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Meeting: 1398th meeting (March 2021) (DH)

Item reference: Action Report (17/02/2021)

Communication from the Russian Federation concerning the case of Navalnyye v. Russia (Application No. 101/15) (Navalnyy and Ofitserov group, 46632/13)

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Réunion : 1398^e réunion (mars 2021) (DH)

Référence du point : Bilan d'action (17/02/2021)

Communication de la Fédération de Russie concernant l'affaire Navalnyye c. Russie (requête n° 101/15) (groupe Navalnyy et Ofitserov, 46632/13) **(anglais uniquement)**

ACTION REPORT

**on the individual measures taken by the Russian authorities in connection
with the execution of the judgment of the European Court of Human Rights
in case no. 101/15 *Navalnyye v. Russia*
(judgment of 17 October 2017, final on 5 March 2018)**

Violation

1. In the said judgment, the European Court has found a violation by the Russian authorities of Article 6 § 1 and Article 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms in connection with the failure to respect the applicants' rights to a fair trial during the examination of their criminal case.

Individual Measures:**2. Just satisfaction**

The just satisfaction awarded by the European Court to the applicants was paid in full to Mr A. Navalnyy and Mr O. Navalnyy.

	Applicant	Non-pecuniary damage	Legal costs and expenses	Payment
1.	NAVALNYI Aleksy Anatolyevich	EUR 10 000	EUR 45 000	The payment was made in full on 29 June 2018, including default interest for payment delay (payment order No. 277217 for the amount of RUB 4,028,094.68)
2.	NAVALNYI Oleg Anatolyevich	EUR 10 000	EUR 10 971 RUB 460 000	According to the wishes of Mr O. Navalnyy, the payment of EUR 20 971 including default interest for payment delay was made directly to him (payment order No. 385407 for the amount of RUB 1,550,721.46), while RUB 460 000 - to the bank account of his representative - Ms A. Polozova (Payment order No. 385408)

3. As noted by the European Court, the domestic courts did not address the applicants' arguments that the acts imputed to them had constituted ordinary conduct of business and had not contained fraud indicators under Article 159.4 of the Criminal Code of the Russian Federation.

In connection with these findings, upon the submission of the Chairman of the Supreme Court of the Russian Federation, the Supreme Court resumed the proceedings in the applicants' criminal case on 25 April 2018 due to new

circumstances. However, based on the results of a detailed assessment of all the circumstances of the case in the light of the ECHR's findings, the Supreme Court found no grounds for quashing or changing the judgment of conviction delivered earlier. The Supreme Court confirmed that the proceedings at the domestic level had been conducted in compliance with all procedural requirements; and the factual circumstances of the crimes, established by the national courts and confirmed by the totality of relevant and admissible evidence, contained all the mandatory indicators of the offenses provided for in Article 159.4 and Article 174.1 § 2 (a) of the Criminal Code of the Russian Federation. In this regard, the acts of the applicants cannot be considered as legitimate activities under the Civil Code of the Russian Federation.

The Convention does not contain requirements for automatic quashing of national courts' decisions in connection with the ECHR judgments. The fact that the Supreme Court has reopened the proceedings in the applicants' criminal case as well as an additional examination of all the circumstances of the case within these proceedings in full compliance with necessary procedural requirements are the adequate proof of the execution of the ECHR judgment by the Russian authorities. According to the principle of subsidiarity, which determines the interaction between the ECHR and the national judicial systems of the Council of Europe member States, the interpretation and application of domestic law lies within the exclusive competence of national courts.

In accordance with the Constitution of the Russian Federation, the Russian courts are independent and submit only to the law; executive bodies cannot interfere in the activities of judges and are not entitled to cancel their decisions.