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*„The Russian Federation, EU and
Human Rights: Education in
International Human Rights Law“*

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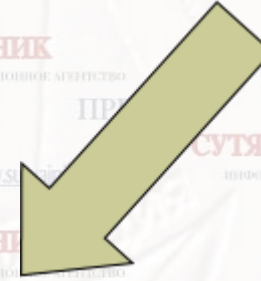
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Russia's Accession to the Council of Europe

Council of Europe

Russian Ministry for Foreign Affairs



Same conclusion



The legal order of the Russian Federation does not meet Council of Europe standards

Domestication of the European Convention

- CoE accepted Russia in 1996 with understanding that:
 1. Russian legal system does not match the CoE human rights standards
 2. It is better to accept and help rather than reject and help reach the standards
- It was a political decision to accept
- When Russia later ratified the Convention for human rights in 1998, many Russian judges and lawyers understood this to mean only that Russian citizens had the right to appeal at the ECHR, not that Russian courts also had an obligation to implement the Convention **at the national level.**
- **HOW THE CoE AND EU HELPED RUSSIA TO BRING HUMAN RIGHTS HOME**

EU investments in human rights in Russia

from 2001 to 2013:

- 20 joint EU and Council of Europe projects
- EU contribution is EUR 17,128,775
- Ongoing projects

Contributing to Continuing Education on the ECHR

Special projects were created to meet the objectives of applying the ECHR jurisprudence in regular practice of key legal practitioners:

- “Strengthen the Rule of Law and the Protection of Human Rights in the Russian Federation (Russia V)» (2002-2004).
- “Enhancing the capacity of legal professionals and law enforcement officials in Russia to apply the ECHR in domestic legal proceedings and practices (2006-2009)”
- (NEW) Strengthening the Lawyers’ Capacity for Domestic Application of the European Convention on Human Rights and the Revised European Social Charter (2013-2015)

“+” of the projects

- Relationship with the goal to advance human rights at the national level
- Number of legal professionals trained (hundreds)
- Monitoring of their level of awareness about the ECHR

HOWEVER such cooperation is satisfactory at the initial stage only

“–” of the projects

- Targeting CONTINUING education only diminishes the effect
 - NGO “Sutyajnik” conducted monitoring in 2004 - lack of special educational courses on the ECHR in Russian law schools
 - This was confirmed later by Ombudsman of Sverdlovsk oblast Tatiana Merzliakova who conducted survey in 2012 on this matter among law schools in Ekaterinburg, Russia

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Consequences (education)

- No required courses on the Convention in law schools
- Students graduate each year without any knowledge on the Convention, therefore more need in continuing education on the Convention
- No questions on the ECHR in exams for bar and judgments
- Vicious circle – litigators don't bring up the Convention in their arguments as they think judges will simply ignore them; judges do not apply the Convention as litigators do not bring up the Convention in their arguments to the attention of judges
- No motivation to study the Convention (see Burkoy, Motivation for Direct Application of the Convention for the Protection of Human Rights and Fundamental Freedoms in Russian Courts. Baltic Yearbook of International Law, Volume 12, Issue 1, 2012. P. 229-247.
<http://booksandjournals.brillonline.com/content/10.1163/22115897-90000011>)
- NO LLM IN INTERNATIONAL HUMAN RIGHTS LAW

Consequences (ECHR domestication)

- the application of the ECHR has not reached the level which one would have expected after 16 years since the ratification of the Convention (see Burkov. How to improve the results of a reluctant player: the case of Russia and the European Convention of Human Rights, School of Human Rights Research, Utrecht (2013) P. 147-157.
<http://sutyajnik.ru/documents/4529.pdf>)
- Previously identified violations in law and practice are being reinstated in a different form
 - Payment of just satisfaction according to ECHR judgments but little effective general measures in legislation and practice
 - “Nadzor” system became “cassation”
 - Newly introduced “appeal” looks like “cassation” but worse
 - Article 333 of Civil Procedure Code (!)

Article 333: investment into human rights protection can lead to unexpected worsening the state of human rights protection

- EU-CoE-Administration of the President of Russia joint project “Introduction of the appeal in the Russian judiciary system” (2010-2013 project, EUR 1.500.000)
- Article 333 of Civil Procedure Code: “parties are not notified” about the hearing turned into the rule “parties are not allowed to participate”
- Why consequential: Art 333 is employed to prevent litigation of cases against governmental acts
- Case challenging Article 333

<http://sutyajnik.ru/documents/4532.html>

Conclusions/suggestions

- EU and Council of Europe's Joint Projects aimed at reforms of the Russian legal system could lead to different consequences than anticipated
- More attention to sustainable higher legal education rather than continuing education
- Particular driving force could be LLM in international human rights law at different universities, dual Russian-European degrees, as well as creation of separate Russian School of Human Rights
- 21-22.10.2013 International conference on education in international human rights law in Russia and other European countries (Yekaterinburg, Russia)

<http://sutyajnik.org/1/55.html>