



DEBATE PACK

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Russia and the Council of Europe

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Contents

| | | |
|----|-----------------|----|
| 1. | Background | 2 |
| 2. | Press Articles | 7 |
| 3. | Gov.uk | 8 |
| 4. | PQs | 9 |
| 5. | Debates | 13 |
| 6. | Further reading | 14 |

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1. Background

Suspension of Russia from PACE

After the Russian annexation of Crimea in 2014, the Council of Europe imposed sanctions on Russia. Russian delegates' voting rights in the Council of Europe's Parliamentary Assembly (PACE) were suspended.¹ That suspension has been renewed repeatedly since then.

In summer 2017, Russia suspended its annual payment of €33 million to the Council. CoE rules say that member states that do not pay their contributions will also be denied representation in the selection of judges for the European Court of Human Rights.

In November 2017, CoE Secretary General Thorbjørn Jagland toured European capitals warning of the risk that Moscow that could withdraw completely from the organisation unless the sanctions were lifted. He argued that this would be a blow to Russian citizens as they would lose access to the European Court of Human Rights. Russian cases take up a disproportionate amount of the court's time, but that means that its decisions have had a significant effect in improving human rights protection in Russia.²

Supporters of Ukraine and others argued against the move, saying it would be a signal to other organisations, particularly the EU, that it was time to soften opposition to the annexation of Crimea and the backing for rebels against the Ukrainian Government in the Donbass.

In March 2018, Russia announced that it was again withholding its payments to the CoE.

European Court of Human Rights

Many Russians have taken their cases to the ECtHR and the number of applications has increased in recent years. In 2017, Russia was the country with the highest number of new cases registered, with 370 cases, some way ahead of Turkey (138) and Romania (110). Russia has also had the highest total of awards against it. Notable cases can be found on the court's [Russia press country profile](#), updated June 2018.

Despite what the CoE regards as a legally-binding commitment of membership, Russia has not complied with some judgments of the European Court of Human Rights (ECtHR). In July 2015 the Russian Constitutional Court ruled that Russia should not be bound by all international human rights obligations if they were judged to conflict with the Constitution.³ In December of that year the Russian

¹ See the Commons Briefing Paper [Russia and the Council of Europe](#), 5 March 2015

² '[Russia tests Council of Europe in push to regain vote](#)', *Financial Times*, 26 November 2017

³ 'Russian Constitutional Court Determines Moscow Not Bound to All Human Rights Court Rulings', *Moscow Times*, 14 July 2015

Constitution was amended, permitting the Russian Constitutional Court to declare ECtHR judgments non-executable in these circumstances.⁴

The 2014 ECtHR decision that Yukos shareholders should be compensated after the company was broken up and its assets transferred to state-owned companies was declared unconstitutional by the Russian Constitutional Court. Some commentators argued that it was particularly this decision that the Russian authorities did not want to implement, since it would have cost the Russian State €1.87 billion. It was the largest award ever made by the ECtHR, but it was far less than another international court, the Permanent Court of Arbitration, had awarded.

The Venice Commission for Democracy through Law, a CoE body, issued in June 2016 a final opinion on the legal changes in Russia. The Commission stressed that the “execution of the judgments of the European Court of Human Rights is an unequivocal, imperative legal obligation”.⁵ The opinion went on:

The Venice Commission is of the opinion that the Constitutional Court should not be tasked with the identification of the manners of execution of an international judgment. The choice of the best way of enforcing a decision by an international court is usually a political/administrative matter, not a constitutional one and it is primarily the responsibility of the government.

While the Constitutional Court could legitimately criticise a modality of execution, any such criticism should result in the problem going back to the Executive, to find another way to execute the judgment, according to the opinion. The Commission called for the amendment to be reversed:

The provision that no execution measure may be taken if the Constitutional Court finds that a judgment is non-enforceable is in direct conflict with Russia’s international obligations under the Vienna Convention on the Law of Treaties and Article 46 ECHR and should be removed.

