

EXPULSION OF THE RUSSIAN FEDERATION FROM THE COUNCIL OF EUROPE

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ABSTRACT

Russia, which has no experience of democracy and multi-party political life, joined the Council of Europe in 1996 as a full member. Russia has signed and ratified 63 of the more than 200 conventions adopted under the auspices of the Council of Europe. The number of contracts signed but not ratified by Russia was 16, and the number of contracts that were never signed was 130. The most important of the conventions to which Russia is a party is the European Convention on Human Rights. Although significant progress has been made by Russia in various fields due to its membership in the Council of Europe, violations have also remained. The most advanced stage of the violations was the attack on Ukraine.

The attack launched by Russia on Ukraine on February 24, 2022 is in violation of both the UN charter, the founding charter of the Council of Europe and the Council of Europe conventions to which Russia is a party.

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The restrictions on Russia within the Council of Europe, which was initiated with the occupation and annexation of Crimea in 2014, resulted in the most extreme sanction being imposed due to the violation of the most important rules of international law with the 2022 attack. Russia's attack on Ukraine was overwhelmingly condemned by the UN General Assembly. The decision about Russia within the Council of Europe was not limited to the freezing of membership and representation, but was expelled from the Council of Europe on March 16, 2022. On the other hand, with another decision taken by the ECHR, it has become certain that Russia's status as a party to the Convention has come to an end. The harshest sanction decision in the history of the Council of Europe on Russia was due to the fact that this country violated the basic laws of international law, especially the UN Charter. As a result, the decision was made due to the violation of the founding statute of the Council of Europe and the European Convention on Human Rights.

Key: Russia, European Court of Human Rights, UN Charter, Human Rights, Council of Europe

ÖZ

Daha önceden demokrasi ve çok partili siyasi hayat deneyimi olmayan Rusya, 1996 yılında Avrupa Konseyi'ne tam üye olarak katılmıştır. Rusya, Avrupa Konseyi himayesinde kabul edilen 200'ün üzerindeki sözleşmeden 63'ünü imzalamış ve onaylamıştır. Rusya'nın imzalanıp da onaylamadığı sözleşmelerin sayısı 16 ve hiç imzalanmayan sözleşme sayısı ise 130 olmuştur. Rusya'nın taraf olduğu sözleşmelerden en önemlisi Avrupa İnsan Hakları Sözleşmesidir. Rusya tarafından Avrupa Konseyi üyeliği nedeniyle çeşitli alanlarda önemli kazanımlar sağlanmış olmasına karşılık, ihlaller de varlığını korumuştur. İhlallerin en ileri aşaması Ukrayna'ya yapılan saldırı olmuştur.

Rusya tarafından 24 Şubat 2022'de Ukrayna'ya başlatılan saldırı, hem BM ana sözleşmesine, hem Avrupa Konseyi kuruluş tüzüğüne, hem de Rusya'nın da taraf olduğu Avrupa Konseyi sözleşmelerine aykırılık teşkil etmektedir.

Rusya hakkında 2014 yılında Kırım'ın işgal ve ilhakı ile başlatılan Avrupa Konseyi bünyesindeki kısıtlamalar, 2022 saldırısıyla birlikte en önemli uluslararası hukuk kurallarının ihlal edilmiş olması nedeniyle en aşırı yaptırımın uygulanmasına neden olmuştur. Rusya'nın Ukrayna'ya saldırısı BM Genel Kurulu tarafından ezici çoğunlukla kınanmıştır. Rusya hakkında Avrupa Konseyi bünyesinde alınan karar ise üyelik ve temsil hakkı dondurulması ile sınırlı kalmamış, 16 Mart 2022'de Avrupa Konseyi'nden ihraç edilmiştir. Öte yandan AIHM tarafından alınan bir başka kararla Rusya'nın Sözleşme tarafı olma halinin sona erdiği kesinleşmiştir. Rusya hakkında Avrupa Konseyi

tarihinde en sert yaptırım kararının alınması, bu ülkenin BM Şartı başta olmak üzere uluslararası hukukun temel yasalarına aykırı davranmasından kaynaklanmıştır. Netice olarak karar Avrupa Konseyi kuruluş tüzüğü ve Avrupa İnsan Hakları Sözleşmesine aykırılık nedeniyle verilmiştir.

Anahtar Kelimeler: Rusya, Avrupa İnsan Hakları Mahkemesi, BM Şartı, İnsan Hakları, Avrupa Konseyi

The invasion of Ukraine by Russia on February 24, 2022 constitutes a violation of the basic texts of international law, especially the UN charter. One of the basic principles of the UN Charter is to respect the independence, sovereignty, and territorial integrity of states.¹ In fact, Ukraine filed a lawsuit against Russia both to the International Court of Justice and to the European Court of Human Rights on the grounds that Russia violated the imperative rules of International law after the attack on Ukraine. In addition, the International Criminal Court (ICC) prosecutor Karim Khan launched an investigation according to a request from Ukraine, after the presumption of Russian soldiers committing war crimes in the cities of Kyiv and Bucha. Since Ukraine is not a party to the Rome Statute, the founding agreement of the ICC, the Court made an assessment in terms of its jurisdiction and based its jurisdiction on the 2014 and 2015 decisions of the ICC on crimes committed in the territory of this country.²

This study aims to examine the expulsion of Russia from the Council of Europe. In this context, first of all, the basic principles of the Council of Europe, likewise peace from its foundation to the present, conducted with the aim of advancing democracy and human rights will be examined, In the second part, developments in the period of Russia's membership in the Council of Europe, in the last part, how the

¹ UN Charter 2/4. Chapter I: Purposes and Principles (Articles 1-2) | United Nations (Accessed: 1 September 2022).

