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RUSSIA AND THE COUNCIL OF EUROPE

PITFALLS AND POSSIBILITIES

Russia and the Council of Europe – Pitfalls and Possibilities

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**Abbreviations**

CoE – Council of Europe

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

NATO – North Atlantic Treaty Organisation

NGO – Non-governmental Organisation

PACE – Parliamentary Assembly of the Council of Europe

USSR – Union of Soviet Socialist Republics

**Executive summary**

The western, capitalistic world has been trying to influence the political values of the Russian government since the collapse of the Soviet Union, advocating for implementation of a strong democracy and improvement of human rights. Putin has been active in the centre of power of Russia since he became a loyal friend of Yeltsin, who appointed Putin as acting president after his resignation as president. Especially in the first term of Putin’s presidency the transition of his predecessors towards a democracy has been continued and the influence of the western world seemed to serve the Russian citizens. Policies to consolidate the growth of the economy, to improve the social structure and to strengthen the national power were implemented by the government.

During the second term of Putin’s presidency and his premiership policies which tightened the democratic freedoms, centralised the political power and introduced new laws or reformed existing laws controlling were introduced. Two major events that triggered the consolidation of governmental power have been the Orange Revolution in Ukraine and the school hostage in Beslan both in 2004. The popularity of Putin has been used to slow down the transition towards a democracy and to make the role of the president increasingly important. However, Putin’s popularity is decreasing, as has been shown by mass demonstrations that have been taking place since 2011.

The difference between formal order and practice is established in the Russian constitution, creating a dualistic political regime. The vagueness of the Russian legislation has resulted in a system where the interpretation of the law is left to the ones in power. Furthermore, the legislation does not include a mechanism for accountability. Those two features are opposing a system in which the legislation is a tool to protect the rights of the citizens of a state and they are leading to a huge amount of complaints that are lodged by Russian citizens to the European Court of Human Rights in Strasbourg.

The Russian Federation became a member of the Council of Europe in February 1996, signing and ratifying the European Convention on Human Rights and accepting the judicial power of the European Court of Human Rights. The war in Chechnya, the war with Georgia and limited democratic freedom has influenced the relationship between the Council of Europe and Russia since Russia became a member of the Council of Europe. Changes have been introduced by Russia, especially in the legislation, but in practice the human rights situation is not in conformity to standards of the European Convention on Human Rights. The unwillingness of the Russian government to change this practice is undermining the enforcement power of the European Court of Human Rights, while the judgments are not implemented. Furthermore, the European Court of Human Rights has detected structural violations with of the European Convention on Human Rights in Russia.

Russia is having a negative effect on the Council of Europe, especially on the European Court of Human Rights, but the Russian membership of the Council of Europe is vital for many Russian citizens. The European Court of Human Rights offers a possibility to lodge an individual complaint against a state in order to find justice, change ill-founded policies and raise attention for the structural problems. An important group for which this international court is vital in finding recognition is the North-Caucasian residents. The Council of Europe has been founded as an international organisation that advocates human rights and democratic values, opposing the communistic values. Therefore, it has been founded to secure rights and freedoms of citizens of member states and to give justice and recognition if those rights and freedoms are violated by one of the member states.

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# Introduction

Russia started its transition towards a liberal democracy since Mikhail Gorbachev became the president of the Soviet Union in 1988, and introduced a policy of perestroika and glasnost (RT News, 2012). Liberal democracy was and is heavily encouraged by western, capitalist countries and international organisations, but it has been severely tested in the Russian Federation. Part of this encouragement has been the membership of the Russian Federation of the Council of Europe in 1996 (Parliamentary Assembly, 1996). With this membership the Russian government showed their willingness to improve the human rights situation by signing and ratifying the European Convention of Human Rights. Furthermore, the Russian government accepted judicial power of the European Court of Human Rights.

Protecting the rights of Russia’s citizens has been a huge problem. The website of the Council of Europe indicates that 133 cases have been finalised in 2013, in 122 cases the European Court of Human Rights concluded a violation of the European Convention of Human Rights took place (Council of Europe, 2012).

This research report will analyse the relationship between Russia and the Council of Europe, evaluating the Russian legislation concerning human rights law, the practice of introducing human rights within Russia, the cases in which Russia is the respondent state and the internal problems of the European Court for Human Rights and give an answer to the following research question:

How are the legislation and national practice of Russia affecting Russia as a High Contracting Party to the Council of Europe during the presidency and premiership of Vladimir Vladimirovich Putin?

The sub questions of this paper are:

1. How can Putinism be described?
2. How can the system of human rights in the Russian Federation be analysed?
3. In what way is the legislation of the Council of Europe implemented in the Russian legislation?
4. What are the main human rights concerns within the Russian Federation?
5. Which influence do internal problems of the European Court of Human Rights have on the relationship between the court and the Russian Federation?

The first chapter of this paper, Putinism, studies the legal changes implemented in Russia since Putin is a member of the ruling elite of Russia. Putin and Russian politics are deeply intertwined. Putinism is a term used to describe the political and economic course Putin has envisioned for Russia as well as the specific features of his presidency. The legislation that has been implemented during the presidency and premiership of Putin shows where Russia is heading concerning its human rights policies.

In the second chapter the human rights situation in Russia is analysed. The standards of the Council of Europe are compared with the standards of Russia, both in legislation and in practice. The willingness of Russia to implement the European Convention on Human Rights in its entirety will be evaluated based on the European Convention on Human Rights and the judgments concluded by the European Court of Human Rights. Chapter three will give examples of the evaluation of chapter two, explaining with case studies which problems Russia has concerning their human rights situation.

Chapter four studies the internal problems of the European Court of Human Rights. The backlog of cases pending before the European Court of Human Rights and the lack of enforcement power of the same court both influence the usefulness of the Council of Europe. The lack of implementation of human rights judgments in Russia have resulted in structural problems that have not been changed during the Russian membership of the Council of Europe.

Analysing the influence that the Council of Europe and Russia have on each other will give an insight in the history of the cooperation between the two, deciding whether this cooperation is as useful as it could or should be. Furthermore, it discusses what the power of the Council of Europe should be and what can be done when member states are not protecting the rights of their citizens as described in the European Convention on Human Rights.

Reports have been written about the future of human rights in Russia by many well-known organisations, such as Amnesty International, Human Rights Watch, The United Nations, and Council of Europe. Those reports will be studied to find which human rights are not adequately protected. The method used to write this paper is desk research. Limitation of this research is the lack of actual field research in Russia. The Council of Europe is publishing its documents online, thus safeguarding the transparency. Most of the documents of the Russian government are published on the web as well, but transparency is less developed in Russia. Therefore, the public opinions and practice may be different than the information provided by online documents. However, the reports of international organisations are providing realistic and up-to-date information.

# 1 Putinism

Vladimir Vladimirovich Putin is deeply connected with the politics of Russia since he became acting president of Russia in December 1999. Putin had and still has a major impact on the politics of the state. It is therefore necessary to explain the vision and mission of Putin as a leader of Russia. The term Putinism summarizes the features of the presidency of Putin often described as a managed democracy. Putinism describes the political course of Russia since Putin became the president of the state in 2000 (Keim, 2013). After Putin’s service as a member of the KGB, the secret police of the Soviet Union, in Germany Putin started his political career in St Petersburg. The documentary ‘the Putin system’ describes that Putin “became someone who would never let him [Yeltsin] down”, because of Putin’s loyalty (Carré, 2007). Furthermore, the documentary mentions that Yeltsin appointed Putin as his prime minister to reward Putin for his loyalty. Moving towards presidential elections, Yeltsin indicated Putin as his favoured successor (Carré, 2007). During the presidential elections of March 2000, Putin was able to get 52% of the votes. His popularity had risen in 2004, when Vladimir Putin was re-elected as president with 71% of the votes (Herspring D. W., 2010, p. 4). After two presidential terms, Putin could not stand for another term as president according to the Constitution of the Russian Federation. Dmitry Medvedev was put forward by Putin as his successor, who was elected in March 2008. Medvedev appointed Putin as his prime minister and after four years Putin was re-elected as president in March 2012.

# 1.1 Presidency

The presidency of Putin was a continuation of changing to a liberal democracy during the first term of his presidency. Policies that consolidated the growth of the economy, improved the social structure and strengthened the national power were introduced. During the second term of Putin’s presidency as well as during his premiership policies that tightened the democracy became more present, for example centralising the political power, introducing new laws and reforming existing laws (Herspring D. &., 2010). As Remington noticed, “even as his [Putin] control over the legislative process grew, his interest in using it to advance a radical reform agenda decreased”, continuing, “the liberal phase of Putin’s presidency ended even before his first term was over” (Herspring D. W., 2010, p. 43). The institutions of the government of Russia are democratic institutions. The main difference is the role of the president in the government, while the president remains the controlling person in the government and the supreme leader of Russia.

# Features of the presidency of Putin

The presidency of Putin started with an important struggle for sovereignty with the oligarchs, political figures who became influential during the leadership of Yeltsin. This struggle resulted in a strong belief of Putin in the importance of centralising the power of a state. As described by Willerton, Putin established a group of people around him in which he trusted to regain the power from the oligarchs, consisting of the siloviki, economists and lawyers from Saint Petersburg and the Yeltsin family remnants. The groups are visualised in figure 1, showing the most important people of each group. Siloviki are people with the same security and intelligence background as Putin. Family remnants are a group of people proven loyal to the mission and vision of Putin during the Yeltsin presidency (Hale, 2010, p. 34).

