

**THE STATUS
OF THE COUNCIL OF EUROPE
CONVENTION FOR THE PROTECTION
OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS
AND JUDGMENTS
OF THE EUROPEAN COURT OF HUMAN
RIGHTS IN THE RUSSIAN LEGAL SYSTEM**

E. S. Alisieva,

Candidat of juridical sciences,
assistant professor of the International Law Department,
Peoples' Friendship University of Russia

N. V. Kislicina,

Post-graduate student
of the Peoples' Friendship University of Russia

The Council of Europe Convention for the protection of human rights and fundamental freedoms of 1950, to which the Russian Federation is a party since May 5, 1998, and also decisions and Judgments of the European court of human rights, first of all those, taken out in relation to Russia, make more and more appreciable impact on development of the domestic legislation and law enforcement practice and are more often used by the Russian courts in the course of consideration of specific cases. The number of the complaints submitted to the European court against Russia, and number of Judgments in which the Court ascertains infringement by Russia of corresponding human rights and freedoms grows annually. Meanwhile, the issue of the legal status of the Convention as well as Court's decisions and Judgments in the domestic legal system remains one of the most debatable.

Being ratified by the Russian Federation, the Convention is a source of the Russian law, since according to part 4 art. 15 of the Constitution of the Russian Federation «an international treaty of the Russian Federation shall be a part of its legal system».

The Plenum of the Supreme Court of the Russian Federation in part 2 of the Decision № 5 «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation» of October 10, 2003, also underlined, that «international treaties of the Russian Federation along with generally recognized

Federation along with generally recognized principles and norms of international law are a part of its legal system».¹

Par. 5 art. 3 entitled «International treaties of the Russian Federation in the legal system of the Russian Federation» of the Federal Law «On international treaties of the Russian Federation» of July 15, 1995, states that the Convention can be applied in the territory of Russia directly, as: «Provisions of officially published international treaties of the Russian Federation, not requiring the issuance of internal acts for their application, operate in the Russian Federation directly».² According to part 2 of the Decisions of the Plenum of the Supreme Court № 5 «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation» of October 10, 2003, «When a court considers civil, criminal or administrative cases, it directly applies such international treaty of the Russian Federation which has come into force and become obligatory for the Russian Federation and which provisions do not require the issuance of internal acts for their application and are capable to generate the rights and duties for subjects of the national law (part 4 art. 15 of the Constitution of the Russian Federation, part 1 and 3 art. 5 of the Federal law «On international treaties of the Russian Federation», part 2, art. 7 of the CC of the Russian Federation)». Besides, «...human rights and freedoms according to generally recognized principles and norms of international law, and also international treaties of the Russian Federation are directly operating within the jurisdiction of the Russian Federation».³

However, does a duty of law enforcement organs, first of all, courts, directly to apply norms of the Convention in the course of consideration of concrete cases follow from the fact that the Convention operates directly in territory of the Russian Federation?

The Plenum of the Supreme Court in its Decision «On the application by courts of general jurisdiction of generally recognized principles

¹ Decision of the Plenum of the Supreme Court of the Russian Federation of October 10, 2003 № 5 «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation // Bulletin of the Supreme Court of the Russian Federation. 2003. № 12.

² Federal law «On international treaties of the Russian Federation» of July 15, 1995 № 10-FZ // Collection of legislation of the Russian Federation. 1995. № 29. Art. 2757.

³ Decision of the Plenum of the Supreme Court of the Russian Federation of October 10, 2003 № 5 «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation // Bulletin of the Supreme Court of the Russian Federation. 2003. № 12.

and norms of international law and the international treaties of the Russian Federation» tries to answer this question. Part 4 of the Decision specifies: «Courts should take into account that an international treaty is subject to application if the Russian Federation ... has expressed the consent to the obligation of such international treaty for it by means of one of the actions listed in article 6 of the Federal law «On international treaties of the Russian Federation» ... and also provided that the specified treaty has come into force for the Russian Federation (for example, the Convention for the protection of human rights and fundamental freedoms was ratified by the Russian Federation under Federal law of March 30, 1998 № 54-FZ, and came into force for the Russian Federation on May 5, 1998 — the date of deposit of ratification with the Secretary general of the Council of Europe according to art. 59 of this Convention)». Thus, «proceeding from the sense of parts 3 and 4 art. 15 of the Constitution of the Russian Federation, part 3 art. 5 of Federal law «On international treaties of the Russian Federation», courts can directly apply those international treaties which have come into force and were officially published in the Collection of legislation of the Russian Federation or in the Bulletin of the international treaties in the order established by article 30 of the specified Federal law».⁴