The Russia rapporteurs for PACE agreed:

Unconditionally honouring the Convention is an obligation incumbent on all member States and it is therefore unacceptable that Russia would not enforce a judgment of the European Court of Human Rights.⁶

They went on to argue that the Russian Constitution should be amended if it clashed with the provisions of the European Convention on Human Rights.

⁴ [‘Vladimir Putin signs law allowing Russia to ignore international human rights rulings’](#), *Independent*, 15 December 2015

⁵ European Commission for Democracy through law (Venice Commission) [Russian Federation, Final Opinion on the Amendments to the Federal Constitutional Law on the Constitutional Court](#), June 2016

⁶ [‘PACE Rapporteurs express deep concern at Russian Constitutional Court decision’](#), 21 January 2017

PACE criticisms of Russia

Persecution of LGBTI people in Chechnya

In June 2018, the Parliamentary Assembly of the Council of Europe (PACE) passed a resolution on the persecution of LGBTI people in Chechnya. The summary of the report that led to the resolution said:

On 1 April 2017, the Russian newspaper *Novaya Gazeta* published its first report on a campaign of persecution against LGBTI people in the Chechen Republic, including cases of abduction, arbitrary detention and torture of men presumed to be gay, with the direct involvement of Chechen law-enforcement officials. This campaign unfolded against the backdrop of serious, systematic and widespread discrimination and harassment of LGBTI people.

The very existence of LGBTI people in the Chechen Republic has been denied by Chechen and Russian public officials. To date, no substantive investigation has been conducted. More than 114 LGBTI people and members of their families have fled the Chechen Republic.

PACE urged Russia to conduct an independent national investigation, allow an international investigation, ensure the protection of victims and witnesses and repeal the law prohibiting the promotion of non-traditional sexual relationships among minors.⁷

The Assembly also called on national parliaments to “discuss measures to be taken at the national level to provide support to the victims and witnesses of the campaign of persecution against LGBTI people”.

Smolensk plane crash

The Parliamentary Assembly has also called for Russia to hand over the remains of the aircraft that crashed in Smolensk in 2010, killing the Polish delegation on board including the then Polish President Lech Kaczynski, twin brother of former Prime Minister Jaroslaw Kaczynski. The crash has become totemic in Polish politics and Lech Kaczynski has been enshrined as a national hero by the Polish Government.

PACE said that that under the Chicago Convention, the State where an air accident takes place is required to return the wreckage and other evidence to the State of registration of the aircraft as soon as the technical air safety investigation is completed. Underlining Russian-Polish tension over the incident, the text read:

The continuing refusal of the Russian authorities to return the wreckage and other evidence constitutes an abuse of rights and has fuelled speculation on the Polish side that Russia has something to hide.⁸

Politically-motivated convictions of Ukrainians

In May 2018, PACE called for Russia to release a Ukrainian film-maker jailed in Russia on a terrorist conviction. Oleg Sentsov’s conviction was

⁷ See the full list of recommendations at: PACE, [Resolution 2230 \(2018\) Provisional version Persecution of LGBTI people in the Chechen Republic \(Russian Federation\)](#), 27 June 2018

⁸ [‘Smolensk crash: Russia should hand over the aircraft wreckage to Polish authorities ‘without further delay’](#), Parliamentary Assembly of the Council of Europe news, 25 June 2018

politically-motivated, according to the PACE rapporteur on the humanitarian effects of the war in Ukraine:

Mr Sentsov was detained in Crimea in 2014, convicted by a military court in Rostov-on-Don following a controversial and widely-criticised trial, and sentenced to 20 years in a high-security penitentiary. Ten days ago he began an open-ended hunger strike and I fear for his health. I call for his immediate release on humanitarian grounds.⁹

PACE says that 64 Ukrainians have received politically-motivated convictions in Russia and calls for their release. On the theme of Ukraine, PACE has also criticised the opening of the bridge between Crimea and Russia.