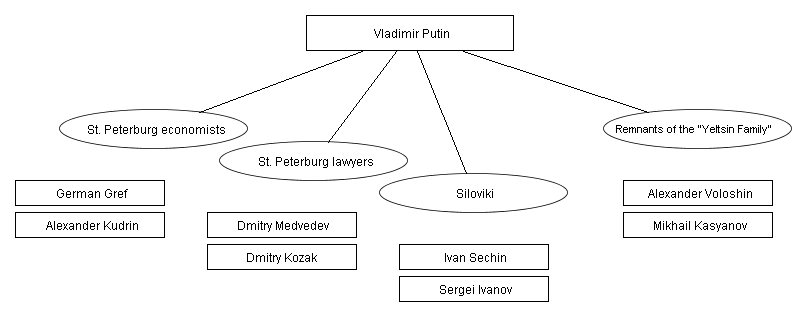


Figure 1 Major informal groups of the second-term Putin presidency (Hale, 2010, p. 34)

Furthermore, Putin mentioned the dictatorship of law to assure stability and security as one of the most important features of his presidency (Gel’man, 2000). Key player in the enforcement of the laws should be the government as mediator between the law and the citizens. The phrase ‘dictatorship of law’ indicates that it contains both the rule of law and dictatorship. Gel’ man states that the message of Putin during the elections was “a stable and predictable legal environment, with a key role of the state as a guarantor of law enforcement” (Gel’man, 2000). Gel ‘man further describes that the combination of a rule of law and dictatorship can be a cooperation between, on the one hand formal institutions that have a legal basis in the constitution of Russia co-existing with excepted international law and, on the other hand, the informal institutions that have been a part of the Russian government for many years, such as corruption and clientelism (Gel’man, 2000).

The vision of Putin on his presidency has been described by Sakwa as a policy to overcome the end of the Soviet Union by developing the economy, fighting the inequality and ending the oligarch domination of the media and their influence on politics (Sakwa, 2010, p. 2). Furthermore, Putin’s vision of Russia is a strong, independent state with a supreme controlling role for the government, to be more precise, the president. After the collapse of the USSR, Russia struggled with identifying the new role of Russia as an international player (Herspring D. &., 2010). Putin noticed that the security power of Russia was declining during the presidency of Yeltsin and wanted to re-establish Russia as the security power it ones was. Putin considered regaining the international respect of the Soviet Union to be immensely important. A third feature of the presidency of Putin is an obsession with security, which can be seen in the important role of the group of siloviki in the government and the emphasis on the war in Chechnya (Herspring D. W., 2010). Putin emphasised anti-revolutionary governance, as could be heard in his speech to the Federal Assembly:

After a revolution there usually comes a counter-revolution, after a reform there comes a counter-reform and after that a search for those guilty of revolutionary excesses, and punishment. (…) But it seems to me that it is time to say firmly that this cycle is over. There will be neither a revolution nor a counter-revolution. A firm and economically substantiated state stability is a boon for Russia and its people (Putin, 2001).

Another important feature of the presidency of Putin is legitimism. This was demonstrated when Putin did not stand for election as president for a third term as was prohibited by the constitution, although it is likely that he would have won. Phrases that further describe the presidency of Putin are an instrumental vision, a goal-oriented leadership and a search for balance between highlighting the importance of the constitution and seeking possibilities to override that same constitution (Herspring D. &., 2010, pp. 28-34).

# 1.1.2 The Constitution of the Russian Federation

The Constitution of the Russian Federation of December 1993 is based on democratic values, as can be read in the pre amble to the Constitution: “Recognized principles of equality and self-determination of peoples (..), belief in the good and justice, reviving the sovereign statehood of Russia and asserting the firmness of the democratic basic” (Russian Federation, 1993). The unquestioned power of the people, the separation of powers and the rule of law are all firmly established in the Constitution. The weakness of the Constitution is the lack of demand for real democratic action; accountability has not been established in the Constitution. It has been explained by Sakwa, stating that “the regime is constrained by the constitutional state but the system lacks effective mechanism of accountability” (Sakwa, 2010, p. 13). An example of the contradiction in this system is the difference between the pre amble to the Constitution, which identifies the separation of powers and the sovereignty of the people as important values, and article 80 (3), which declares that the “president defines the basic directions of the domestic and foreign policy of the State” (Russian Federation, 1993). The Constitution and its articles are legally binding, but when necessary there is the possibility to use the law to manage political processes. Furthermore, accountability is not adequately established in the Russian Constitution, which makes impunity a part of the Russian legal and political order. The difference between reforms to become a liberal democracy and the reforms dictated from the top of the Russian government has resulted in duality. As Sakwa explained, “a dual state, being both normative and prerogative”, meaning a difference in the formal constitutional order and the use of the law in practice (Sakwa, 2010, p. 18). Therefore, judgments in the Russian courts are officially given in accordance with Russian or prevailing, international law, but in practice the judgments are manipulated to serve the interests of those in power.

# 1.1.3 Reforming the Russian Legislation

The features of the presidency of Putin have been translated into existing legislation. Putin proposed to restructure the Council of the Federation with the Federal Law ‘on Procedure of Forming of the Council of the Federal Assembly of Russia, which came into force August 2000. The most important changes that were implemented were “making the council work on a permanent basis” (Matvienko, 2011) and the “replacing of the ex-officio membership with a process of appointments by the president” (Library of Cogress, 2006, p. 19). The president became the person who could announce new proposals, which needed to be debated by appointed representatives of the regions. The vertical power system was strengthened with restructuring this federal law.

The reformed Labour Code was pushed through with force by Putin as a part of the economic reforms to stabilize economic growth and passed through the Duma in a record time in 2001 (Herspring D. &., 2010, p. 88). The reformed code has been praised by some and rejected by others. The former, including western experts, explain the code as an important part of the economic reforms to establish a market economy with a flexible labour market. The latter, including the independent labour unions of Russia, say the code has been passed without the consent of the independent labour unions, resulting in a code that could be threatening the legal foundations of the unions. Besides that, the code makes it much harder to organise a legitimate strike (BBC, 2012). The reforming of the Labour Code shows the possibilities that Putin has to pass legislation which is necessary according to him, without consulting important stakeholders.

# 1.1.4 Implementing New Legislation in Russia after the Nord-Ost Siege

The change of the political views of the government of Russia has also led to the implementation of new legislation in Russia. In 2002, the focus on becoming a strong security power became immensely relevant again after the hostage at a theatre in Moscow, known as the Nord-Ost siege (Krechetnikov, 2012). The first law on extremism was adopted in 2002, named ‘the Federal Law on Counteraction of Extremist Activities of the Russian Federation’. The action of terrorism has been described in the Criminal Code of the Russian Federation and is prohibited under article 205 of the criminal code. This article explains that actions can only be called terrorism when an action is “causing sizable property damage” or “entailing other socially dangerous consequences” (Russian Federation, 1996). According to Hendley, the law on extremism of 2002 focuses mainly on organisations and has been used to abolish political parties that are opposing the Kremlin (Herspring D. &., 2010, p. 89). Furthermore, the law has left space for own interpretation, making this law a tool that can be used by the ruling elite to serve their goals (The Institute on Religion and Public Policy, 2012). An example can be found in article 6 of the law on extremism, where is stated that “in the presence of sufficient and previously confirmed information on unlawful acts in preparation presenting the characteristics of extremist activity and in the absence of grounds for criminal prosecution […] a written warning of the inadmissibility of such activity, with an indication of the concrete grounds for issuing the warning shall be send” (Russian Federation, 2012). The article does not explain what is understood by ‘sufficient information’. If an organisation does not end the activities that are described as extremist activities by the Prosecutor General of the Russian Federation within the time limit communicated in the warning, an organisation will lose its legal status and shall be abolished. As has been outlined by the SOVA centre, the law on extremism has been amended several times to enlarge the list that describes an extremist activity. In 2007, article 10 was added, which provides that all organisations that are abolished because of extremist activities shall be published on the internet. In 2008, the possibility to prohibit materials labelled as extremist in was added in article 13 (SOVA Center for Information and Analysis , 2010). The Committee to Protect Journalists has said that this last amendment has been criticised heavily, because article 13 does not clearly identify when a material can be labelled as extremist and when a publication has to be seen as a critical voice (Committee to Protect Journalists, 2007). Fundamental human rights that are described in the Constitution of Russia are threatened, especially article 29 (1), which contains the freedom of ideas and speech. An example of this threat is the arrest of the band Pussy Riot. Most western states called the song of the band a critical voice against Putin, but in Russia the song was convicted as an extremist activity (Lukashevich, 2012). The law on extremism has a margin of appreciation, which is designed to be decided by state agencies. Amending the law on extremism has been influenced by several events, most importantly the Orange Revolution in the Ukraine and the school hostage in Beslan.

# 1.1.5 Implementing New Legislation after the Orange Revolution in the Ukraine and the Beslan Hostage

The Orange Revolution in the Ukraine and the school hostage in Beslan in 2004 have been a trigger to tighten the governmental control even more, according to Baker (Putin Moves to Centralize Authority, 2004). Sovereign democracy was introduced, which has been defined by Surkov, the brain behind this political system, as a ‘Russian democracy’ Surkov has stated that “we [Russia] are building an open society, but we will not forget that we are a free nation and we want to remain a free nation (…), and we want to cooperate with others according to fair rules, without accepting external management” (Surkov, 2006). Sovereign democracy is a democracy which has been created by Russians and for Russians, and it has its own values, rights and obligations. A documentary of the BBC reported that Putin tried to influence the presidential elections in the Ukraine by attempting to assure that Yanukovich would be elected during the election of 2004. The elections held were fraudulent and the citizens of the Ukraine protested in order to have new, fair elections. Those elections were held and Yushchenko became the president of the Ukraine, against the will of Putin (Percy, 2012). McFaul expressed that Putin accused the European Union of highly influencing the elections in order to get more control over the near abroad of Russia (Mc Faul, 2010, p. 118). Furthermore, the victory of Yushchenko was a failure of Putin to secure the near abroad of Russia (Percy, 2012).