In the Decision «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation» the Plenum of the Supreme Court of the Russian Federation specified, that international treaties which have direct and immediate action in the territory of the Russian Federation (that is, including the Convention), «are applicable by courts, including military ones, when considering civil, criminal and administrative cases, in particular:

when considering civil cases if an international treaty of the Russian Federation establishes other rules, than the law of the Russian Federation which regulates the relations which have become a subject of judicial consideration;

when considering civil and criminal cases if an international treaty of the Russian Federation establishes other rules of legal proceedings, than the civil procedure or criminal procedure law of the Russian Federation;

when considering civil or criminal cases if an international treaty of the Russian Federation regulates relations, including the relations with foreign persons, which have become a subject of judicial consid-

⁴ Ibid.

eration (for example, when considering cases listed in art. 402 of the Civil procedure code of the Russian Federation, petitions for execution of decisions of foreign courts, complaints against decisions on extradition of persons accused of committing a crime or convicted by the court of a foreign state);

when considering cases on administrative offences if an international treaty of the Russian Federation establishes other rules, than those provided by the legislation on administrative offences».⁵

At this, in part. 9 of the Decision the Plenum of the Supreme Court underlines that at administration of justice the courts should take into account that in the sense of part 4 art. 15 of the Constitution of the Russian Federation, art. 369, art. 379, part 5 art. 415 of the Criminal procedure code of the Russian Federation, art. 330, art. 362-364 of the Civil procedure code of the Russian Federation, a wrong application by the court of generally recognized principles and norms of international law and international treaties of the Russian Federation can be a basis for cancellation or change of the judicial act. «Wrong application of norm of international law can take place in cases when the court has not applied the norm of international law which is subject to application, or, on the contrary, the court has applied the norm of international law which was not subject to application or when the court has given wrong interpretation of a norm of international law».⁶

Thus, neither current legislation, nor the Supreme Court of the Russian Federation consider the direct application of norms of the Convention in the course of consideration of concrete cases as a duty of a law enforcement organ; therefore the decision to apply norms of an international treaty, including the Convention, in the course of consideration of a concrete case the law enforcer should make independently but if he considers that the use of the corresponding international act is inappropriate, for example, because the concrete legal question is settled by the Russian legislation, a high probability of cancellation or change of the corresponding act will remain. In order to avoid it, the law enforcer should choose independently among generally recognized principles and norms of international law, and also among hundreds of international treaties to which the Russian Federation is a party, and to correctly refer to the act which is applicable to a concrete situation. He should also consider that as in the case with the Convention, provisions of an international legal act can be interpreted by the authorized supra-

⁵ Ibid.

⁶ Ibid.

national organ and consequently should be applied only taking into account the practice of their interpretation by the corresponding organ, for example, the Court in the case of the Convention. Thus, with reference to Court's decisions and Judgments the status of these acts in the domestic legal system can be determined ambiguously, being a subject of scientific disputes.

Meanwhile, the significance of Court's Judgments and legal positions of this supranational organ for the development of the domestic law and practice of its application is determined both by the international treaties to which Russia is a party, and by national acts.

According to part (b) part 3 art. 31 of the Vienna Convention on the law of treaties entitled «General rule of interpretation»: together with the context of a treaty, «any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation» should be considered.⁷

The Plenum of the Supreme Court of the Russian Federation in its Decision «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation» underlined, that «interpretation of an international treaty should be carried out according to the Vienna convention on the law of treaties of May 23, 1969 (section 3; articles 31-33)». Thus, with reference to the Convention the practice of interpretation by the Court of provisions of this act, that is legal positions of Court, cannot be ignored at the application of the Convention. It is confirmed also by provisions of art. 1 of Federal law of March 30, 1998 №54-ФЗ «On ratification of the Convention for protection of human rights and fundamental freedoms and Protocols thereto», according to which: «Russia recognized ipso facto and without any special agreement, the jurisdiction of the European court for human rights as obligatory on the issues of interpretation and application of the Convention and Protocols thereto in cases of alleged infringement by the Russian Federation of provisions of these treaty acts when an alleged infringement took place after they have entered into force in relation to the Russian Federation».⁸

Thus, legal positions of the Court are inseparable from those of the Convention. However unlike the Convention, Judgments of the Court

⁷ The Vienna convention on the law of treaties of May 23, 1969 // Operating International Law / Ed. in charge Ju. M. Kolosov, E. S. Krivchikova. M, 2002.

