

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Russia must respect its international obligations, not defy the European Court of Human Rights**

The decision of the Constitutional Court of the Russian Federation, announced on 19 April, that the ruling of the European Court of Human Rights in *Anchugov and Gladkov v Russia* “cannot be implemented” is an affront to human rights and the rule of law. Russia is bound by its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), which includes the undertaking to abide by the judgments of the European Court of Human Rights. It has to respect and fully implement the decisions of European Court of Human Rights (ECtHR), both with regards to *Anchugov and Gladkov v Russia*, and to all of the Court’s rulings.

The Russian Constitution (Article 15.4) mandates that international treaties to which Russia is a party form “an integral part of its legal system” and, in case of divergence, have precedence over national law. In recent years, repeated calls have been made in Russia, including by members of the Constitutional Court as well as senior government officials and politicians, to adopt a measure whereby the Constitutional Court could overrule the European Court’s rulings.

In December 2015, a law was swiftly passed by the parliament and signed into force by the president (Federal Law of 14 December 2015 7-FKZ “On introducing amendments to the Federal constitutional law ‘On the Constitutional Court of the Russian federation’”, hereafter “Law 7-FKZ”) that gave Russia’s Constitutional Court the power to determine, upon a request from the president or the federal government, whether a decision of “an interstate body for protection of human rights and freedoms”, which includes the ECtHR, contravenes Russia’s Constitution and is thereby “non-implementable”.

In March this year, the Council of Europe’s European Commission for Democracy through Law (‘Venice Commission’) adopted its Interim Opinion on the Law 7-FKZ. It concluded that, irrespective of the Constitutional Court’s decision, Russia remains under an “obligation to enforce the international decision ... [and] cannot invoke the provisions of its internal law as justification for its failure to perform a treaty, including the European Convention on Human Rights”.<sup>1</sup> According to the Venice Commission, “it is the duty of all State bodies to find appropriate solutions for reconciling those provisions of the treaty with

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<sup>1</sup> Interim Opinion On the Amendments to the Federal Constitutional Law on the Constitutional Court of the Russian Federation, adopted by the Venice Commission at its 106th Plenary Session (Opinion No. 832/2015, Venice, 11-12 March 2016), paragraph 97, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)005-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)005-e).

the Constitution (for instance through interpretation or even the modification of the Constitution)". The Commission made a number of recommendations as to how this could be achieved.

However, the Venice Commission was unable to issue a final opinion because "the Russian authorities were not able to host meetings with the rapporteurs". The Commission expressed hope that its rapporteurs would be able to visit Russia and hold the necessary meetings at a later stage "so that the Russian authorities may present their arguments and a final opinion may be prepared for the June 2016 session".<sup>2</sup> Such a visit became possible only in late April, and the Venice Commission's delegates are in Russia this week for the relevant meetings.

In the meantime, the Russian authorities ignored the Venice Commission's recommendations, and the Russian Constitutional Court invoked its new powers. On 19 April 2016, it announced that the ECtHR's ruling on *Anchugov and Gladkov v Russia* cannot be implemented. Unless this decision is reverted, it creates a dangerous precedent and opens the floodgate to further instances of blocking the ECtHR's decisions by Russia, contrary to its international obligations.

### **Background**

Under Article 32(3) of the Constitution of the Russian Federation, "[d]eprived of the right to elect and be elected shall be citizens recognized by court as legally unfit, as well as citizens kept in places of confinement by a court sentence".<sup>3</sup>

Sergei Anchugov and Vladimir Gladkov, both serving long-term prison sentences at the time, submitted an application to the European Court of Human Rights complaining that their right to vote was violated by being considered ineligible to vote in a number of elections as convicted prisoners. In 2013, the ECtHR found that an automatic and indiscriminate ban on Russian prisoners' voting rights was disproportionate and a violation of Article 3 of Protocol No. 1 (right to free elections) of the European Convention on Human Rights.<sup>4</sup>

For many in Russia, the European Court of Human Rights has become the ultimate and only hope for justice, in the absence of effective legal remedies in the country.

This year, Russia marks the twentieth anniversary of becoming a member of the Council of Europe in 1996. It ratified the European Convention on Human Rights in 1998. In the years since, thousands of applications have been made yearly to the ECtHR against Russia. Whilst a significant proportion of the applications dealt with by the Court is for various reasons declared inadmissible or is struck out, Russia is found to be in violation of the Convention in the vast majority of the cases where the Court rules on the merits. Thus, in 2015, the Court delivered 116 judgments (concerning 160 applications) on Russia, of

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<sup>2</sup> Ibid, paragraph 5.

<sup>3</sup> Translation offered at <http://www.constitution.ru/en/10003000-03.htm>.

<sup>4</sup> *Anchugov and Gladkov v. Russia* (11157/04, 15162/05), 4 July 2013.

which in 109 it found Russia in violation of the European Convention on Human Rights.<sup>5</sup> Over the years and including 2015, the Court delivered a total of 1,720 judgments on Russia, of which it was found in violation of the Convention in 1,612 cases.<sup>6</sup>

In relation to the past decisions of the ECtHR, the Russian authorities have consistently paid applicants the compensation awarded by the Court. However, in numerous instances Russia has systematically failed to implement both individual and general measures spelled out by the Court.

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<sup>5</sup> Source: [http://www.echr.coe.int/Documents/CP\\_Russia\\_ENG.pdf](http://www.echr.coe.int/Documents/CP_Russia_ENG.pdf).

<sup>6</sup> European Court of Human Rights, *Violations by Article and by State 1959-2015*, [http://www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2015\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_1959_2015_ENG.pdf).