The school hostage in Beslan has been a reason to broaden the security measures and to further strengthen the vertical power system. It has been a stimulus for administrative and governmental reforms in Russia, as can be seen in the implementation of the decree issued by Putin to end the election of regional governors. With this decree the Federation Council was directly influenced. The new legislation prescribes that new governors should be appointed by the president, in order to retain stability in Russia (Baker, 2004). McFaul analysed that the connection between the school hostage in Beslan and the changed legislation has never been fully explained by Putin. However, the legislation has centralised the power even more, silencing an important agency, the Federation Council, that had the possibility to put the interests of the Russian citizens before government interests (Herspring D. &., 2010, pp. 117, 118).

The civil society also suffered great loss of power and independence. In 2005, Putin called for the establishment of an organised civil society, which came into existence with the establishment of the Public, or Civic Chamber of the Russian Federation. The Public Chamber consists of 42 Russian citizens who are appointed by the president. Those 42 citizens appoint 42 representatives from Russian NGOs, they will choose 42 representatives from regional and inter-regional organisations. The chamber has the function of directly involving the Russian population in internal issues. This is realised in organising the public voices in one institution and giving the population insight in the state bureaucracy (Public Chamber of the Russian Federation). The independence of this agency is highly questionable, while the 42 citizens who are allowed to appoint the representatives of Russian NGOs are nominated by the president. Furthermore, the Civic Chamber is not representing the Russian civil society, while the chamber only consists of 42 of all the national NGOs active in Russia.

The concerns of the Russian government and the Russian Ministry of Foreign Affairs about the influence of foreign countries via human rights organisations on Russian policies have been translated in the latest package of laws adopted or amended in Russia. The most notified has been the ‘Federal Law on Amendments to Certain Legislative Acts of the Russian Federation Regulating the Activities of Non-Governmental Organisations acting as Foreign Agents’, or the ‘Foreign Agents Law’, that was adopted in July 2012. The law was implemented to separate international NGOs from national NGOs to have an optimal control on both. The federal law has been summarised on the government web site, stating that:

The law provides for the establishment of a register of NGOs acting as foreign agents. In order to carry out its activities as a foreign agent, an NGO must apply to be included in the above register before starting its operation. The annual financial reports of such NGOs and the various subdivisions of foreign non-profit NGOs shall be the subjects of mandatory audits (Russian Federation, 2012).

The law has given state agencies the opportunity to decide which organisation is given the right of action in Russia, and which organisation is not. Organisations that are registered as foreign agents should always indicate in their publications that they are. On the Heritage Foundation web site is reported that with strengthening the grip on Russian NGOs, the government of Russia attacked organisations founded in foreign countries or funded by foreign countries even stronger (Volk, 2006). In 2004, the Russian government said human right organisations were instruments used by foreign states to influence the internal affairs of Russia (Hale, 2010). The ministry of foreign affairs also questioned the humanitarian organisations that are active in Chechnya. They accused those organisations of covering anti-Russian activities with humanitarian aid (Hale, 2010, p. 110). Considering the fact that both the government and the Russian Ministry of Foreign Affairs of Russia expressed their suspicion about the activities of human right organisations, suspecting those NGOs for anti-Russian activities and, as a result, being a security threat to Russia, the Foreign Agents Law has a direct effect on human rights organisations.

As a continuation of the Foreign Agents Law, the section about espionage and state treasons in the Criminal Code of the Russian Federation has been specified. Most important has been the addition in article 275, which defines that in addition to support for foreign governments or organisations, support to international organisations that are seen as a threat to Russian security is also prohibited. Furthermore, the amendment establishes that gaining illegal access to state secrets is prohibited in article 283 of the Criminal Code (Russian Federation, 1996). The amendments to the criminal code in combination with the Foreign Agents Law creates a barrier for Russian citizens to support any international organisation, while the criminal code is not clear when an organisation is a threat to the security of Russia. As has been said by Hugh Williamson, Europe director at Human Rights Watch:

This overly broad and vague definition seems deliberately designed to make people think twice before doing international human rights advocacy. In Russia’s new political climate, it’s reasonable to believe the authorities’ threshold for interpreting what ‘harming Russia’s security’ means will be quite low (Human Rights Watch, 2012).

# 1.1.6 Consolidation of the Control of the Government

Further enhancing government control has been realised by signing the federal law on ‘Amendments to the Federal Law on Protecting Children from Information Harmful to Their Health and Development and Certain Legislative Acts of the Russian Federation’ in July 2012. The law is described on the website of the president of Russia as a law that will improve the protection of children by not confronting them with dangerous materials. The agency Roskomnadzor has been put in charge of establishing a database with web sites that are blocked according to the new law (President of Russia, 2012). The register, with the full name of ‘Unified Register of Domain Names, Universal Page Selectors and Internet Addresses that Allow for the Identification of Websites Containing Information whose Dissemination is Prohibited in the Russian Federation’, is blocked for the public society. However, it is notified to the public society if a web site has been blocked (Roskomnadzor, 2012). The law is approving control over the internet by government agencies. It has been feared by the opposition and by human rights organisations that this new law will further increase the censorship within Russia (BBC, 2012). Together with the earlier adopted law that realises a database with extremist materials and this law, it has become easy to prohibit certain information in the media. Especially, concerning the fact that the laws have not been specified clearly, meaning that the freedom of speech, article 29 of the Constitution of the Russian Federation, is further limited.

# 1.1.7 Analysing the Changes

The political and legal changes that have taken place in Russia since the presidency of Putin started in 2000 have influenced the protection of the human rights of Russia’s citizens. The laws that are reformed or implemented consolidate the power of the president. Furthermore, they counteract the citizen’s rights that are described in the Constitution of the Russian Federation. The freedom of speech, the freedom of assembly and the protection of the inhabitants of the northern Caucasus are all violations of internationally established human rights. Several laws that are signed by the president in the past years have been directly discriminating foreign organisations in Russia, accusing them of interference with the internal policy of Russia. However, this accusation has not been proved. Furthermore, the new legislation seriously affects the relation with the CoE, while many laws that are described in this chapter are violating the European Convention on Human Rights.

# 1.2 Popularity

During the presidency of Putin, the political will of Russia to change towards a liberal democracy has decreased, which is showed by the implementation of policies that are more suitable to an autocracy. Nevertheless, Putin cannot be described as a dictator. Steven Fish defines the difference between a dictator and a democratic leader. A dictator will steal as much as possible from the society and the state, while staying in power. On the other hand, a democratic leader is focussed on the people’s interests, because otherwise he will lose power or may be arrested (Fish, 2012). Fish continues, that the leadership of Putin has to be placed somewhere in between those two types of leadership. Putin has been talking numerous times about improving the economy and the social structures, decreasing the differences in Russia and re-establishing Russia as an influential state. Those policies are all in the interest of society and are not typical for an autocratic regime. However, Putin also introduced many policies strengthening presidential leadership and centralising power. Thus, the government and its supreme leader is the most important part of the Russian society. This is in contrary to a democratic society, while the government is not serving the will and interest of its citizens. Fish called this political system a “demophilic regime”. (Fish, 2012). The popularity of Putin has been growing as a result of the enormous growth of the economy during his first presidential term and a reputation of not stealing as much as he could get away with from the Russian society, for example much of the oil wealth is spend on the Russian citizens (Fish, 2012).

Stephen Hanson also commented on the reason of the success and stability of Putin’s presidency. The stability was proven by the re-election of Putin as president in 2012. His first reason is that the economy of Russia has not diversified. The economy has only been based on oil revenues and this hurts the prospects of a democratic government. His second reason is the united elite of people who are not out to attack each other, but who have known each other for many years and who are loyal to Putin. Contrary to this unity, the opposition is not united but has mainly been divided between nationals and liberals. The last reason of Hanson is the opportunity to leave the country, resulting in an exodus of Russians who have a critical view on the current political system (Fish, 2012). The popularity of the presidency of Putin has been fuelled by the involvement with Russian citizens, the economic growth and the increasing role of Russia in the international arena. This popularity has been used to slow down the transition towards a liberal democracy and to make the role of the president more important.

# 1.3 Change

The attitude towards the Putin regime has been changing, as has been proven by the protests that started in 2011. It was reported on Yahoo that Putin has been attacking western countries, when they would question the democratic features of Russia. Putin has always said that the Russian democracy is different, but definitely not wrong (Isachenkov, 2012). Russians are becoming cynical about the Putin regime and they are losing their trust. Lipman stipulates that this proves that the Russian population is not apathetic, demoralised, stupid or blind, as they are often seen by Europeans (Fish, 2012). It has become clear that the Putin regime will not assure better opportunities, increase prosperity or offer basic security on the long term. As Hanson states, “if things are getting this ridiculous out of control, things will change” (Fish, 2012). Furthermore, Lipman outlines that the Russian population is exploring possibilities of self-fulfilment, which has reacted in a growing understanding of collective action (Fish, 2012).

The Russian population carefully started to show interest in the opposition. At the end of 2011, this interest resulted in protests against the Duma elections, which were followed by protests against the presidential elections in 2012 (Vyuzhny, 2011). The protests of the Russian population were revolving around fair elections and they consisted of about five important elements. Shevtsova indicates the following elements: “Free all political prisoners, dismiss the head of the Central Election Commission Vladimir Churov, investigate all claims of vote fraud, annul all results found to be fraudulent, register opposition parties and hold new parliamentary elections” (Fish, 2012). The trigger for the start of the protest was the presidential elections of 2012, because the population was not involved in the election. Putin used those elections to show Russia and the world who was the boss and he influenced the the elections in order to win with big numbers (Fish, 2012). Protest did not survive long. Reasons given by Lipman are that the protests were fuelled by emotional outrage and not by political ideals and that there was no real leader. This has made it relatively easy for Putin to fight those protests. As said before, the opposition is not united and this can also be seen in the protests (Fish, 2012). The pressure for change will grow in the future because of the new generation, which is free of the Soviet heritage. The increasing use of the internet will also be a trigger for more consciousness concerning the leaders of the country and their power. As comScore has researched, the use of internet has increased drastically. Outcomes of the research done show that Russia has the largest amount of web-visitors in Europe (comScore, 2011). The knowledge of the Russian citizens is increasing, while they are not only dependent on the information of the government. The internet enhances opportunities to motivate a larger part of the society to cooperate and unite in protests.