Jehovah's Witnesses

PACE rapporteurs on Russia have condemned the decision to class the Jehovah's Witnesses Administrative Centre in Moscow an extremist organisation and close it and 395 local branches down. They said that the decision called into question freedom of religion in Russia and noted that the European Court of Human Rights had already issued a judgment in favour of Jehovah's Witnesses' right to practise their religion in Russia.

Russian views

Russia rejects the suspension of its representatives at PACE:

As is well known, in seeking to "punish" the delegation of the Russian parliament in 2014-2015 for the free choice by the people of Crimea to become part of Russia, the Assembly restricted the rights of Russian parliamentarians to such an extent that it made it impossible for them to continue their work in PACE.¹⁰

The statement went on to argue that the forthcoming election of the Secretary General would be de-legitimised:

In June 2019, the Secretary General will be elected. For Russia, the legitimacy of high-ranking officials of the Council of Europe is in question if they have been elected without Russia's participation.

The Russian Government also argues that the suspension of Russian delegates has changed the fundamental basis of cooperation in the Council of Europe and of international law: the sovereign equality of States.

Russian parliamentarians have justified the failure to execute ECtHR judgments, saying that if Russian representatives are not allowed to participate in the selection of ECtHR judges, Russia should not abide by their decisions. Russian Federation Council Chairwoman Valentina Matviyenko said that without Russia's participation, judges "will not be fully legitimate".¹¹

⁹ ['Rapporteur calls for release of Ukrainian film-maker jailed in Russia'](#), Parliamentary Assembly of the Council of Europe news, 23 May 2018

¹⁰ [Foreign Ministry statement on the situation in PACE and prospects for resuming contributions to the Council of Europe](#), Russian Foreign Ministry, 4 July 2018

¹¹ ['Russia To Reject Strasbourg Court If Not Allowed To Help Select Judges'](#), RFE/RL, 14 October 2017

The Ministry of Foreign Affairs expressed Secretary-General Jagland's efforts to resolve the dispute, and said that the outstanding financial contributions would be paid as soon as the rights of Russian representatives were restored.

Outlook

Experts think that it is unlikely that Russia will leave imminently, since this would represent a sharp break with the West, and one that might be blamed more on Russia than on the other member states. One Russian human rights defender said that the dispute was being managed by the Kremlin to make Russian membership dependent on "some kind of diplomatic bargaining." He said: "Now [we are seeing] a certain kind of aggravation of the situation in order to force the Council of Europe to hold various talks with the Russian side that are already happening".¹²

Full restoration of Russian participation may be unlikely given the fact that Russia is unlikely to reverse the annexation of Crimea or bring the conflict in Eastern Ukraine to an end. Some compromise might be possible whereby Russian delegates' rights are partially restored.

¹² ['Heading For The Door? Russia's Dispute With Council Of Europe Intensifies'](#), RFE/RL, 30 October 2017

2. Press Articles

The following is a selection of press and media articles relevant to this debate.

Please note: the Library is not responsible for either the views or accuracy of external content.

[**Foreign Ministry: No grounds for renewing Russia's contributions to Council of Europe**](#)

TASS Russian News Agency
4 July 2018

[**Russian senator warns Council of Europe against issuing 'payment ultimatums' to Moscow**](#)

RT
27 June 2018

[**Russia withholds payments to the Council of Europe**](#)

Deutsche Welle
Mikhail Bushuev and Markian Ostapchuk
1 March 2018

[**A Classic Dilemma: Russia's Threat to Withdraw from the Council of Europe**](#)

Heinrich-Böll-Stiftung European Union
Tom Casier
21 February 2018

[**CoE Secretary General Jagland now openly lobbies for return of Russian delegation**](#)

Euromaidan Press
Serhiy Sydorenko
25 January 2018

[**Russia tests Council of Europe in push to regain vote**](#)

Financial Times
Neil Buckley
26 November 2017

[**Russia delegation suspended from Council of Europe over Crimea**](#)

The Guardian
Luke Harding
10 April 2014

3. Gov.uk

[Foreign Secretary response to arrests after protests in Russia](#)

Foreign & Commonwealth Office

13 June 2018

Hundreds of Russian citizens have been arrested after participating in anti-corruption demonstrations across the country. This included opposition leader Alexei Navalny.