² Ukraine - Russian Federation: International Court of Justice begins hearings (kyivindependent.com), (Accessed: 1 September 2022)

expulsion decision was taken step by step due to the occupation of Ukraine will be examined.

1. Fundamental Principles of the Council of Europe

The Council of Europe is an international organization established with the London Convention of 5 May 1949, following the Hague Congress convened in 1948. The number of members of the Council of Europe is 46 according to the fall term of 2022. After the attack on Ukraine, the Russian Federation was expelled from the Council of Europe by the decision of the Committee of Ministers on 16 March 2022. In addition, the Council of Europe is an international organization that has pioneered the preparation of numerous conventions, agreements, protocols in the fields of democracy, and human rights, besides the rule of law. In fact, the most well-known of the conventions adopted by the Council of Europe is the European Convention on Human Rights (ECHR),³ signed in Rome on November 4, 1950. This convention is essentially a document that establishes a regional-level human rights regime, inspired by the UN Universal Declaration of Human Rights of 10 December 1948. With the Convention, the European Court of Human Rights (ECHR) was established in order to supervise whether the members of the Council of Europe fulfill their obligations under the Convention.

³ The Council of Europe, The European Convention on Human Rights, European Convention on Human Rights (coe.int), (11 October 2022); Stefanie Schmahl ve Marten Bruer (edts), **The Council of Europe -Its Law anda Policies**, Oxford Univresity Press, 2017.

The Council of Europe is a classical organization of intergovernmental structure. The main aims and principles of the Council of Europe are broadly defined in its founding charter. Accordingly, the organization primarily aims to establish human rights, pluralist democracy, and the rule of law in member states. In addition, protecting Europe's cultural identity and pluralism, combating discrimination, xenophobia, racism, activities that are not compatible with biological ethics, terrorism, human trafficking, drugs, organized crime, and corruption are among the priorities of the organization. Besides, the fight against cybercrime and the protection of peace and the environment are also within the scope of the Council of Europe.⁴

The founding charter of the Council of Europe stipulates that the member states adopt the basic principles in the field of human rights and fundamental freedoms and the rule of law. Hence, according to Article 3 of the Convention, member states will above all remain loyal to the aims and basic principles of the Council of Europe. thus, They will ratify the European Convention on Human Rights and its protocols as parties and recognize the jurisdiction of the European Court of Human Rights.

The Council of Europe portal emphasizes democracy, human rights, and the rule of law as follows:

“The Council of Europe supports freedom of opinion, organizing association, equality, and the protection of minorities. The Council of Europe campaigns for the protection of children, and the

⁴Statute of the Council of Europe, CETS 001 - Statute of the Council of Europe (coe.int) (10 October 2022).

prevention of hate crimes, it campaigns for the rights of the Roma, the most widespread minority in Europe. The Council of Europe fights corruption and terrorism and supports member states to make reforms and legal arrangements in this regard. Experts within the Venice Commission provide legal advice and support not only to member states but also to the whole world for this purpose.

The Council of Europe tries to ensure the protection of human rights through international conventions. Within the Council of Europe, there are conventions and protocols that bind over 200 parties. The first of the two Council of Europe Conventions that have attracted attention recently is the Convention on the Prevention of Violence Against Women and Domestic Violence, and the other one is the Convention on Combating Cybercrime. The Council of Europe monitors the member states' fulfillment of their obligations under the conventions with the developments and audits them through independent experts. Besides, the death penalty has been abolished in Council of Europe member states.”⁵

in the statute of the Council of Europe and in the agreements pioneered, references are made to universal values and standards. In this context, the Council of Europe defends the freedom of expression and media, the organization of meetings and demonstrations in the member states, and attaches importance to the non-discrimination between people, the establishment of equality, and the protection of minority rights. In addition, the protection of children, the fight against hate

⁵ [Values \(coe.int\)](https://www.coe.int) (Accessed: 11 October 2022)

speech, and the prevention of corruption are among the priorities of the organization. On the other hand, the prevention of violence against women and domestic violence and the fight against cybercrime is at the forefront of recent activities within the Council of Europe. Other activities carried out under the umbrella of the Council of Europe are the fight against corruption, the prevention of torture and other inhuman and degrading treatment, the fight against human trafficking, the prevention of money laundering, the fight against racism, the protection of national minorities and taking measures at the level of governments against the extinction of minority languages.⁶

It is possible to list the main duties of the Council of Europe under three main headings. The first is to protect human rights, the second is to ensure the rule of law and to protect the rule of law, and last but not least, to strengthen democracy and democratic governance.⁷

The General Secretary is an organization at the head of the Council of Europe, responsible for the management and strategic direction of all the activities of the organization. In fact, the Appointment to the office of the General Secretary is 5 years takes place after the election in the Parliamentary Assembly. Other organs of the Council of Europe are the Committee of Ministers, the Parliamentary Assembly, and the European Court of Human Rights (ECHR). Hence, The Organization cooperates with the Congress of Local and Regional Units. It has two more units called the Conference of Intergovernmental Organizations.