# 2 The Council of Europe and the Russian Federation

The Council of Europe is a regional organisation, founded May 5th 1949. The reason for the foundation of this European organisation is explained in the pre amble of the Statute of the Council of Europe, where is stated that the founders are “convinced that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation” (Council of Europe, 1949). The pre amble emphasises the importance of “individual freedom, political liberty and the rule of law; principles that form the basis of all genuine democracy” (Council of Europe, 1949). Founded after the Second World War and during the Cold War, the CoE was set up as a counterpart of the communist system. The organisation has been advocating not only the importance of human rights, but also the strong connection between human rights and a democratic government.

Article 3 of the Statute can be called the centre of the European Convention on Human Rights. The article underlines the importance of the democratic values:

Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the council as specified in Chapter 1 (Council of Europe, 1949).

The article is a declaration of the vision of the CoE and it is a promise that the human rights and freedoms of all citizens of the member states of the CoE will be protected. Therefore, a violation of article 3 can be a reason to decide to suspend a state as a member. Article 8 of the Statute creates this possibility:

Any member of the Council of Europe which has seriously violated Article 3 may be suspended from its rights of representation and requested by the Committee of Ministers to withdraw under Article 7. If such member does not comply with this request, the Committee may decide that it has ceased to be a member of the Council as from such date as the Committee may determine (Council of Europe, 1949).

The Third Summit of the Council of Europe took place in Warsaw in 2005. The summit has stipulated the commitment of the Council of Europe to ensure the protection of human rights, to establish the rule of law and to advocate the importance of democratic values. In the Warsaw Declaration is mentioned that the member states have a “strong commitment in the short term implementation of the comprehensive set of measures adopted at the 114th Session of the Committee of Ministers which address the court’s rapidly increasing case-load, including the speedy ratification and entry into force of Protocol 14 of the Convention” (Council of Europe, 2005).

Russia became a member of the Council of Europe during the first Chechen war which took place from 1994 until August 1996 in February 1996 (Coucil of Europe, 2012) (BBC, 2006). This membership helped to push the process of law reforms to establish a democratic government. As a reason of the accession of Russia to the CoE, Russia signed and ratified the European Convention on Human Rights as well as many treaties relating to international cooperation, human rights, criminal matters and protection of the environment, among others. The cooperation between the CoE and Russia has been problematic, which has been stipulated by the suspension of Russia’s voting rights by the Parliamentary Assembly of the Council of Europe, PACE, for the duration of six months in 2000 (Saari, 2006, pp. 25, 26). In 2008, Russia was threatened by another suspension (Radio Free Europe Radio Liberty, 2009). Other actions from the CoE serving as a threat are the reports of the Commissioner for Human Rights. The reports have been published almost every year since 1999 and they clearly identified on which points Russia did not comply with the human rights standards as described in the ECHR, the European Convention on Human Rights (Council of Europe Commissioner for Human Rights, 2012). Issues hampering the relationship between the Russia and the CoE are the war in Chechnya, the war between Russia and Georgia and the blocking by Russia of protocol 14 to the ECHR to improve the functioning of the European Court of Human Rights (Council of Europe, 2012).

# 2.1 International Law in Russian Legislation

International legislation has been given legal status in article 15.4 of the Constitution of the Russian Federation, stating that “universally-recognized norms of international law and international treaties and agreements of Russia shall be a component part of its legal system; if an international treaty or agreement of Russia fixes other rules than those envisaged by law, the rules of international agreement shall be applied” (Russian Federation, 1993). This article gives international legislation precedence over Russian legislation, when the Russian legislation is not in conformity with international legislation that has been signed by Russia. The conditions for this prevalence of international law are that Russia should have signed and ratified a treaty or should be participating in an international obligation, the legislation should have been officially published in Russia and the law should contain self-executing rules, which means that the legislation should be directly applicable in the Russian legal system. Those conditions have been explained in the resolution adopted by the plenum of the Supreme Court of the Russian Federation in October 2003. The resolution uses the definition of an international treaty, as has been given in the federal law ‘on international treaties of the Russian Federation’:

The international treaty shall imply an international treaty signed by Russia with a foreign state (or states) or an international organization in a writing and regulated by international law regardless if such a treaty is contained in one or several interrelated documents and irrespective of its specific name (Demidov, 2003).

In addition to article 15.4, article 17 recognises “the rights and freedoms of man and citizens according to the universally recognized principles and norms of international law” (Russian Federation, 1993). In the resolution of the plenum of the Supreme Court is explained that those principles and norms are “in particular laid down in the documents of the United Nations and its specialised agencies” (Demidov, 2003).

Article 55.1 states that “the listing in the Constitution of the Russian Federation of the fundamental rights and freedoms shall not be interpreted as a rejection or derogation of other universally recognized human rights and freedoms” (Russian Federation, 1993). However, the constitution includes a limitation clause in article 55.3, making it possible to limit the human rights and freedoms for “the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State” (Russian Federation, 1993). In the resolution adopted by the plenum of the Supreme Court of the Russian Federation is held that “the Russian Federation recognises the jurisdiction of the European Court on Human Rights as mandatory with respect to interpretation and application of the Convention and protocols thereof in the event of an assumed breach by the Russian Federation of provisions of these treaty acts when the assumed breach has taken place after their entry into force in respect to the Russian Federation” (Demidov, 2003). Article 55.4 can directly be linked to the core values of the CoE with the statement of the importance of the human rights and freedoms, and making it possible to appeal to the European Court of Human Rights in Strasbourg.

# 2.2 The European Convention for Human Rights and the European Court of Human Rights

Within a year after the foundation of the Council of Europe the member states agreed on the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950 (Council of Europe, 2010). Boyle has noticed that this Convention shows the need to differentiate between the democratic values and the communist values. The Convention is mainly focussing on the first generation rights, namely, the civil and political rights (Boyle, 2009, p. 170). Examples of first generation rights are the right to life, the prohibition of torture and the right to liberty and security. Communist states, among them the former Soviet Union, are mainly focussed on the social and economic rights, the second generation (Boyle, 2009, p. 170). Examples of those rights are the right to education and the right to health care. The ability to file an individual complaint at the ECtHR has resulted in an enormous amount of Russian cases, due to the lack of experience of Russia to legally protect the rights of its citizens (Burkov, 2006, p. 69).

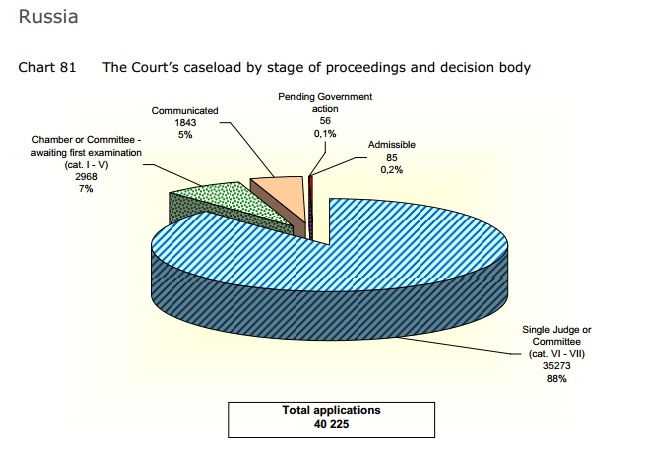
In 2011, 151,624 cases were pending before the ECtHR, including 40,225 cases filed against Russia. Figure 1, shows that only 0, 2% of all those cases have been found admissible the time of writing this report.

Figure 1 The Court's caseload by stage of proceedings and decision body (European Court for Human Rights, 2012, p. 49)

Statistics of the ECHR shows that 1,212 judgments have been concluded in 2011. In 1,140 of those cases is concluded that a violation of the Convention was found. In 49 cases no violation in was found, 13 were settled friendly and 10 resulted in other judgments (European Court for Human Rights, 2012, p. 160). The same report also concludes that the court concluded 133 Russian judgments in 2011, the second highest number of judgments concluded against a single member state of the CoE. The results can be seen in figure 2.

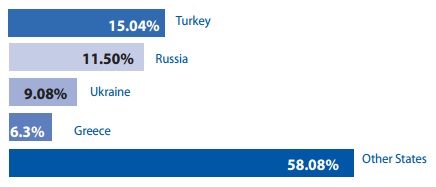


Figure 2 Judgments by state in 2011 (European Court for Human Rights, 2012, p. 6)

The record number of Russian cases pending before the ECtHR can be linked to the widespread corruption in the country, preventing them from having a fair trial and receiving justice (Loiko, 2012).

Figure 3, shows which articles have shown most violations of the Russian government. Russia has been mostly accused of violating the right to a fair trial, the protection of property, the right of protection against ill-treatments and the right to liberty and security. The first judgment given in a case against Russia lodged before the ECtHR was the Burdov case on May 7, 2002.