⁸ Federal Law «On ratification of the Convention for protection of human rights and fundamental freedoms and Protocols thereto» of March 30, 1998 № 54-FZ // CL of the Russian Federation. 1998. № 4. Art. 1514.

including legal positions of this supranational judicial organ, is not an act of lawmaking, but an act of application of norms of the Convention to circumstances of concrete cases. Their value is caused by the fact that the sense, content and volume of human rights and freedoms fixed in the Convention, are defined through interpretation only by the Court as the unique body endowed under the Convention with this power; therefore when applying the Convention as a source of the Russian law and referring to a specific article of this act, for example, art. 3 (prohibition of tortures), the Russian judge automatically refers to legal positions of Court under art. 3 of the Convention, as these positions is the «practice of application» of the Conventions, inseparable from the Convention. At the same time Court's Judgment as acts of law enforcement is an additional, auxiliary source of the Russian law.

At that, for the domestic law enforcer, using legal positions of the Court in the course of consideration of concrete cases it is insignificant whether the corresponding decision or Judgment is passed in relation to Russia or another state-party to Convention. Separation of Court's Judgment into those taken out in relation to the Russian Federation and in relation to other states-parties to the Convention, matters only for the execution of Court's Judgments since only on the basis of Court's Judgments taken out in relation to Russia, in Russia corresponding measures of a general and individual character are taken. However, in order to determine the significance of Court's Judgments in the system of the Russian law, the above separation is not meaningful, as legal positions of the Court are uniform for all states which have ratified the Convention. It is evidenced in particular by the Judgments taken out by the Court against Russia in which the Court motivates its position, proceeding from the Judgments adopted both in relation to Russia, and in relation to other state-parties to the Convention.

Recently, Russian courts of all levels even more often refer to Court's Judgments. It is promoted by explanations of the higher judicial organs which repeatedly underlined the significance of legal positions of the Court for law enforcement activity of Russian courts.

In the Decision «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation» the Plenum of the Supreme Court of the Russian Federation specified: «...application by the courts of the above-named Convention should be carried out taking into account the practice of the European Court of human rights in order to avoid any infringement of the Convention for the protection of human rights and fundamental freedoms». According to par. 12 of the

Decision at realization of legal proceedings the courts should take into consideration, that owing to par. 1 art. 6 of the Convention, «everyone is entitled to a fair and public hearing within a reasonable time». At calculation of the above time on criminal cases, legal proceeding covers both the preliminary investigation procedure, and the proper legal proceeding. According to the legal positions developed by the Court, this time starts from the moment when accusation is brought to the person or this person is detained, taken into custody, or other measures of procedural remedial compulsion are applied, and comes to an end at the moment when the verdict has entered into force or criminal case or criminal prosecution is stopped. Proceeding terms on civil cases in the sense of par 1 art. 6 of the Convention start from the moment of receipt of the statement of claim, and come to an end at the moment of execution of the judicial act. Thus, in the sense of art. 6 of the Convention, judgment execution is considered as a component of “legal proceeding”. Taking it into account, when considering questions on a delay, installments, change of a way and order of execution of judgments, and also when considering complaints against actions of judicial officers-executors, the courts should take into consideration the necessity of observance of requirements of the Convention concerning execution of judgments in reasonable time. When determining, what time of proceeding is reasonable, one should pay attention to complexity of the case, behavior of the applicant (claimant, respondent, suspected, accused, defendant), conduct of the state in the name of corresponding organs».⁹