⁶ The Council of Europa, **The Guardian of Human Rights**, Strasbourg, 2022.

⁷ Schmahl ve Bruer, pp. 460-790.

The Committee of Ministers is the main decision-making body of the Council of Europe organization. Thus, the duties of the Committee of Ministers, composed of Foreign Ministers, are defined in the founding charter. Accordingly, the Committee meets once a year at the ministerial level and every week at the level of deputy ministers in order to carry out the activities within the scope of its job description. In addition, the Presidency of the Committee of Ministers changes hands between member states every 6 months. Moreover, the ministers who serve in the Committee of Ministers, on the one hand, act as representatives of governments at the national level, on the other hand, they act as the guardians of the basic values of the Council of Europe together with the Parliamentary Assembly. Furthermore, Member states are audited by the Committee of Ministers for the fulfillment of their obligations and other duties under the contract. Indeed, The Committee of Ministers of the Council of Europe also has the right to take new measures and make recommendations to governments when it deems necessary.⁸ Depending on the subject to be negotiated, the Committee of Ministers takes decisions by unanimity, qualified majority, and simple majority methods. Another body under the Council of Europe is the European Commission for Democracy through Law, also known as the Venice Commission. In fact, this body provides legal support to member states on behalf of the Council of Europe in the fields of democracy, rule of law, and human rights.

The Parliamentary Assembly is the negotiating body of the Council of Europe. The Assembly consists of 324 members from the

⁸ [Home \(coe.int\)](https://www.coe.int) (Accessed: 4 October 2022)

national parliaments of the 46 member states of the organization. The Parliamentary Assembly, which functions as a forum on Europe's social and political issues, defines itself as the "conscience of Europe". It is generally accepted that the activities of the Assembly act as a trigger for the spread of European values too wide geographies. In addition to political groups, there are standing and special committees within the Assembly, which meets four times a year.⁹

The Parliamentary Assembly acts as an oversight on behalf of the Council of Europe. Hence, the Assembly can request information from member states on various issues and discuss human rights violations. On the other hand, the duties of the Assembly include appointing observers in elections and determining mediators for crisis areas. Moreover, The Assembly also exercises power on the country applying to the Council of Europe, prepares legal opinions, imposes sanctions against any member, and can decide to freeze the representation of the member state or the right to vote.

The mandate of the ECHR, another organ of the Council of Europe, is limited to those listed under the European Convention on Human Rights. thus, the Court negotiates to make finally decides on individual and state applications containing claims of breach of contract.¹⁰ Furthermore, the jurisdiction of the Court is mandatory for the member states of the Council of Europe. Each state is represented in the Court by one member. Also, Members are chosen by the

⁹ Parliamentary Assembly of the Council of Europe (coe.int) (Accessed: 4 October 2022).

¹⁰ For the European Convention on Human Rights, see. European Convention on Human Rights (coe.int) (8 September 2022)

Parliamentary Assembly from among the three candidates proposed by the state. Besides, the term of office of the members is 9 years and it is not possible to reappoint a member who has completed his/her duty.

There are many units within the Council of Europe that supervise the conventions and protocols of the member state. In fact, Supervision methods differ for each contract signed under the umbrella of the Council of Ministers. However, the most important audit methods are periodic reports, country visits, individual applications, state applications, and final reports prepared about the country. Additionally, The Council of Europe appointed a Human Rights Commissioner in 1999, in addition to its inspections in the contracted areas. Therefore, The Commissioner's task is to work on the development of human rights awareness in member states. In this context, the Commissioner primarily monitors human rights practices in member states and provides support to member states regarding laws and administrative regulations in this field. Moreover, the commissioner's term of office is 6 years and he can be elected a second time. Further, The Commissioner is elected by the Parliamentary Assembly from among the three members proposed by the Committee of Ministers. Currently, Dunja Mijatovic, a citizen of Bosnia and Herzegovina, who was elected in 2018, is the Human Rights Commissioner of the Council of Europe.

Since 1949, the Council of Europe has done very successful work in many fields. These include abolishing the death penalty, establishing common standards in the field of human rights, imposing sanctions, and prosecuting violations. The Council's activities also include the fight against racism, the protection of freedom of

expression, equality between men and women, children's rights, protection of cultural differences, human rights education, and the determination of ethical rules in the field of medicine.

The Council of Europe has established new units outside the official bodies on matters related to its job description. Some of the units within this scope operating as Monitoring Bodies are listed as follows: Group of States against Corruption, Anti-Trafficking Group, European Commission of Justice, Anti-Racism Office, Social Rights Committee.

The Council of Europe cooperates with international organizations such as the European Union, the United Nations, and the Organization for Security and Cooperation in Europe regarding the conventions and agreements within the scope of its mandate. Moreover, The Organization also maintains constant contact with international non-governmental organizations.¹¹

In an assessment published by Human Rights Watch in 2019, the European Convention on Human Rights and the Council of Europe's main text of the highest level of protection of human rights at the regional level were accepted. According to the evaluation here, the conventions signed under the umbrella of the Council of Europe have opened a new era in the field of human rights and democracy. Among these conventions, the convention regulating the protection of women against domestic violence and the protection of private life data led to the establishment of a global standard. Thus, the human rights