Figure 3, Subject matter of violation judgments 1959-2011, Russia (ECtHR, Statistics on judgments by state, 2011)

Blue: Ill-treatments (art. 3), 15 %

Green: Right to liberty and security (art. 5), 14%

Red: Right to a fair trial (art. 6), 21%

Purple: Protection of property (Protocol 1, art. 1), 17%

Yellow: Other rights, 33%

Applications based on article 3, the prohibition of torture, have immensely increased in the aftermath of the second Chechen war (European Court of Human Rights, 2013). Belhassen, the president of the FIDH, stated that “the ECtHR is the only hope Chechen victims and their families for justice”, and added that “Russia has an obligation to comply with the court rulings by carrying out meaningful investigations, but none of the investigations opened since the rulings has been credible, nor have the underlying causes of the abuses been addressed” (Human Rights Watch, 2008). As can be read in a report published in 2011, written by the High Commissioner of Human Rights, “the ECtHR has issued close to 180 judgments related to events in the context of counter-terrorism operations in Chechnya in which in many of the cases the court has found violations of, among others, article 2 and 3 of the ECHR” (Hammerberg, 2011, p. 6). The complaints of Chechen applicants concerning article 3 are mostly brought before court together with alleged violations of article 2, the right to life (European Court of Human Rights, 2013).

There is not only the possibility of individual complaint, but an inter-state complaint can also be lodged before the ECtHR. An inter-state complaint has been very rare, at this moment two cases can be mentioned, being Georgia vs. Russia I and Georgia vs. Russia II. The first case was lodged in 2007 by Georgia, alleging a violation of the ECHR of Russia, specifically “the arrest and detention of Georgian nationals, their conditions of detention, and expulsion and other measures taken against them, some in conjunction with articles 13, 14 and 18 of the Convention (Georgia v. Russia (I), 2009). The second case concerns the dispute between Georgia and Russia of 2008, which resulted in an application from the Georgian government alleging that Russian military forces “carried out indiscriminate and disproportionate attacks against civilians and their property during the dispute concerning the breakaway Abkhazia and South Ossetia” (Civil Georgia, 2011). The legal summary of the case states that “Georgia submitted the aforementioned actions and the subsequent lack of any investigation under articles 2, 3, 5, 8 and 13 of the Convention and articles 1 and 2 of Protocol 1 and article 2 of Protocol 4 and engaged Russia’s responsibility (Georgia v. Russia (II), 2011).

# 2.3 The Treaty Obligations of Russia

When Russia became a member of the CoE, the human rights situation was not in conformity with the standards of the CoE. This was concluded in a report of the parliamentary assembly, stating that “the legal order of the Russian Federation does not, at the present moment, meet the standards as enshrined in the statute of the Council of Europe and developed by the organs of the European Convention on Human Rights” (Janis, 1997). Those standards are based on the protection of the rights and freedoms of citizens a well as the democratic values. Furthermore, there is stated that Russia “lacks experience in protecting human rights at the level of municipal law” (Janis, 1997). The Vienna declaration of 1993 declares that the “accession [of countries of Central and Eastern Europe, including Russia] presupposes that the applicant country has brought its institutions and legal system into line with the basic principles of democracy, the rule of law and respect for human rights” (UN Human Rights, 1993). The declaration further mentions the importance of free elections, a free media and the protection of minorities (UN Human Rights, 1993). Presupposing the political will of those states is difficult. This problem has been identified by the NGO Human Rights Watch after Russia’s suspension in 2000 was recalled, stating that “PACE restored the voting rights without getting any guarantees that perpetrators of massacres, torture, and forced disappearances would be held accountable; ten years later, they still have not been held accountable” (Human Rights Watch, 2012, p. 37). Besides that, the reports written by the commissioner for human rights about the human rights situation question if accession before obligations towards the CoE can be fulfilled has contributed to a broader protection of human rights and freedoms (Council of Europe Commissioner for Human Rights, 2012). The problems with the protection of human rights and freedoms are not solely concern Russia; they also concern other former Soviet states, such as Armenia, Azerbaijan, Georgia and Ukraine (Amnesty International, 2011). As has been concluded by Janis concerning the early accession of Russia to the CoE, accession of Russia to the CoE has proved that political factors are deemed to be more important than legal aspects (Janis, 1997). The accession of Russia to the CoE has been a presumption that obligations will be met. If Russia will not meet the obligations the accession could become a threat to the ECHR, while it would undermine the legal power and the fundamental values of the CoE.

The accession of Russia to the CoE included several conditions, namely, ratifying the ECHR, reforming the criminal and civil code and improving the detention procedures (Parliamentary Assembly, 1996). Russia has ratified the ECHR and reformed the criminal and civil code. The most important changes that were made to reform the criminal code were the establishment of the rule of law, clarification of the offences described in the code, elimination of the Soviet ideology and introduction of human penalties to criminal offences, which means decreasing the extend of the punishment (Parliamentary Assembly, 1996). The civil code was also an inheritance of the Soviet Union and needed to be changed to comply with the laws and treaties of the CoE. The communist values needed to be eliminated and free market, democratic values and rule of law to be introduced (Parliamentary Assembly, 1996). The ECHR needed to be implemented in national legislation by means of implementing new laws and reform old laws, specifically laws to protect minorities and to safeguard the freedom of expression and religion (Parliamentary Assembly, 1996). In opinion 193 is said that:

A professional bar association will be established, the people who are responsible for human rights violations will be brought to justice, the freedom of movement and choice of residence will be guaranteed, the administration of the execution of judgements will be transferred to the Ministry of Justice [instead of operating under the Ministry of Internal Affairs] and the repatriation of persons deported from the Baltic states will be guaranteed (Parliamentary Assembly, 1996).

Russia nowadays signed and ratified 56 treaties, signed 17 treaties and declared denunciation to one treaty. Hundred and forty treaties are neither signed, nor ratified (Council of Europe, 2013).

# 2.3.1 The Death Penalty

One of the conditions of the accession of Russia to the CoE was “to sign within one year and ratify within three years from the time of accession, protocol no. 6 to the ECHR on the abolition of the death penalty in time of peace […]” (Bowring, 2007, p. 2). This condition has not been honoured. In 1996, executions have been carried out in Russia, which was confirmed in a report of the Assembly of the CoE, stating that “the Committee on Legal Affairs and Human Rights had received official confirmation that in the first half year of 1996, at least 53 executions were carried out in Russia, in flagrant violation of the commitment entered into by the country upon accession to the CoE” (Wohlwend, 1997). Russia is the only member state of the CoE that has not ratified Protocol 6, and is ignoring the conditions that were agreed on during the accession. The successor of Protocol 6, Protocol 13, abolishes the death penalty in all circumstances. This protocol has not even been signed by Russia. Protocol 13 has been signed by all member states of the CoE with the exception of Azerbaijan, who has neither signed nor ratified it, and Poland, who has only signed the protocol. Even though Russia neither signed nor ratified Protocol 13, it has respected a moratorium on the death penalty since 1996. This moratorium was extended in 2010 until ratification of protocol 6 to the ECHR (Wojdowski, 2009).

# 2.3.2 Protocol No. 14 to the ECHR

Russia has been blocking the entry into force of Protocol 14, while it was the only member state of the CoE that did not ratify it (Council of Europe, 2013). As has been described by Bowring, protocol 14 came into existence to make some amendments to the European Convention on Human Rights to improve the efficiency of the European Court of Human rights and to reduce the backlog of cases pending before the court (Bowring, 2009, pp. 598, 599). After criticism from other members of the CoE and a request from president Medvedev towards the Duma to vote in favour of Protocol 14, Russia was able to ratify this protocol in 2010 (Bridge, 2010). Reasons for Russia to block this particular protocol were the enormous amount of Russian cases pending before the ECHR and the loss of some high-profile cases. For those reasons Russia accused the ECHR from unfair and biased judgments (Bowring, 2010, pp. 605, 606). Putin has stated in 2007, that:

Unfortunately, our country is coming into collision with a politicisation of judicial decisions. We all know about the case of Ilascu, where the Russian Federation was accused of matters with which it has no connection whatsoever. This is a purely political decision, an undermining of the trust in the judicial international system. And the deputies of the State Duma turned their attention also to that (Bowring, 2007, p. 5).

# 2.3.3 Freedom of Expression and Freedom of Assembly.

The rights ‘freedom of expression’ and ‘freedom of assembly’ are protected in article 10 and 11 of the ECHR. The newly implemented or reformed national legislation of Russia described in the first chapter of this paper is not protecting those articles of the ECHR. Several international human rights organisations have declared their concerns about the protection of the rights described in the ECHR, as can be read in the annual report of the year 2012 of Amnesty International, saying that “numerous demonstrations were banned and a number of people involved in peaceful political protest were repeatedly detained” (Amnesty International, 2012). The Parliamentary Assembly also stated in Resolution 1896 that “[…] the refusal to register some political parties, the systematic non-authorisation of peaceful demonstrations and the use of disproportionate force to disperse them, the creation of restrictive conditions for freedom of media, and harassment of the opposition, all had negative effects on the state of democracy” (PACE, 2012). The legislation, most notably the ‘Foreign Agents Law’, has threatened the condition “to co-operate in good faith with international humanitarian organisations and to enable them to carry on their activities on its territory in conformity with their mandates (Parliamentary Assembly, 1996). Besides the negative influence on the cooperation between international organisations and the Russian government, the civil society of Russia is also threatened by this law, diminishing an enormous trigger to maintain and improve the democratic society in Russia. As Jean-Paul Costa has stated in his speech on the opening of the judicial year of the ECtHR, the civil society is very important, because:

It can contribute to teaching citizenship and tolerance and providing legal training to potential applicants; it can display vigilance and solidarity in the face of threats to our liberties from whatever source; and it can remind people that the Convention and the Court, despite their considerable power of attraction, cannot resolve all problems in life. It is therefore above all at national level that civil society must be active (European Court of Human Rights, 2012, p. 45).

The Parliamentary Assembly reaffirmed the concerns about the impunity around the “harassment, beatings and assassinations of engaged citizens, including the murders of Ms Anna Politkovskaya and Ms Natalia Estemirova” (PACE, 2012). The freedom of assembly and the freedom of expression are also linked to the discrimination of lesbian, gay, bisexual and transgender persons, ignoring the judgement of the ECtHR in the case of Alekseyev vs. Russia.