Par. 13 of the Decision of the Supreme Court of the Russian Federation went on: «When considering civil and criminal cases the courts should take into account, that in virtue of part 1 art. 47 of the Constitution of the Russian Federation, no person may be deprived of the right to have a case examined in the court or by the judge to whose jurisdiction it is referred by law. According to par. 1 art. 6 of the Convention, in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to an independent and impartial tribunal established by law. Proceeding from Judgments of the European Court of human rights with reference to judicial system of the Russian Federation the given rule extends not only on judges of federal courts and judges of the peace, but also on jurymen who are

⁹ Decision of Plenum of the Supreme Court of the Russian Federation of October 10, 2003 № 5 «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation // Bulletin of the Supreme Court of the Russian Federation. 2003. № 12.

courts and judges of the peace, but also on jurymen who are citizens of the Russian Federation included in lists of jurymen and called in an order established by law to participate in administration of justice». ¹⁰ Explanations of the Plenum of the Supreme Court of the Russian Federation on concrete legal questions are contained also in par. 14 and 15 of the Decision.

In the Decision «On a judgment» of December 19, 2003 № 23 in connection with the coming into force since February 1, 2003t of the Civil procedure code of the Russian Federation and with a view of fulfillment of its requirements concerning judgment, the Plenum of the Supreme Court of the Russian Federation explained, that together with Decisions of the Constitutional Court of the Russian Federation on interpretation of provisions of the Constitution of the Russian Federation, subject to application in a concrete case, and on recognition as corresponding or mismatching with the Constitution of the Russian Federation of normative legal acts listed in par. “a”, “b” “c” part 2 and in par. 4 art. 125 of the Constitution of the Russian Federation on which the parties base their requirements or objections, and also Decisions of Plenum of the Supreme Court of the Russian Federation, adopted on the basis of art. 126 of the Constitution of the Russian Federation and containing explanations of the questions which have arisen in judiciary practice connected with the application of norms of material or procedural law, subject to application in the given case, the courts should consider «Judgments of the European Court of human rights which contain interpretation of positions of the Convention for the protection of human rights and fundamental freedoms which are subject to application in the given case». ¹¹

The Higher Arbitration Court of the Russian Federation in its Circular of December 20, 1999, № S1-7/SMP-1341 «On the substantive provisions applied by the European court of human rights at protection of property rights and the right to justice» underlined, that «the competence of arbitration courts concerning consideration of property rights and the competence of the European court concerning consideration of complaints against infringement of property rights are interconnected. Such interconnection is based on necessity of solving a uniform problem of international and national legal proceedings, namely the protection of property rights of private persons together with appropriate pro-

¹⁰ Ibid.

¹¹ Decision of the Plenum of the Supreme Court of the Russian Federation of December 19, 2003 № 23 «On a judgment» // [http://www. supcourt. ru](http://www.supcourt.ru)

tection of the public order that follows from art. 6 of the European convention, art. 1 of the Protocol thereto (1952)».¹²

The Constitutional Court of the Russian Federation in its Decision of February 5, 2007 № 2-P «On the case concerning verification of constitutionality of provisions of articles 16, 20, 112, 336, 376, 377, 380, 381, 382, 383, 387, 388 and 389 of the Civil procedural code of the Russian Federation in connection with the inquiry of the Cabinet of ministers of the Tatarstan Republic, complaints of open joint-stock companies “Nizhnekamskneftekhim” and “Khakasenergo”, and also complaints of individual citizens» noted: «By ratifying the Convention for the protection of human rights and fundamental freedoms, the Russian Federation recognized the jurisdiction of the European Court of human rights as obligatory on the issues of interpretation and application of the Convention and Protocols thereto in cases of an alleged infringement by the Russian Federation of provisions of these treaty acts (Federal law of March 30, 1998 № 54-FZ). Thus, both the Convention for the protection of human rights and fundamental freedoms, decisions of the European Court of human rights — in the part in which they, proceeding from generally recognized principles and norms of international law, provide interpretation of the content of the rights and freedoms fixed in the Convention, including the right to access to a public hearing and a fair justice, — are a component of the Russian legal system that is why they should be considered by the federal legislator when regulating public relations and by law enforcement organs when applying corresponding norms of law».¹³

By recommending to the courts of general jurisdiction and arbitration courts of the Russian Federation to consider legal positions of the Court, and also by stimulating this emerging practice, the Russian higher judicial organs do not consider the application of legal positions of the Court as a duty of the courts, therefore the application of the Convention as well as Court’s Judgments is of a recommendatory character.