¹¹ Schmahl ve Bruer, pp.137.223

sensitivity of the Council of Europe directly affects all member states.¹² Even the Russian Federation, which was expelled from its membership on March 15, 2022, was not excluded. According to the findings of the Human Rights Observatory, the Russian Federation has paid 23 million Euros as individual application compensation in the last 2 years. On the other hand, Germany was sanctioned by the Court for the deportation of refugees. Addition, Azerbaijan released the imprisoned politician Ilgar Mammadov as a result of pressure from the Council of Europe.¹³

The activities carried out by the Council of Europe since its establishment, not only sets the standards for democracy, human rights, and human development at the regional level but also encourage non-member states to comply with European standards. Hence, the agreements signed by the Council of Europe with non-member states, international organizations, and non-governmental international organizations lead to the formation of new standards. Indeed, the conventions that have attracted attention in the spectrum of activities of the Council of Europe recently bear the headings of combating cybercrime and protecting personal data.¹⁴

¹² Hugh Williamson, The Council of Europe at 70: Achievements and Concerns, Council of Europe at 70 — achievements and concerns | Human Rights Watch (hrw.org) (Accessed: 6 October, 2022).

¹³ Ilgar Mammadov davası için bakınız: [Ilgar Mammadov v. Azerbaijan \(coe.int\)](#) (Accessed: 3 October 2022).

¹⁴ The Council of Europa, **Partners in Promoting Human Rights and Democracy**, Strasbourg, 2022. p. 4-5.

2. The main problems encountered during Russia's membership of the Council of Europe

After the collapse of the USSR, Russia as the successor of the USSR state made an application to join the Council of Europe on May 7, 1992, during the rule of Boris Yeltsin. However, Russia's application to join could not be discussed until the beginning of 1995 due to the conflicts in Chechnya, on this date Russia made a commitment to investigate political solutions and violations. Thereupon, the process was reconsidered and Russia joined the Council of Europe as the 39th member on February 28, 1996, and ratified the ECHR in 1998.¹⁵ On the other hand, the Russian Parliament, the Duma, was given observer status in the Parliamentary Assembly of the Council of Europe in January 1992 before its membership in the European Council.

Russia's membership in the Council of Europe was realized by a political decision after the collapse of a regime that lived under a single-party rule for 70 years in which the activities of political parties other than the Communist Party were destroyed. Hence, it is not possible to say that Russia suddenly attained a pluralistic structure to reach Western standards, and fulfilled all criteria. Likewise, in terms of fundamental rights and freedoms, as same as market economy rules. further, the great gap between Russia and the West in the 1990s even after it became a member of the Council of Europe could not be eliminated.

¹⁵ Waugne Miller, **Russia and the Council of Europe**, House of Common Library, 2015, p. 2.

In fact, Russia is a problematic country in terms of human rights which was clear before its membership in the Council of Europe, however, the view about the majority of the members contributed to the rule of law and human rights was generally accepted.

Russia has taken important steps on issues previously recommended by the Parliamentary Assembly Following its accession to the Council of Europe. In addition, to the Convention on Human Rights and its Protocols, Russia has also signed and ratified the Convention on Torture, the Framework Convention for the Protection of National Minorities, and the European Convention on Local Governments.

Russia also promised at the same time to resolve international conflicts and problems in the domestic political structure by peaceful methods not only to avoid using force but also to prevent resorting to the threat of use, and to strive for a solution on the basis of international law and agreements. Further, Commitment to withdraw Russian military forces from Transnistria, Moldova, to comply with humanitarian law in armed conflicts and to cooperate with non-governmental organizations.¹⁶

The political perspective was influential in the report prepared on Russia's membership application in the second half of the 1990s, besides the thought that with the membership, Russia's democratic standards will be improved and positive progress will be achieved with the introduction of the control mechanism, indeed, strengthened his

¹⁶ Ibid . p. 3.

positive perspective about this country. As a result, Russia's accession to the Council of Europe was realized by a political decision taken by the Committee of Ministers.¹⁷

During Russia's participation in the Council of Europe, there were great debates due to the war in Chechnya. Hence, The Parliamentary Assembly suspended the right of the Russian delegation to vote in the general assembly in 2000, due to the violence committed by Russia in Chechnya, an autonomous republic affiliated with it. Similarly, developments took place after the occupation of Crimea in 2014. Later, a stage of the debates flared up in 2015,¹⁸ the Russian Constitutional Court decided not to implement the ECHR decisions, which are contrary to the Russian constitution. However, Article 3 of the Russian Constitution clearly stipulates the opposite: “When establishing the decisions of the judicial organs of Russia, it will take a consider into the international agreements to which Russia is a party.”

Another contradiction is this. The Russian Constitutional Court, in its commentary in 2007, declared that it accepted the ECHR as a part of the Russian legal system and stated that it should be taken into account in the proceedings at the national/regional level.¹⁹

Due to the human rights violations committed by Russia in Chechnya after being a member of the Council of Europe and joining

¹⁷ Petra Roter, “Russia in the Council of Europe: Participation a la carte”, **Russia and the European Court of Human Rights: The Strasbourg Effect**, (eds: Lauri Malksoo ve Wolfgang Benedek), Cambridge University Press, 2017, pp. 26-56.

¹⁸ [A Time of Reckoning? Russia and the Council of Europe - Strasbourg Observers \(strasbourgobservers.com\)](https://strasbourgobservers.com) (Accessed 12 September 2022).