# 2.3.4 The Right to a Fair Trial

Article 6 of the ECHR assures the right to a fair trial of all citizens of member states of the CoE. The annual report of 2011 of Amnesty International been concluded that “officials continued to result in frequent reports of unfair trials”, mentioning the convictions of Mikhail Khodorkovsky and Platon Lebedev who were considered by Amnesty International as ‘prisoners of conscience’ (Amnesty International, 2012).

From the year 2005, the number of cases where a violation of article 6 of the ECHR was concluded by the ECtHR increased drastically, only decreasing again in 2011 (European Court for Human Rights, 2013). Article 6, the right to a fair trial, has been mentioned in many cases that have pended or that are pending before the Court in addition to other allegations of violations. In the Kalashnikov case the main allegation was a violation of article 3. In addition to this charge, the Court ruled that article 6 had been a violated 6 while the length of the proceedings to determine the criminal charge against the applicant exceeded the ‘reasonable time’ limit (CASE OF KALASHNIKOV v. RUSSIA, 2002). In the Idalov case the main allegation concerned the low standards of the detention centres, but the Court also ruled that article 6 was violated, concluding that the applicant was denied trial during the investigation of evidence (CASE OF IDALOV v. RUSSIA, 2012). In the Neftyanya Kompaniya Yukos case the court found that a violation article 6 was found, while the applicant did not have enough time to study the necessary files at first instance and the hearings on appeal were started early (CASE OF OAO NEFTYANAYA KOMPANIYA YUKOS v. RUSSIA, 2011).

# 2.3.5 The Prohibition of Torture and the Right to Life

The gravest violations of human rights are reported in the North-Caucasus. Hammarberg, the High Commissioner of Human Rights of the CoE, stated in his report about Russia that “persistent patterns of impunity for serious human rights violations are among the most intractable problems of the North Caucasus and remain a source of major concern” (Hammerberg, 2011, p. 3). In the same report is mentioned that “the ECtHR has by now examined nearly 200 cases in which it found violations of article 2 and article 3 of the ECHR in relation to actions of security forces in the North Caucasus” (Hammerberg, 2011, p. 3). Violations of article 2 are unlawful killings, disappearances, torture and ill-treatment, as well as a failure to investigate the aforementioned crimes effectively (Hammerberg, 2011, p. 2). Russia commented on those accusations that “according to statistical data, in 2005 and 2006, three and four judgments were delivered accordingly, in 2007, 15 judgments, in 2008, 34 judgments, in 2009, 70 judgments. Within seven months of 2011, the ECtHR did not deliver any judgment for the cases pending in the Investigation Department of the Investigating Committee of the Russian Federation for the Chechen Republic” (Hammerberg, 2011, p. 3). In January 2013, the CoE published a report about the increasing number of ill-treatments by Russian law enforcement officials in the North Caucasus and the failure of proper investigation of those allegations. The report was established after a visit of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, the CPT, in 2011. The report concludes, among other things, that “once again, the picture emerged that any detained persons who do not promptly confess to the crimes of which they are suspected, or provide information being sought, are at high risk of torture or other forms of ill-treatment” (CPT, 2013). The problem mentioned in the report concerning the impunity of those cases is that “to end torture and other ill-treatment, relevant authorities have first of all to acknowledge its existence”, continuing “at present the CPT is not convinced that this is always the case”. As a reaction to the report of the CPT, the Russian government stated that they have “reasonable grounds to consider that many of the complaints of suspects are dictated by an attempt to avoid responsibility for their deeds” (Russian Federation, 2013).

Applications concerning disappearances in the North Caucasus since the start of the first Chechen war in 1999 have been brought before court regularly and with many similarities, finding violations of article 2, 3, 5 and 13 in more than 120 judgments up to September 2012 (Press Unit of the European Court of Human Rights, 2013). Article 2 of the ECHR is not an article that has been mostly violated by Russia, but it is an article that can be linked to many similar cases of applicants of the North Caucasus. This is worrying, while article 2 can be called the heart of the ECHR, as Korff said “it is the most basic human right of all”, continuing “if one could be arbitrarily deprived of one’s right to life all other rights would become illusory, furthermore this right is a non-derogable right” (Korff, 2006, p. 6). Non-derogable means that this right cannot be suspended, even not during a state of emergency (Human Rights Law Centre, 2011). What can be seen often is that a violation is based on the failure of a respondent state to conduct an effective, unbiased and thorough investigation to allegations of violations of this right. As has been stated in the Aslakhanova and others Case:

There has been a complete failure of the Chechen Republic investigative authorities to deal with the abductions of Chechnya residents by local law-enforcement and security agencies of systematic sabotage of investigations by Chechen law-enforcement agencies and the inability of the Investigative Committee to fulfil its direct mandate to investigate crimes (CASE OF ASLAKHANOVA AND OTHERS v. RUSSIA, 2012).\

In the Aslakhanova and others Case the court judged that a violation of article 2 of the ECHR took place, concluding that the relatives of the applicants could be presumed dead. In the light of article 2 the ECtHR judged that the article had been violated, while the respondent state, Russia, failed to conduct an effective, unbiased and thorough investigation (CASE OF ASLAKHANOVA AND OTHERS v. RUSSIA, 2012). In this case there has been decided that cases that can be linked to the aforementioned case which have already been finalised, which are currently pending before court and which are communicated to the court “result from a systemic problem of non-investigation of such crimes, for which there was no effective domestic remedy” (Press Unit of the European Court of Human Rights, 2013, p. 9). Measures that should be taken by Russia according to the court can be found in twofold, firstly alleviating the suffering of the relatives of disappeared persons and, secondly, improving the effectiveness of criminal investigations in which the impunity considering those cases should be dealt with as well (CASE OF ASLAKHANOVA AND OTHERS v. RUSSIA, 2012).

Violations of article 3 are also found regularly in cases evolving around low standards of detention centres or the failure to protect detainees from torture. The Kalashnikov case has been the first case where the ruling of the ECtHR was in favour of the applicant article 3, among other articles, had been violated. The court concluded that the conditions of the detention centre could be described as unsanitary and overcrowded, which had resulted in a negative effect on the physical and psychological well-being of the applicant (CASE OF KALASHNIKOV v. RUSSIA, 2002). Reason for applications accusing Russia from violating article 3 have mostly been ill-treatment by police officers and conditions in detention centres. Examples of this, besides the Kalashnikov case, are the following:

In the Dedovskiy case the Court ruled that ill-treatment of officers to the applicants in the form of beating with and without the use of truncheons, and a failure to properly investigate the allegations of the applicants has been proved (CASE OF DEDOVSKIY AND OTHERS v. RUSSIA, 2008).

In the Aleksanyan case was ruled that the accused party failed to take effective care of the applicant during the detention, which caused hardship and suffering, amounting to inhumane and degrading treatment (CASE OF ALEKSANYAN v. RUSSIA, 2008).

In the Premininy case there was concluded by the Court that the first applicant had been tortured and treated inhumanly by fellow cellmates during the detention in detention facility no. 1 in Yekaterinburg in the first half of June. The authorities had failed to protect the applicant and to investigate the complaints of the applicant effectively (CASE OF PREMININY v. RUSSIA, 2011).

In the Khodorkovskiy case the Court ruled that the conditions in the prison did not comply with ECHR standards. The Court also ruled that the conditions in the courtroom had been inhumane and humiliating, placing the applicant in a metal cage during the hearing, which was an excessive security arrangement (CASE OF KHODORKOVSKIY v. RUSSIA, 2011).

In the Idalov case was concluded that conditions in the detention centre did not comply with ECHR standards. The detention centre was overcrowded, which resulted in inhuman and degrading treatment of the applicant. Furthermore, conditions during the transport from the prison to the courtroom were found inhumane and degrading, while the government was not able to prove otherwise (CASE OF IDALOV v. RUSSIA, 2012).

Furthermore, violations of article 3 are mostly based on the failure to properly investigate the complaints of applicants (European Court of Human Rights, 2013). Examples of those cases are:

The Bazorkina case in which the court ruled that the applicant, the mother of a disappeared Chechen fighter, had been treated inhumanly, while see had to see a news broadcasts about the last minutes of the life of her son and because of the way the government handled the disappearance of her son. This ruling established general principles relating to allegations of disappearances of people (CASE OF BAZORKINA v. RUSSIA, 2006).

The Luluyev case where is concluded that the state can be hold responsible for the death of the relatives of the applicants as well as failing to properly investigate the complaint of the applicants, if a violation is “beyond reasonable doubt”. Considering the alleged violation of article 3 the court hold that it was not “beyond reasonable doubt” that the victims had been tortured and it was therefore unnecessary to raise a separate complaint. However, a violation of article 3 in the case of the applicants had been concluded, while they were unable to find out what had happened to their relatives after the disappearance (CASE OF LULUYEV AND OTHERS v. RUSSIA, 2006).

The Imakayeva case ruled that there had been a violation of article 2 in respect of both the son and the husband of the applicant. The state was not able to protect the lives of its citizens. Furthermore, the state failed to conduct an “effective, prompt and adequate investigation”. The court also concluded that article 3 had been violated in respect of the applicant, while the applicant was unable to get answers to explain the disappearance of her relatives (CASE OF IMAKAYEVA v. RUSSIA, 2006).