¹² Circular of the Higher Arbitration Court of the Russian Federation of December 20, 1999 № S1-7/SMP-1341 «On the substantive provisions applied by the European court of human rights at protection of property rights and the right to justice // Bulletin of the HAC of the Russian Federation. 2000. № 2.

¹³ Decision of the Constitutional Court of the Russian Federation of February 5, 2007 № 2-P «On the case concerning verification of constitutionality of provisions of articles 16, 20, 112, 336, 376, 377, 380, 381, 382, 383, 387, 388 and 389 of the Civil procedural code of the Russian Federation in connection with the inquiry of the Cabinet of ministers of the Tatarstan Republic, complaints of open joint-stock companies “Nizhnekamskneftekhim” and “Khakasenergo”, and also complaints of individual citizens» // <http://www.ksrf.ru>

By now, three dominating positions concerning application of Court's Judgments by Russian courts of the general jurisdiction and arbitration courts have been generated:

1) Refusal to refer to Court's Judgments in connection with the absence of such a duty and necessity with reference to circumstances of a concrete case for the reason of regulation of a concrete question by norms of the existing Russian legislation;

2) References only to the Court's Judgments which have been taken out in relation to the Russian Federation. It seems that such practice has been substantially generated under the influence of the domestic legal doctrine;

3) The reference to the legal positions of the Court fixed in Court's Judgments, taken out in relation to various state-parties to the Convention, as a rule, irrespective of necessity to refer to legal positions of the Court.

At that, the practice of application by the Russian courts of general jurisdiction and arbitration courts of Court's Judgments is distinguished by an incorrectness of references to legal positions of the Court which gets the diversified forms: references to the Court's Judgments which are not concerning the considered case; own interpretation of a motivation part of Court's Judgments deforming the sense of a legal position of the Court on a concrete legal question; contradiction between a legal position of the Court cited in the judicial act and resolute part of the decision taken out on the case; errors in the name or date of adoption of the specified Judgments and others.

Leaving the decision-making on the necessity to refer to legal positions of the Court to the discretion of judges, the Plenum of the Supreme Court in its Decision «On the application by courts of general jurisdiction of generally recognized principles and norms of international law and the international treaties of the Russian Federation» considers the non-use or incorrect application of the Convention as a possible basis for cancellation or change of the judicial act, but at the same time it does not give any explanations as to a correct application of Court's Judgments. It might be assumed only, that "correctly" means pertinently, with a statement of a legal position of the Court on a concrete legal question, with indication of the exact and correct name of the Decision in which it is stated and also provided that the corresponding legal position is fit into the motivation stated in the judicial act and, together with other arguments, predetermines the court's decision.

The reference of the Russian courts of general jurisdiction and arbitration courts to legal positions of the Court is complicated by extensiveness of the case law of the Court and essential features of interpre-

tation by the Court of such fundamental legal concepts as “court”, “criminal charge”, “civil rights and duties” and others. Effective way of rendering assistance to the Russian courts of general jurisdiction and arbitration courts are explanations of the higher judicial instances on the concrete legal questions, based on the comparative -legal analysis of the Russian legislation and the Convention taking into account legal positions of the Court.

For example, in the Decision of February 24, 2005 № 3 «On judiciary practice on cases concerning protection of honor and dignity of citizens, and business reputation of juridical persons» the Supreme Court of the Russian Federation specified: «Having discussed materials of the conducted study of judiciary practice on cases concerning protection of honor, dignity and business reputation, the Plenum of the Supreme Court of the Russian Federation notes, that ... in connection with ratification of the Convention for the protection of human rights and fundamental freedoms and Protocols thereto, in the judiciary practice have arisen some questions requiring solution. Considering it, the Plenum of the Supreme Court of the Russian Federation with a view of ensuring a correct and uniform application of the legislation regulating specified legal relations, decides to give ... explanation to the courts». ¹⁴ In the specified Decision the Supreme Court has carried out the analysis of the existing Russian legislation and legal positions of the Court on a corresponding legal question and has provided explanations necessary for a correct and effective application of the Russian law taking into account legal positions of the Court concerning protection of honor, dignity and business reputation.

