

Supreme Court explains how to apply the European Convention on Human Rights

Yesterday, 1 July 2013, the Supreme Court of the Russian Federation [published the final text](#) of Plenum ruling No. 21 of 27 June 2013, on the application of the European Convention on Human Rights and Fundamental Freedoms by Russian courts.

Memorial Human Rights Centre welcomes the Supreme Court's desire to clarify to Russian courts of general jurisdiction their duty to apply the European Convention and European Court of Human Rights judgments. In this regard, of particular importance is the reminder that the actions and decisions of representatives of the Russian authorities must comply not only with Russian law, but also with the norms of the European Convention and the European Court's jurisprudence, and that this compliance must, in the first instance, be checked by the Russian courts (point 11 of the Ruling). The confirmation of the courts' duty to interpret the human rights provisions enshrined in Russian law, pursuant to the Convention (point 3), is particularly valuable. Furthermore, the clarification to courts that they must provide appropriate and adequate reasons in justification of human rights restrictions could hardly be timelier (point 8).

Unfortunately, the Plenum ruling retains a series of provisions that arouse concern. In point 4 it allows other international agreements to be applied in a case on a par with the Convention, even if these agreements do not provide the same level of human rights guarantees as the Convention (for example the Shanghai Cooperation Organisation treaty). The instructions that a Russian Court re-examining a case following a European Court ruling in which a Convention violation was found can come to the same decision as that successfully challenged in Strasbourg will most likely lead to Russian courts taking such decisions.

Memorial HRC Senior Lawyer **Kirill Koroteev** said of the ruling: *"As the English say, the proof of the pudding is in the eating. A Plenum ruling is an important act within the Russian legal system, but its real effectiveness can only be demonstrated in concrete case decisions. And here, the Supreme Court of the Russian Federation has some work to do itself: its own practice, be it about extradition to Central Asian states or on LGBT rights, is far from respecting the provisions of the European Convention on Human Rights."*

Back in April Memorial HRC submitted [comments on the draft](#) of this ruling to the Supreme Court of the Russian Federation. We welcome the removal from the final version of the text of the parties' duty to submit a translation, certified by a notary public, of all European Court decisions to which they intend to refer during proceedings.

See also Memorial HRC's press release: [How should Russian Courts apply the European Convention?](#)