¹⁹ Miller, op.cit, p. 6.

the ECHR, the Parliamentary Assembly demanded the restriction of voting rights in the Committee of Ministers of this country. However, the Committee of Ministers not only take this request into account but also did not take any restriction on voting rights made for the Russian representatives in the Parliamentary Assembly. In 2002, the obligations that Russia should fulfill under the Council of Europe were comprehensively revealed and homework was created for Russia. Among these is the peaceful resolution of conflicts within the country, making new regulations that will put an end to human rights violations, non-implementation of the death penalty, Withdrawal of Russian military forces from Transnistria, issues such as raising the standards of detainees and those in prison, it was also requested to ratify the Regional and Minority Languages Agreement signed by Russia and to carry out comprehensive legal reforms.

At the beginning of Putin's administration in 2000, on one hand, Russia assumed new obligations in the field of human rights, on the other hand, violations were widely covered in the reports of NGOs. After 2014, Russia's occupation of Crimea and its violations in Ukraine created great debates within the Council of Europe. Thus, Russian violations, which are also reflected in the report of the United Nations High Commissioner for Refugees about restriction and prevention of legislative activities in Crimea, also included issues such as the implementation of Russian national laws for the Crimea region and discrimination.

in April 2014 enacted in Russia the “foreign agent law”, representatives of non-governmental organizations and non-

governmental international organizations operating in the country have been persecuted and their work has been restricted or banned altogether. However, in Amnesty International, the Helsinki Monitoring Committee, and the evaluations made at the Parliamentary Assembly, it was stated that the law was not in line with the basic principles of the Council of Europe.

The Committee of Ministers and the Parliamentary Assembly took exerted pressure on the Russian government, Although the member states brought up the obligation to comply with the rule of law, fundamental rights, and freedoms, it did not change the general trend, but it caused partial changes. Consequently, Russia's report has been put on human rights violations between February 28, 1996, when it was a member of the Council of Europe, and March 15, 2022, both in the reports of the Committee of Ministers and stated in the Court's decisions.²⁰

Russia's national practices have always been criticized in terms of the Framework Convention for the Protection of National Minorities and others, apart from the European Convention on Human Rights. However, the reports submitted by the Russian government in the form of notifications, the findings of NGOs, and other monitoring methods have kept the debates on the Europeanization of Russia alive. In fact, the record number of applications made to Strasbourg, especially after Russia gave its citizens the right to an individual application within the framework of the European Convention on Human Rights, to which Russia is a party, has always kept Russia on the agenda and damaged

²⁰ Annual Reports (coe.int) (Accessed, 1 October 2022)

its international reputation. For instance, according to the statistics of the European Court of Human Rights, 24.20% of the 70 thousand and 150 applications were made in 2021,²¹ in other words, a quarter of them belong to Russia. On the other hand, in the US State Department's human rights report, widespread violations in Russia include torture, disappearances in custody, limiting the freedom of the press, journalists being hindered in the performance of their duties, review of broadcast content, violation and restriction of freedom of association and restriction of religious freedoms.²²

There is a similar situation in terms of minority rights within the scope of the Framework Convention for the Protection of National Minorities since Russia became a party after joining the Council of Europe. According to the 2004 National Minorities Report submitted by Russia to the Council of Europe, 193 different minority groups live in the country. Although the Moscow administration claims in its reports that it provides the broadest rights to the minorities living within the borders of the country, in practice, the minority languages are limited and become implicit assimilation because the administration encourages the use of Russian.²³ Despite prohibiting discrimination and establishing equality among citizens as a universal principle, discriminatory and exclusionary practices against non-Russians on the

²¹ The European Court of Human Rights, Facts and Figures, 2021, [The ECHR in facts & figures 2021 \(coe.int\)](#) (Accessed 5 October 2022).

²² The USA, State Department, Russia Human Right Country Report 2019, [Russia - United States Department of State](#) (Accessed 4 October 2022).

²³ Council of Europe Advisory Committee Report 2006, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008c2bd> (Accessed on October 11, 2022)

basis of ethnicity, language and religion continued in every region of Russia after the membership of the Council of Europe. While the Russian administration, which is a party to the National Minorities Framework Convention, should make positive discrimination and implement additional measures to ensure equality between the majority to minorities, it has not been successful in all these areas. This is clearly demonstrated both in the reports of the Advisory Committee of the Council of Europe and in the annual assessments by non-governmental human rights organizations.²⁴

When Russia invaded and annexed the Ukrainian territory of Crimea in 2014, the Parliamentary Assembly of the Council of Europe condemned this with a decision. Also, froze Russia's right to vote in the Assembly and also suspended Russia's membership in the units affiliated with the Assembly.²⁵ It was stated that the period of restriction of Russia's rights due to the occupation of Crimea would initially be until the end of 2014, however, the period was later extended until the end of 2015. Meanwhile, the decision of the Constitutional Court of Russia in 2015 that the unconstitutional ECHR decisions will not be implemented, it casts doubt on the progress made in this country

²⁴ Prina, Federica, "Protecting the Rights of Minorities and Indigenous Peoples in the Russian Federation: Challenges and Ways Forward", Minority Right Group Europe Report, Budapest, 2014, pp. 1-28

²⁵ Parliamentary Assembly of the Council of Europe, Citing Crimea, PACE suspends voting rights of

Russian delegation and excludes it from leading bodies, (Accessed: 10 September 2022)

in the field of human rights and the existence of international scrutiny.

