copy of the exchange of letters will be forwarded to the Parliamentary Assembly at its first part Session (23-27 January 2006) as an attachment to the communication on the activities of the Committee of Ministers.

10. A number of systemic problems revealed by the Court's judgments concerning Russia call for continuing reforms in such important areas as the functioning of the judiciary, including the implementation of domestic courts' decisions, the length of criminal procedures and conditions of pre-trial detention. The Committee is therefore encouraging the Russian authorities to continue their co-operation with the relevant Council of Europe departments, which can provide assistance in these reforms through expert advice, seminars, training, etc. The Committee is determined to ensure that the measures required by the judgments are rapidly identified and taken, thus aligning the Russian norms and judicial practice with the ECHR standards in the areas concerned. The Committee of Ministers also expects that the judgments delivered by the European Court of Human Rights in cases concerning abuses committed by members of security forces in the Russian Federation will be promptly and fully executed.

11. As regards the outstanding obligations and commitments concerning Russia's relations with neighbouring states and other Council of Europe states in the region, the Committee of Ministers agrees with the Assembly that they should be fulfilled without any further delay. It will continue to follow this issue and stands ready, in its area of competence, to provide the necessary assistance to this end.

12. As to the co-operation between the Council of Europe and the Russian authorities in the field of strengthening the Ombudsmen institutions in the Russian Federation, the Committee of Ministers would like to refer to the latest report by the Council of Europe Commissioner for Human Rights on his visits to the Russian Federation, dated 12 April 2005.

13. As regards the situation in Chechnya, the Committee of Ministers would like to recall that since January 2004, the Council of Europe and the Russian Federation have set up a programme of concrete co-operation activities in the Chechen Republic. As indicated in the report on the programme distributed during the last session of the Assembly, these activities include the provision of expertise on legislation of

the Chechen Republic, training in electoral matters, the development of local self-government, training in human rights (with special focus on law enforcement agencies), rehabilitation of women and children, education, support for the Ombudsman institution and investigation into abducted and missing persons (including assistance in the setting-up of a forensic laboratory in Grozny). The full-scale implementation of the programme started in mid-April. In total, around 20 activities will have been implemented in 2005.

14. The implementation of the co-operation programmes between the Council of Europe and the Chechen Republic, including in the light of the human rights situation in the Chechen Republic, remains a matter of permanent attention for the Committee of Ministers. It was reviewed at enlarged Bureau meetings in January (with the participation of Mr Vladimir Lukin, Commissioner on Human Rights of the Russian Federation, and Mr Lema Khasuev, the then Commissioner for Human Rights a.i. of the Chechen Republic) and more recently in October 2005 (with the participation of the President of the Chechen Republic, Mr Alu Alkhanov, and Mr Lukin). On each occasion, special attention was paid, inter alia, to the cases of disappearances and alleged abuses by the members of security forces. Social issues, elections and the need to reinforce democratic institutions were also brought up. In this context, the Committee of Ministers took note of the elections which were held in the Chechen Republic on 27 November 2005. It expresses the hope that the establishment of the Chechen Parliament, together with the constructive approach expressed by President Alkhanov during the last exchange of views, will be followed by concrete steps to strengthen human rights, democracy and the rule of law in the Chechen Republic. It will continue to pay particular attention to this matter.