Foreign Secretary, Boris Johnson, said:

“I am concerned by the detention on 12 June of hundreds of Russian citizens following protests. They were exercising their fundamental rights to freedom of expression, association and peaceful assembly, which are enshrined in the Russian constitution. The UK calls on the government of Russia to comply with its international commitments in the Council of Europe and the OSCE, and release citizens detained during peaceful demonstrations.”

4. PQs

[Amesbury Incident](#)

05 Jul 2018 | 644 c543

Asked by: John Howell

The Croatian Prime Minister told me last week at the Council of Europe that the evidence that made him expel a Russian diplomat had been absolutely compelling. Will the Home Secretary ensure that the evidence that he produces will be just as compelling in this case?

Answered by: Sajid Javid | Home Office

This is an opportunity to highlight just how seriously we take evidence and the facts. Already our world-leading scientists have been involved in the identification of the nerve agent in this incident, and that is exactly how we will proceed. As we gather that evidence, of course we will discuss it with our international allies.

[Russia: Council of Europe](#)

26 Apr 2018 | 137138

Asked by: Liam Byrne

To ask the Secretary of State for Foreign and Commonwealth Affairs, what criteria he plans to use to decide whether to support lifting the suspension of Russian credentials at the council of Europe.

Answering member: Sir Alan Duncan | Foreign and Commonwealth Office

In accordance with its status as a statutory body of the Council of Europe and independent from the Committee of Ministers, the decision is a matter for the Parliamentary Assembly (PACE) to decide. PACE has made clear its own criteria for Russia to return which are laid down in its own resolution requirements. PACE has not suspended Russia; the decision was taken by Russia since 2015 not to present credentials for its own Delegation in response to voting restrictions placed upon them by PACE following the illegal annexation of Crimea in 2014. The UK is clear that a Russian return to PACE would be contingent on the withdrawal of all Russian military personnel and support for separatists in Eastern Ukraine, as well as an end to the illegal annexation of the Crimean peninsula.

[Russia: Council of Europe](#)

11 Dec 2017 | HL3608

Asked by: Baroness Falkner of Margravine

To ask Her Majesty's Government, following the suspension of Russia's annual payment to the Council of Europe, what discussions they have had with Thorbjørn Jagland, the Secretary General, regarding the possibility of Russia's withdrawal from the Council of Europe.

Answering member: Lord Ahmad of Wimbledon | Foreign and Commonwealth Office

The UK Ambassador to the Council of Europe has had regular discussions with the Secretary General to the Council of Europe over Russia's refusal to pay the second instalment of their budgetary payment for 2017. In addition, my right honourable friends in the other place, the Member for Rutland and Melton, Sir Alan Duncan, and the Member for Aylesbury, David Lidington, separately met the Secretary General on 28 November 2017. We are considering all possible scenarios and are working with the Secretary General and other Member States on this matter. Russia has an obligation to pay its subscription as a member and should start paying again without delay.

[Russia: Human Rights](#)

23 Oct 2017 | 107690

Asked by: Tom Brake

To ask the Secretary of State for Foreign and Commonwealth Affairs, whether he plans to implement formal sanctions available to the Committee of Ministers of the Council of Europe under Article 46 of the European Convention on Human Rights, in the event that the Russian Federation continues to disregard the rulings of the European Court of Human Rights.

Answering member: Sir Alan Duncan | Foreign and Commonwealth Office

We expect all member states, including Russia, to abide by their obligations and comply with rulings made by the European Court of Human Rights. The UK Permanent Representative to the Council of Europe raised our concerns directly with the Russian Permanent Representative on 11 October, and we will continue to call on Russia to abide by Court judgments. The use of any formal measures, available under Article 46, would be a decision for all member states following detailed discussion.