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Russia announced in 2016 that it will not participate in the activities of the Parliamentary Assembly until the restrictions on it are lifted. Moreover, Russia stated that it would not pay the 33 million Euro membership contribution a year later. As the tension in relations continued, Russia made a new statement in 2018, announcing that it would leave the Council of Europe if its demands were not met. Thereupon, without mentioning the name of Russia directly, in a declaration adopted in May 2019 with the participation of 30 of the 47-member organizations, it was stated that all member states have an equal right to participate in the activities of the Committee of Ministers and the Parliamentary Assembly. Following this declaration, the restrictions on Russia were lifted in June 2019.²⁷

The decision of the Parliamentary Assembly of 2019 considers the previous decisions taken by Russia on Ukraine and Crimea. Also, it was stated that Russia's practices would be followed through the observation mechanism on the rule of law and human rights. After this process, Russia paid the membership dues for the conflict periods and cooperated with the Council of Europe in some areas. On the other hand, new resolutions have been added to the decisions criticizing

²⁶ A Time of Reckoning? Russia and the Council of Europe, [A Time of Reckoning? Russia and the Council of Europe - Strasbourg Observers](#), (Accessed: 15 September 2022).

²⁷ EU Observer, [The Council of Europe's surrender to Russia, The Council of Europe's surrender to Russia \(euobserver.com\)](#), (Accessed: 12 September 2022)

Russia's practices on human rights and rule of law in the Parliamentary Assembly due to its delay in fulfilling its commitments.

Russia's attitude towards Ukraine's Crimea region has not changed after regaining the right to represent and vote. On the other hand, applications made due to acts contrary to the contract within the country continued to increase. In this context, the restriction of the fundamental rights and freedoms of political dissident Alexey Navalny, applications arising from the suppression of political activities, and physical violence, extended to poisoning and conviction. However, 11 of the 20 lawsuits brought by Navalny to the European Court of Human Rights were concluded in favor. Eventually, Navalny was not released despite repeated court calls.²⁸

The attack on Ukraine started as time as when the problems of the occupation and annexation of Crimea in Russia's relations with the Council of Europe began to normalize, indeed, triggered the process leading to the complete rupture of relations. Because, on February 24, 2022, a comprehensive attack against Ukraine was launched by Russia on ideological and subjective grounds. However, it is not only limited to violations of the UN charter, but also constitutes a violation of the founding texts of the Council of Europe and the accepted conventions.

The method followed in relation to international disputes between states is clearly regulated in paragraphs 2, 3, and 4 of the UN Charter, which has a mandating character. Hence, the member states

²⁸ European Stability Initiative Report, Why Russia had to be expelled from the Council of Europe, Why Russia had to be expelled from the Council of Europe | ESI (esiweb.org) (Accessed. 12 September 2022).

can resolve their international disputes, and peace by peaceful means without endangering security and justice. Furthermore, all members shall refrain from the threat or use of force against the territorial integrity and political independence of any state in their international relations, so states settle their disputes on the basis of UN principles.²⁹

It is clear that Russia's attack on Ukraine not only poses a threat to international peace and security but also is in no way compatible with UN principles. However, the UN's sanction for the solution of the problem takes a decision in the category of coercive measures and the use of force was not possible due to Russia's permanent membership in the Security Council.³⁰ Hence, At the meeting of the UN General Assembly, which was held right after the attack on February 24, 2022, Russia was condemned by the overwhelming majority decision. A similar development took place after the decision to annex four regions of Ukraine, At the ceremony held in Moscow on September 30, 2022, Russia, Zaporidja, and Kherson, the annexation of Donetsk and Luhansk was strongly condemned by the UN General Assembly. After the annexation decision, voting was held on 10 October 2022, to clarify 143 of 193 states voted to condemn Russia's annexation decision. Whereas, 35 countries, including China and India, abstained. It was limited to North Korea, Belarus, Syria, and Nicaragua voted in favor of Russia.³¹ Especially, In the resolution of the General Assembly, a call

²⁹ United Nations Charter /Charter [2212020141836bm_01.pdf](#) ([adalet.gov.tr](#)), (Accessed. 23 September 2022)

³⁰ <https://news.un.org/en/story/2022/02/1112802/> (Accessed. 11 September 2022).

³¹ ['Unscrupulous Western blackmailers': Russia's fury as UN votes to condemn Ukraine annexations | Euronews](#) (Accessed. 15 October 2022).

was made to all states and international organizations not to recognize Russia's decision to annex 4 regions in eastern Ukraine. Moreover, In the resolution condemning the actions of Russia, it is also stated that Moscow "immediately withdraws all its military forces from the territory of Ukraine within the internationally recognized borders, so was requested to withdraw completely and unconditionally.

Fundamental rights and freedoms during Russia's membership of the Council of Europe, indeed, Progress has been made in standards on democracy and minority rights. Therefore, Russia as of 27 December 2017, Signed and ratified 63 of more than 200 conventions signed under the umbrella of the Council of Europe, it signed 16 without ratifying them. As of the mentioned date, the number of Council of Europe conventions that Russia is not a party to is 130. However, among the accepted conventions, are the torture contract, the fight against racism, the European Social Contract, the convention for the protection of minorities, anti-corruption convention. Despite all its shortcomings, Russia, during its membership in the Council of Europe, made significant progress in the field of democracy, rule of law, fundamental rights and freedoms.

