

## SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



Contact: Clare Ovey  
Tel: 03 88 41 36 45

Date: 02/08/2017

**DH-DD(2017)819**

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1294<sup>th</sup> meeting (September 2017) (DH)

Communication from the applicant's representative (13/07/2017) in the case of Navalnyy and Ofitserov v. Russia (Application No. 46632/13).

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1294<sup>e</sup> réunion (septembre 2017) (DH)

Communication du représentant du requérant (13/07/2017) dans l'affaire Navalnyy et Ofitserov c. Russie (Requête n° 46632/13). **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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**DGI**

**10 JUL. 2017**

**SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH**

**Council of Europe**

DGI – Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECHR

F-67075 Strasbourg Cedex

10 «July» 2017

***Execution of the Judgment of the European Court of Human Rights of 23 February 2016 in  
the case of Navalnyy and Ofitserov v Russia under Rule 9.1 of the Rules of the Committee of  
Ministers for Supervision of the Execution of Judgments and of Friendly Settlements***

**Re:** Case of Navalnyy and Ofitserov v Russian (no. 46632/13 and 28671/14)

Dear Sir/Madam,

Pursuant to Rule 9.1 of the Rules of the Committee of Ministers for Supervision of the Execution of Judgments and of Friendly Settlements Mr. Navalnyy, the first applicant of the referred judgment, wishes to inform the Committee of Ministers about the further developments of the execution of the aforementioned judgment.

As the applicant has previously submitted, on 08 February 2017 Leninskiy District Court of Kirov delivered a judgment according to which Mr. Navalnyy was sentenced to a five-year suspended imprisonment and a fine in the amount of 500 000 Russian rubles.

This judgment was appealed to the Kirovskiy Regional Court, which on 03 May 2017 upheld the decision of the first instance court and found it well founded and lawful. The court of appeal dismissed all the claims of the first applicant, including the claims that:

- (a) The judgment of 08 February 2017 was almost identical to the judgment of Leninskiy District Court of Kirov dated 18 July 2013 that was found to be in violation with Article 6 of the Convention. The Kirovskiy District Court ruled that this fact did not affect the lawfulness of the judgment. Further, the national courts are to deliver their judgments only in accordance to RF Constitution and national laws.

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(b) The first instance court rejected all the motions of the applicant including the requests to find a number of evidences inadmissible; to summon the experts whose report was the bases for incrimination of Mr. Navalny of criminal offences; to order a new independent expertise, etc. The court of appeal stated that the first instance court had duly examined all the motions and rejected them.

(c) Mr. Navalny's criminal prosecution was due to his political points of view. The Kirovskiy Regional Court found this claim to be just an assumption. (Attachment 1)

Further, the court of appeal, similar to the court of first instance, was reluctant to consider the findings of the Court that were of utmost importance for the outcome of the case and made violations similar to those in the judgment of 2013, particularly:

(a) The national courts disregarded the finding of the Court that "the domestic courts applied criminal law arbitrarily and found the applicants guilty of acts indistinguishable from regular commercial activities [...], in violation of Article 6 of the Convention." (para. 126)

(b) Before Mr. X's testimonies the court reminded him that he had concluded a plea-bargaining agreement with the Prosecutor's office in September 2012, which was binding upon him. Mr. X almost did not answer to any questions of the applicant claiming that he remembered nothing and referred to the previous judgment. Furthermore, Mr. X's status at the proceedings was not clear.

The applicant also informs the Committee of Ministers that on 07 June 2017 the Kirov region's Property Management Department founded State unitary enterprise Kirovles, based on the aforementioned judgment, has turned to Nikulinskiy District Court of Moscow with the request to recover from the applicants of the referred judgment pecuniary damage in the sum of 16 165 826 Russian rubles. (Attachment 2)

Sincerely



Karinna Moskalenko



Olga Mikhaylova

On behalf of the applicant