# 2.3.6 The Right to an Effective Remedy

Counteracting a judgement is a breach of the Convention violating article 13, the right to effective remedy (Council of Europe, 2010). The judgments of the ECtHR are binding and actions need to be taken to make national law and actions compatible with the convention. This has been recognised by Veronika Milinchuk, a former Russian representative at the ECtHR, saying that “failure to execute, or delays in execution of court decisions, have been one of the pressing issues addressed by Russian nationals”, and, “notwithstanding all the efforts taken, at the beginning of 2007, there were thousands of non-executed court decisions on settlement of old debts, especially indexation of tardy monetary payments, at the expense of the Russian constituent entities’ budgets” (Bowring, 2010, p. 600). Applications to the ECHR included in many cases the non-enforcement of domestic judicial decisions by the authorities of Russia, as has been noted in the judgement of the second Burdov case, saying “the Court notes that non-enforcement or delayed enforcement of domestic judgments constitutes a recurrent problem in Russia that has led to numerous violations of the Convention. The Court has already found such violations in more than 200 judgments since the first such finding in the second Burdov case” (CASE OF BURDOV v. RUSSIA, 2002) .

In the Dedovskiy case a violation of article 3 was found, but no effective domestic remedy to claim compensation (CASE OF DEDOVSKIY AND OTHERS v. RUSSIA, 2008). The same can be said of the Ivanţoc case where multiple violations were found, but no effective domestic remedies to compensate for those violations (CASE OF IVANŢOC AND OTHERS v. MOLDOVA AND RUSSIA, 2011). The Chember case and the Burdove Case are both examples of a violation of article 13, because the state was not able to provide for an effective remedy (CASE OF CHEMBER v. RUSSIA, 2008), (CASE OF BURDOV v. RUSSIA (No. 2), 2009).

# 2.3.7 The Protection of Property

Article 1 of protocol 1, the protection of property, has been mentioned in many cases concerning damaging or destroying property of residents of the North Caucasus. Examples are the Kerimova and others case and the Khamzayev and others case. In those cases Russia was found guilty by the Court of purposely damaging or destroying property or failing to protect the property of being damaged or destroyed (CASE OF KERIMOVA AND OTHERS v. RUSSIA, 2011) (CASE OF KHAMZAYEV AND OTHERS v. RUSSIA, 2011).

# 2.3.8 Summary

Russia became a member of the CoE when the human rights situation in the state was not yet in conformity with the standards are written in the ECHR. In order to facilitate the improvement of the human rights situation and the implementation or reformation of Russian legislation, conditions were arranged. Some of those conditions have been implemented in Russia, for example reforming the criminal and civil code. However, there are important conditions that have not been met. Protocol 6 and Protocol 13 have not been implemented as has been agreed. Furthermore, many violations of articles of the ECHR can still be found. It can be said that the freedom of speech and the freedom of assembly, the right to a fair trial, the right to life and the prohibition of torture, the right to an effective remedy and the right of protection of property are the rights and freedoms that are not adequately protected in Russia. Furthermore, it can be said that the rights and freedoms of residents of the North Caucasus are gravely violated, without the assurance of proper investigation to allegations and accountability of the people who mistreated them.

Two important cases have been lodged lately before the court in reaction to the policy changes introduced during the Putin presidency. The first one is the case of Pussy Riot v Russia, with the allegations that the Russian government violated the right of freedom of expression, the right to a fair trial and that the Russian detention centres are not in conformity with international standard (Buyse, 2013). The second case that has to be mentioned is the case of several NGOs based in Russia, Ecodefence, Golos, Citizens Watch, Civic Assistance Committee, Committee against Torture, Mashr, International Memorial, Moscow Helsinki Group, Public Verdict, Memorial Human Rights Group and the Movement for Human Rights, in which the applicants alleged that the Russian government violated the freedom of association and assembly (Buyse, 2013).

# 3 Internal Problems of the European Court of Human Rights

An overview of the internal problems of the Court has to be discussed to complete the research about the relationship between Russia and the CoE. The internal problems of the ECtHR are influencing the relationship between the Court and Russia, but the internal problems are also closely related to the attitude of Russia to the CoE and the human rights situation of the state. Being the only Court where citizens can challenge decisions of their governments or judgments of domestic courts, it is not surprising that the court gets many applications (Judd, 2013). As Turner-Tretz, the press officer of the ECtHR, explains in The Independent “it [the ECtHR] is there for everyone from an illiterate 70-year-old Turkish man drafted into the army to princess Caroline of Monaco” (Judd, 2013). While there are so many Russian cases pending before the Court or that were dealt with by the Court, Russia is a state which can show what the impact of the judgments and advises of the Court on national practice is. This chapter will discuss whether the ECtHR has this power, if it is willing to use the power or if the ECtHR, is, as stated by Brownlie and Goodwin-Gill:

An organisation created in 1949, as a sort of social and ideological counterpart to the military aspects of European cooperation represented by the NATO, partly inspired by interests in the promotion of European unity and partly by the political desire for solidarity in the face of the ideology of Communism (Bowring, The Russian Federation, Protocol no. 14 (and 14bis), and the battle of the soul of the ECHR, 2010, p. 592).

# 3.1 The Backlog of Cases

By June the sixth 2013, the number of applications pending before the Court was 11,335. The number of applications in which a decision has been taken is 49,952 (European Court of Human Rights, 2013). As has been mentioned in chapter two, Russia is one of the main respondent states in cases that are finalised or that are pending before the Court (ECtHR, 2012, The European Court of Human Rights in facts & figures, p. 6). Radio Free Europe Radio Liberty reports that “for the first time since the creation of the ECtHR, the Court is recording a drop in pending cases, also the number of applications from Russia”, and, “Russian cases pending before court were cut back by almost one-third last year, from more than 40,000 to 28,600” (Bigg, 2013). This enormous backlog of cases on the ECtHR is one of the problems that should be analysed. Bowring has described that the heart of the existence of the Court, the possibility of an individual petition, is also the main problem of the enormous amount of applications that have resulted in the huge backlog of cases (Bowring, The Russian Federation, Protocol no. 14 (and 14bis), and the battle of the soul of the ECHR, 2010, p. 594). In 2009, the rule of court, rule 41, was reformed. The processing of cases pending before the Court has been improved by changing the order of dealing with cases from a chronological order to an order of importance, giving priority to urgent issues (European Law Institute, 2012, p. 17). Although precedence is given to more pressing issues, it has been expressed in a statement of the European Law Institute that this new way of working also means that the Court has to deal with “the more work-intensive of the meritorious cases which proved detrimental to the non-priority cases, while the number of judgments delivered fell from 2,607 in 2010, to 1,512 in 2011 and the number of cases that are declared inadmissible by the Court also dropped” (European Law Institute, 2012, p. 17). This is opposed by the statement of Cameron, saying:

The court should be free to deal with the most serious violations of human rights – it should not be swamped with an endless backlog of cases. The court should ensure that the right to individual petition counts; it should not act as a small claims court (Curtis, 2012).

Jean-Claude Mignon, president of PACE, explained that “the ECtHR was never supposed to be a substitute for national protection of human rights; it was always meant to play a subsidiary role” (Mignon, 2012).

In 2010, another reform took place with the entry into force of Protocol 14. A new admissibility criterion, the significant disadvantage, was introduced, and the term of judges of the Court was extended to nine years (European Law Institute, 2012, p. 17). This protocol has been blocked by Russia for six years as has been discussed in the second chapter, while the Russian government accused the Court of being unfair and biased after losing some high-profile cases (Bowring, The Russian Federation, Protocol no. 14 (and 14bis), and the battle of the soul of the ECHR, 2010). After the entry into force of Protocol 14, 47,000 applications were concluded to be inadmissible in 2011, which is an increase of more than 30 per cent since 2010 (European Law Institute, 2012, p. 19). The same article reports that this dramatic increase has been achieved only because of the introduction of the single-judge procedure. It has not been achieved with the addition of the third admissibility criterion, while only 30 applications had been rejected because of the admissibility criteria until February 2012 (European Law Institute, 2012, p. 19).

In 2013, Protocol 15 entered into force facilitating decrease of the backlog of cases. Protocol 15 introduced a margin of appreciation. It gives member states the opportunity to decide how to protect the rights and freedoms defined in the ECHR. Important changes have been the deletion of the sentence “unless one of the parties to the case objects”, and the reduction of the period of time in which an application has to be lodged from six to four months after a national final decision (Council of Europe, 2013).

Despite many reforms, it can be said that with 47 member states the case-load will always be a burden. Issues have to be linked to the human rights ideology of the CoE, but the political pressure of the 47 member states has to be considered as well. When the Court did not struggle with a backlog of cases, it could be questioned whether cases are properly investigated and judged. But, as has been said earlier in this chapter, the number of applications has dropped for the first time in 2013, also the number of Russian applications. However, this decrease has not been accepted as a positive development by everyone. Ponomaryov, a Russian human rights activist, mentioned that “it is no coincidence that this sharp decrease took place when a group of Russian lawyers, appointed by the Russian government, started working there”. Ponomaryov reflected on the policy of the ECtHR to invite a Russian legal team to filter Russian applications in the first stage to reduce the enormous backlog of Russian cases pending before the Court (Bigg, 2013). This legal team could not decide on admissibility (Bigg, 2013). Moskalenko, an independent lawyer, concluded that “if applications are rejected without grounds, due either to a lack of experience or impartiality, the damage is huge; it can affect the European Court’s standing” (Bigg, 2013).

# 3.2 The Enforcement Power of the European Court of Human Rights

The Court has concluded many cases, sometimes addressing the core articles of the ECHR, article 1 and 2. The impact for citizens of member states of the CoE can only be found in the member states. By signing and ratifying the ECHR, Russia also signed and ratified article 46:

The high contracting parties undertake to abide by the final judgment of the Court in any case to which they are parties. The final judgment of the Court shall be transmitted to the committee of ministers, which shall supervise its execution […] If the committee considers that the high contracting party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that party and by decision adopted by a majority vote of two thirds of the representatives entitled to sit on the committee, refer to the court the question whether that party has failed to fulfil its obligation under paragraph 1. If the court finds a violation of that paragraph, it shall refer the case to the committee of ministers for consideration of the measures to be taken […] (Council of Europe, 2010).