3. Termination of Russian membership from the Council of Europe due to the violation of the statute and the ECHR

Russia recognized the separatist regions of Ukraine, Luhansk, and Donetsk, which declared independence on February 22, 2022. Two days after this decision, an armed attack was launched against Ukraine, the act which is clearly contrary to international law has been defined

as an “operation” by Russia. After the attack, the Parliamentary Assembly of the Council of Europe, while expressing its opinion on the suspension of Russia's membership pursuant to Article 8 of the statute of the organization, the European Court of Human Rights, After the negotiations carried out between 1-4 March, it decided that Russia did not respect the right to life and other human rights in the convention.

In the assessment made by the Court, the attack on different parts of Ukraine with the increase in civilian casualties, in particular, the right to life regulated in Article 2 of the Convention, also to Article 3, which prohibits torture and degrading treatment, it has been determined that it constitutes a violation of Article 8 regarding the privacy of private life and family life. In addition, it was reminded that both parties to the conflict continue to have obligations in terms of rights under the contract.³²

The resolution stated that Russia attacked, the settlements intensively, ambulances and emergency vehicles, schools, hospitals, and the right to private life according to the contract are not respected, and even safe evacuation routes were attacked, also It has been stated that it prevents the distribution of health services, food, and other living materials, so this situation constitutes a violation of the rights under the contract.

On the other hand, when Russia launched a military attack on Ukraine on February 24, 2022, the Committee of Ministers of the Council of Europe came together and adopted a resolution condemning

³² Marko Milanovic, The Russia Ukrainian War and the Ecuropcean Convention on Human Rights, The Russia-Ukraine War and the European Convention on Human Rights - Lieber Institute West Point (Accessed: 8 Mart 2022)

Russia. At the meeting, it was also agreed to meet again the next day and discuss the measures to be taken against Russia. Hence, it was decided to negotiate sanctions, including the expulsion of Russia, pursuant to Article 8 of the founding agreement of the Council of Europe.

According to Article 8 of the Council of Europe convention, If any member state seriously violates Article 3, which includes the values of the organization, that state's right to representation is frozen and the Committee of Ministers may request the state to withdraw from membership. If the state concerned does not heed this request, the Committee of Ministers may terminate the state's membership of the Council of Europe at a date to be determined by it. According to article 20 of the founding convention of the Council of Europe, It is possible to take such a decision with the votes of two-thirds of the total number of members.

The Committee of Ministers reconvened on 25 February 2022, after taking the opinion of the Parliamentary Assembly, it decided to freeze Russia's right to represent in the Council of Europe. On March 15, 2022, the Parliamentary Assembly clarified its view on this issue: the assembly wanted the Council of Ministers to take the decision to immediately remove Russia from the Council of Europe membership. The Council of Ministers would be able to terminate Russia's membership of the Council of Europe at a date determined by it if

Russia did not quickly put an end to the de facto situation incompatible with its membership in the Council of Europe.³³

On the same day, the Russian government made a notification to the General Secretariat of the Council of Europe and announced that it was leaving the Council membership.³⁴ This notification meant that, according to Article 7 of the Council of Europe statute, Russia went beyond the jurisdiction of the European Convention on Human Rights from now on. According to Article 7, the obligations of the member state requesting withdrawal would be valid at the end of the same year or from the following year. Indeed, The Committee of Ministers chose to terminate Russia's membership on March 16, 2022.³⁵

As of March 16, 2022, Russia was no longer a party to the European Convention on Human Rights. In Article 58 of the contract, a period of 6 months was stipulated for leaving from the notification. Since it was understood that the serious violation continues and there will be no development in this area, the Committee of Ministers put forward the date of leaving the membership.³⁶

On the other hand, Russia's departure from the Council of Europe and the European Convention on Human Rights has raised concerns about the re-implementation of the death penalty in this country. When Russia joined the Council of Europe in 1996, it decided

³³ Parliamentary Assembly opinion on the consequences of Russia's attack on Ukraine, Consequences of the Russian Federation's aggression against Ukraine (coe.int), (Accessed: 7 October 2022).

³⁴ Russia leaves Council of Europe, avoiding being kicked out – EURACTIV.com (Accessed: 8 October 2022)

³⁵ 0900001680a5da51 (coe.int) (Accessed 8 October 2022).

³⁶ Russia ceases to be a Party to the European Convention on Human Rights on 16 September 2022 - Newsroom (coe.int) (Accessed: 7 October 2022).

not to apply the death penalty. In fact, the abolition of the death penalty had become the imperative rule of law applied in all member states with the adoption of the 6th protocol of the European Convention on Human Rights.

The attack launched by Russia against Ukraine on February 24, 2022, although expressed as an operation by Moscow, means a de facto war in terms of international law. In fact, the UN General Assembly defined a military operation as an attack.³⁷ In the UN resolution, the attack of Russia's military forces on Ukraine is unacceptable and requested the departure of Russian military forces from the country “immediately, completely and without preconditions”.

the Council of Europe evaluated Russia's attack on Ukraine as a violation of the founding convention and as a violation of the European Convention on Human Rights. In Article 3 of the Council of Europe status, each member state will act by taking into account the rule of law, It is recorded that every person under its legal authority will adopt the principle of benefiting from human rights and fundamental freedoms. In order for a state to become a member of the Council of Europe, democracy by status should adopt the principles of human rights and the rule of law. In Article 8, the conditions for separation are regulated. Accordingly, each of the member states can withdraw from membership by notifying the General Secretary of the organization.³⁸

³⁷ General Assembly resolution demands end to Russian offensive in Ukraine || 1UN News (Accessed 7 October 2022).