[EU Sanctions: Russia](#)

24 May 2016 | 611 c381

Asked by: Sir Roger Gale

Returning to the original question by my hon. Friend the Member for Eastleigh (Mims Davies), does my right hon. Friend agree that there can be no question of EU sanctions or Council of Europe sanctions being lifted until Nadiya Savchenko is unconditionally released, until intervention in Donbas has ceased, and until the future of Crimea is properly and freely determined?

Answered by: Philip Hammond | Foreign and Commonwealth Office

That is our position. Of course, we need to maintain a consensus within the European Union on renewal of sanctions, and that is work that we are continuously engaged in. I am confident that sanctions will be rolled over this summer, but we have to make the case again every six months for continuing those sanctions.

[Crimea: Tatars](#)**25 Jan 2016 | HL5158****Asked by: Lord Judd**

To ask Her Majesty's Government what representations they have made at the Council of Ministers of the Council of Europe about the treatment of the Crimean Tartar leader, Akhtem Chiygoz, and other Crimean Tartars about their detention and about the general harassment of Crimean Tartars and its incompatibility with the membership of the council of Europe; and what has been the outcome.

Answering member: Baroness Anelay of St Johns | Foreign and Commonwealth Office

The UK has raised the treatment of Crimean Tatars and the deteriorating human rights situation in Crimea on a number of occasions in the Committee of Ministers during debates on Ukraine. We will continue to do so. This issue was also raised on 15 October during the meeting between Council of Europe Secretary General Jagland and the Minister of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Aylesbury (Mr Lidington).

[Russia](#)**19 Mar 2015 | 227446****Asked by: Jim Shannon**

To ask the Secretary of State for Foreign and Commonwealth Affairs, what steps he is taking to ensure that Russia remains a member of the Council of Europe.

Answering member: David Lidington | Foreign and Commonwealth Office

The Government believes that in the current circumstances, Russia should remain a member of the Council of Europe. The UK actively engages with Russia in the Council of Europe, encouraging Russia to embed the high standards in the field of human rights, the rule of law and democracy to which it has signed up to through its membership. We are equally pressing for greater scrutiny and challenge of Russia's behaviour through Council of Europe mechanisms. We will continue to work in the Council of Europe and other international organisations of which Russia is a member, such as the UN and the Organisation for Security and Cooperation in Europe, to uphold the rules and standards that Russia has signed up to, and to bring more pressure to bear when Russia fails to meet its commitments. This approach is more constructive than one of isolation, which would shield Russia from international pressure and vigilance, and it is supported by the majority of human rights campaigns in Russia with whom we have had contact.

[Ukraine](#)**03 Mar 2015 | 593 c797****Asked by: Christopher Chope**

The intransigence of the Russians is exemplified by the fact that they still hold in custody two Members of the Ukrainian Parliament, both of

whom are members of the Parliamentary Assembly of the Council of Europe. When will my right hon. Friend get tough and insist on expelling Russia from the Parliamentary Assembly and the Council of Europe itself?

Answered by: Philip Hammond | Foreign and Commonwealth Office

We do not have plans to take that step at this stage, but I assure my hon. Friend that we raise the matter regularly—indeed, the Minister for Europe raised it with the Russian ambassador only last week. I am going to Kiev later this week, and we will continue to work with the Ukrainians to try to secure the release of those two Ukrainians, as well as the Estonian border guard who was captured by the Russians six months ago.

5. Debates

[Russian Federation Activity](#)

28 June 2018 | 643 cc442-464WH

[Council of Europe](#)

18 April 2018 | 639 cc115-136WH

[Russian Membership of the Council of Europe](#)

11 March 2015 | 594 cc65-86WH

6. Further reading

[Parliamentary Assembly of the Council of Europe](#)

UK Parliament Webpage

[All-Party Parliamentary Group on Russia](#)

UK Parliament Webpage

[Russian Federation activity in the UK and globally](#), CDP 2018-0159, 26

June 2018

[Work of the Council of Europe](#), CDP 2018-0092, 10 April 2018

[Sanctions over the Ukraine conflict](#), CBP SN06951, 11 March 2015

[Russia and the Council of Europe](#), CBP SN06953, 5 March 2015

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