This article obliges high contracting parties to fully implement judgments of the ECtHR. Nonetheless, in more than one case the theory of article 46 did not apply in practice. An example has been the case of Hirst vs. the United Kingdom. The ECtHR found that the government of the United Kingdom violated the prisoner’s voting rights, but the respondent state never implemented the Court’s judgment into national legislation (Oldfield, 2012). As can be seen in the second chapter of this paper, many Russian cases concern proper and adequate investigation as well as having no domestic remedies to compensate victims of human rights violations. The number of cases suggests that Russia has some structural problems in need of change. In the ‘rules of procedure’ of the ECtHR is written that a state that has been found guilty of a violation of the Convention should take specific measures concerning the just satisfaction of the applicant and, if it concerns a structural problem, the state should take general measures in order to solve the problem and prevent further applications to the ECtHR (Committee of Ministers, 2013, p. 22). A report of the Committee of Ministers of the CoE stated the following:

Successful execution of court’s judgments will frequently require substantial national efforts, supported by an adequate mix of dialogue and peer pressure on the part of the Committee of Ministers and the availability of different targeted co-operation and assistance programs. Interaction with the court is frequently central as is the capacity to develop synergies with other bodies and institutions, and the involvement of civil society (Committee of Ministers, 2013, pp. 13, 14).

As has been discussed in the first and second chapter, involving other bodies and civil society has become more difficult in Russia because of new or reformed legislation. Furthermore, it is problematic to cooperate with the implementation of the Court’s judgments when the Russian government believes those judgments are biased and politicized. Russia has improved the statistics on fulfilling payments of applicants. In 2012, 39 payments were fulfilled outside of the deadline, compared to 98 cases in 2011 (Committee of Ministers, 2013, p. 59). The number of cases with enhanced supervision has increased from 34 in 2011, to 45 in 2012, which is the highest number of cases of all member states of the CoE (Committee of Ministers, 2013, p. 67). An example of the implementation of judgments of the ECtHR in Russia is the banning of the Gay Pride Parade in Moscow. The court had ruled that the Russian government violated the rights described in the ECHR and Russia was obliged to pay 3000 Euros to the victims. Khinstein, a member of the Russian parliament, reacted “Russia is willing to pay 3000 Euros to victims every time the Gay Pride Parade will be banned” (K. Dzehtsiarou, 2011, p. 1709). This practice will undermine the power of the ECtHR, and they will result in a number of unnecessary, new applications. The answer of the ECtHR to this problem has been the introduction of so called pilot judgments. Multiple cases based on the same merits because of a structural problem on the national level are linked to each other. The Court described the system as “a technique of identifying the structural problems underlying repetitive cases against many countries and imposing an obligation on states to address those problems” (European Court of Human Rights, 2013).

The ECtHR is reforming its policies to deal with the pending cases as it deems correct. Russia is helping to maintain the internal problems of the Court, while Russia is not implementing the judgments which results in structural problems. The structural problems result in an increase of Russian cases. The failure to implement the judgments of the Court in Russia influence the power of the CoE, showing that the enforcement power of the Court is not strong enough to regionally protect the human rights and freedoms of people.

# Conclusion

This paper has researched the legislation of Russia and the human rights situation in Russia. The information has answered the research question, namely:

How are Russian legislation and national practice affecting Russia as a High Contracting Party to the Council of Europe during the presidency and premiership of Vladimir Vladimirovich Putin?

Putin has had and still has a large impact on the political ideas of the Russian government. During the first term of Putin’s presidency, legislation in Russia has been reformed or new legislation has been implemented. The changes were necessary to implement international standards in the communist bases legislation of Russia. The standards of the CoE needed to be implemented because of the ratification of the ECHR.

Part of the political change introduced by Putin during the first term of his presidency was improving the equality in Russia. This equality needed to be assured by fighting the oligarchs and rebuilding the Russian identity as well as a stable economic growth. Furthermore, Putin included the West in Russia’s future. The aforementioned features have made Putin a popular figure in Russia and abroad.

However, during Putin’s second term as president it became clearer what Putin’s vision for Russia was. The vertical power was consolidated and the possibility to influence the law was not prohibited in the Russian legislation. The dualism in the Russian legislation influenced made legislation an instrument to achieve the goals of the people in power, instead of an instrument to protect the rights of citizens. As explained by Sakwa, the constitution lacks any real mechanism of accountability, which makes the whole political system that is based on democratic values, very weak and changeable to the wants and needs of those in power. It consolidates corruption and impunity in the Russian political and legal system. The Law on Extremism is an example of how legislation can be used for individual practice. It has been used to eliminate the opposition parties and in 2008 amendments were implemented that gave the opportunity to ban extremist articles. However, the legislation does not include an explanation of the contents of an extremist article and is therefore threatening the freedom of expression.

The legislation implemented during the presidency of Putin is affecting the protection of human rights in Russia. But, the legislation implemented during Putin’s premiership is even more worrying, most notably the ‘Foreign Agents Law’ of 2012. This law and the ‘Dima Yakovlev Bill’ which also came into force in 2012 seem to restart the Cold War via legislation. Laws are implemented preventing espionage and state treason and striking back at policies of the USA. None of those laws has been serving the citizens of Russia.

Apart from the problems concerning the new and reformed legislation, a grave human rights issue is the second Chechen war. The war started in 1999 just before Putin was elected as president. It was started to show that Russia is a strong power, and it has been going on for years resulting in a war with grave violations of human rights.

In 1996, Russia became a member of the Council of Europe. The organisation was founded during the Cold War in 1949, when the creation of a strong counterpart to the communist bloc was needed. The Council advocated democratic values and human rights. When Russia became a member of the CoE it was clear that it did not conform to the standards of the Council. Laws needed to be reformed, wars to be ended, rule of law to be established and the freedoms to be guaranteed. Although changes have been made, many problems that existed at the time of accession of Russia to the CoE still exist. A second war with Chechnya was started in 1999, laws still need clarification and a mechanism for accountability still needs to be established. Freedoms are becoming stricter with every new law entering into force.

It can be concluded that the vagueness of Russian legislation is used to achieve the goals of the people in power. This power can be and has been misused by violating rights and freedoms of Russia citizens. Furthermore, it can be concluded that difference between the law on paper and the law in practice is striking, mainly because of its vagueness. This has resulted in biased judgments of national courts, which has resulted in many applications to the European Court of Human Rights in Strasbourg. Many Russian citizens have put their faith into the Court to retrieve justice and to get satisfaction for violations of human rights. The majority of Russian cases concern unfair trials, a lack of proper and adequate investigation, a lack of domestic remedies, protection of property and low standards in the detention system.

The information has also shown that after a short period of good prospects for the future of the protection of human rights in Russia and a period of democratic reforms, Putin has returned to a policy to consolidate the power of the government and limit the power of Russian citizens and civil society by decreasing the freedoms, for example the freedom of expression and the freedom of association and assembly. This raises the question if the premature accession of Russia to the CoE has proven to be a brave guess with a negative outcome. Many Russian cases pending before or being finalised by the ECtHR are based on similar merits showing that there are structural problems in Russia. Furthermore, those problems have existed from the first judgment from the Court onwards without any notable change in practice from Russia.

The only way for Chechen residents to find justice is going to Strasbourg. The cases from residents of North Caucasus concern the core values of the ECHR, namely the protection of life and the prohibition of torture. The Court has given judgments and recommendations which should have been implemented in Russia, but this has not been done. This can be concluded, while the war in Chechnya is still on-going as well as applications from residents of the north of the Caucasus. The CoE has the possibility to temporarily redraw the membership of Russia, because judgments are not implemented and for not reforming the legislation to comply with the standards of the ECHR. This has been done ones.

Results of this research have also shown that the CoE is influencing Russia, while legislation has been reformed. On paper Russia is a liberal democracy. Furthermore, it can be concluded that the membership of Russia to the CoE has given Russian citizens opportunities to find justice as well as recognition. Moreover, the CoE and the Convention give the Russian citizens information of what their rights and freedoms are and how things can be different.

Research has shown that Russia is influencing the CoE, or more specifically the ECtHR. The huge backlog of Russian cases and the little power to enforce judgments have driven the Court to take measures to reduce its burden. The pressing and high-profile cases are given precedence over others and a group of Russian judges is invited to do a first check of the pending cases. It is true that the court should not be overloaded by cases that can be handled nationally, but when that proves impossible for Russian citizens it should be possible to turn to the ECtHR. The CoE and the ECtHR are founded to advocate and protect the rights of citizens. If those cannot be guaranteed nationally, they should be protected regionally by the CoE. The measure to invite a group of Russian judges is providing opportunities to reject cases without any good reason other than political reasons.

It can be concluded that the relationship between the Council of Europe and the Russian Federation is fragile. Russia is implementing the standards of rights and freedoms of the ECHR in its legislation, but in practice it has huge problems to protect the rights and freedoms of citizens. Cooperation between the Council and Russia is vital for the Russian citizens, not in the least for the residents of the North Caucasus giving them the opportunity to fight for their rights.

It has to be concluded that Russia is negatively influencing the relationship with the CoE by the implementation of the legislation that has been described in the first chapter during the presidency ad premiership of Putin. However, the practice in Russia is the most problematic part of the relationship between the two, while this practice is declining the credibility and enforcement power of the CoE. Russia is a country showing that it is not necessary to comply with the ECHR just as it is not necessary to implement judgments of the Court adequately. But, the CoE is founded on the basis of democratic values and the protection of human rights. It is founded to advocate the rights of the citizens of its member states and to protect those rights. Although mainly working with governments, the effect of the Russian membership is most important on the level of the citizens and the civil society. The number of Russian cases pending before domestic courts without finding justice, show the importance of the membership of Russia to the CoE.

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