³⁸ Statute of the Council of Europe, Statute of the Council of Europe (ETS no. 001) (adalet.gov.tr), (Accessed: 22 September 2022)

In Article 8 of the Council of Europe statute, expulsion from membership is regulated. Accordingly, the restriction of the right of representation of a member who severely violates the conditions of Article 3 of the statute, If the violation continues, it is invited to withdraw if no result is obtained with this method, it should be expelled from the membership at a date to be determined by the Committee of Ministers.³⁹

Russia's expulsion from the Council of Europe should be considered as the last link in a long chain of events. After Russia's attack on Ukraine on February 24, 2022, the first sanction against this country was the suspension of its membership in the Committee of Ministers. However, this initiative was perceived as a weak response and more effective sanctions were pronounced by some members. In fact, The Council of Europe regulation provides for both voluntary withdrawal (article 7) and forced expulsion (article 8). On March 15, 2022, the Parliamentary Assembly made a call to the Committee of Ministers and expressed its demand for Russia's withdrawal from the organization. On the same day, Russia announced its withdrawal from the Council of Europe membership and also its intention to leave the ECHR. Hence, when the method preferred by Russia was accepted as the basis, the withdrawal from membership would take place 6 months later. Yet, The

³⁹ Council of Europe Statute, Statute of the Council of Europe (ETS no. 001) (adalet.gov.tr), (Accessed: 22 September 2022)

Article 8: “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”

Committee of Ministers announced its decision on March 16, 2022, on the expulsion of Russia from the Council of Europe.

The expulsion of Russia from the Council of Europe, in the other words, means Russia's withdrawal from the European Convention on Human Rights and outside the jurisdiction of the ECHR. In fact, the interpretation adopted by the ECHR on this issue differs from the Committee of Ministers. According to the court, Russia's membership in the ECtHR will continue after the expulsion date and will only end on September 16, 2022. The Court bases its opinion on this issue on Article 58. According to the article

1. A High Contracting Party may denounce this Convention only after a period of five years has elapsed from the date of it becoming a party and by six months' notice to the Secretary General of the Council of Europe. The General Secretary shall inform the other High Contracting Parties of this.

2. This termination process, regarding an event that occurred before the termination date and could be considered as a breach of obligations, shall not result in the release of that High Contracting Party from its obligations under this Convention.

3. Any High Contracting Party whose membership of the Council of Europe ceases to be a party to this Convention under the same conditions.

4. The Convention may be terminated in accordance with the provisions of the preceding paragraphs in respect of the countries declared to be applicable under Article 56.”⁴⁰

⁴⁰ European Convention on Human Rights, European Convention on Human Rights (coe.int) (Access: 30 October 2022).

Russia left the Council of Europe, it drew attention to Article 58 (3) of the ECHR, a dormant and largely forgotten provision of the Convention. This rule links the termination of the membership of the Council of Europe to the exit from the ECHR.

CONCLUSION

After the disintegration of the USSR, Atlanticists dominated the administration in Russia during Yeltsin's rule. According to the ideology of this political current, Russians are essentially a part of European civilization. The main goal of the reform movements carried out in Russia since the Tsarist period is to minimize the differences between Europe and Russia to ensure that Russia is accepted as a European country. During Yeltsin's rule, Russia's relations with the West were defined from this perspective. The most important step taken in this context was Russia's accession to the Council of Europe in 1996. Although Russia, the successor of the USSR, did not fully meet the European Council membership criteria and other obligations, its participation was welcomed by other members and supported by political considerations.

After its membership in the Council of Europe, Russia became a party to a significant part of the agreements under the umbrella of the organization in areas such as democracy, human rights, and the rule of law. Adoption of European standards in areas falling within the scope of the Council of Europe mandate, Democracy experience is considered a revolution in a limited country like Russia. However, with the Putin administration in the 2000s, a period of tension and conflict began in Russia's relations with the Council of Europe. Changes in Russian

national laws incompatible with membership of the Council of Europe and accepted conventions, in particular, the Constitutional Court's interpretation that international agreements that are incompatible with domestic law will not be enforced, it caused problems in many areas.

However, the fact that Russia's membership of the Council of Europe has become controversial, and its expulsion from the membership after the Ukraine war, on one hand, because contrary to the imperative rules of international law, On the other hand, the declaration of war incompatible with the Council of Europe charter and the ECHR, resulted from occupation and gross violation of contractual obligations.

The decisions taken by the Committee of Ministers of the Council of Europe about Russia are mainly the result of the deliberate and continuous violation of the agreements and conventions to which this country is a party. like Sanctions imposed on Greece when it came under the junta administration in 1967, After the invasion and annexation of Ukraine in 2014, it came to the fore for Russia. One step after this, the Ukraine attack on February 24, 2022, is both the founding text of the Council of Europe, the London Convention, as well as the ECHR and other binding legal texts, for this reason, the most severe way of punishment was preferred. as the result, the continuity of Russia's acts against the most fundamental rules of universal international law and the lack of a return opportunity caused the expulsion system to come into effect on March 16, 2022. In another decision announced by the European Court of Human Rights on March 22, 2022, it was stated that Russia's membership of the ECHR, whose membership in the Council of Europe was terminated, also ended.

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