An increasing number of explanations similar to those specified above, would promote formation of a uniform, “correct” practice of application by the Russian courts of legal positions of the Court to circumstances of concrete cases.

It is especially important in connection with a growing number of decisions and Judgments which are taken out by the Court in relation to Russia. Only during the period from January 1 till April 1, 2007, the Court has taken out more than fifty Judgments on the merits on complaints submitted against Russia; two decisions on admissibility of complaints; two decisions on partial admissibility of complaints; five decisions on inadmissibility of complaints, and also discontinued proceeding on twenty three cases.

¹⁴ Decision of the Plenum of the Supreme Court of the Russian Federation of February 24, 2005 № 3 «On judiciary practice on cases concerning protection of honor and dignity of citizens, and business reputation of juridical persons» // Rossiyskaya gazeta. 2005. March 15.

At that, during the specified period the Committee of ministers of the Council of Europe has held two special sessions — on February 13-14, 2007 and on April 3-4, 2007 — at which it considered execution of the Judgments taken out in relation to Russia. In the course of the session held on February 13-14, 2007, the Committee of ministers touched upon the 4th intermediate Resolution of Committee of ministers of May 10, 2006 about an immediate release of the applicants on the case «Ilaşcu and others v. Russia and Moldova»,¹⁵ who are «unlawfully and arbitrary detained in the Dnestr Moldavian Republic»;¹⁶ the cases connected with the problem of providing prisoners with medicines with a view of preventing the spreading of diseases in Russia; performance of obligation to carry out an effective investigation of the murders committed by federal armed forces in the Chechen Republic (the case «Khashiev v. Russia»);¹⁷ In the context of consideration of the problem of implementation by the states-parties to the Convention of general measures, that is the measures which implementation is directed at the prevention of new infringements, similar to those which have been established in Judgments of the European court, the Committee of ministers, in particular, has considered problems of improvement of judicial proceeding and conditions of pre-judicial custody in Russia (case «Klyakhin v. Russia»,¹⁸ case «Kalashnikov v. Russia»;¹⁹ the issue of

¹⁵ See: Judgment of the Grand Chamber of the European court on the case «Ilaşcu and others v. Russia and Moldova» of July 8, 2004. Complaint № 48787/99 // <http://www.echr.coe.int/echr>

¹⁶ In the intermediate resolution ResDH (2006) 26 concerning the judgment of the European court on the case of “Ilaşcu and others v. Moldova and the Russian Federation” adopted by the Committee of ministers on May 10, 2006 at the 94th sessions, Committee of ministers deeply deplored the fact that two applicants, Mr Ivanțoc and Mr Petrov-Popa, are still imprisoned, and stressed that the excessive prolongation of their unlawful and arbitrary detention fails entirely to satisfy the requirements of the Court’s judgment and the obligation under Article 46, paragraph 1, of the Convention. Noting that the authorities of the Republic of Moldova have regularly informed the Committee of the steps they have taken to secure the applicants’ release, the Committee of ministers noted that the authorities of the Russian Federation have not actively pursued all effective avenues to comply with the Court’s judgment, despite the Committee’s successive demands to this effect. The resolution underlines that the Committee of ministers is resolved to ensure, with all means available to the Organization, the compliance by Russia with its obligations under this judgment. The resolution also calls upon the authorities of the member states to take such action as they deem appropriate to this end.

¹⁷ See: Judgment of the European court on the case «Khashiev v. Russia» of February 24, 2005. Complaint № 57942/00 // <http://www.echr.coe.int/echr>

¹⁸ See: Judgment of the European court on the case «Klyakhin v. Russia» of October 14, 2003. Complaint № 46082/99 // <http://www.echr.coe.int/echr>.

protection against industrial pollution infringing the right to a private life in Russia (case «Fadeyeva v. Russia»)²⁰. At the special session on April 3 and 4, 2007, the Committee of ministers returned to the 4th intermediate resolution of May 10, 2006 in connection with the case «Ilascu and others v. Russia and Moldova», and also to the performance by Russia of the obligation to carry out an effective investigation of statements of murders committed in the Chechen Republic by federal armed forces (case «Khashiev v. Russia»)²¹.

Thus, the significance of the Convention, as well as decisions and Judgments of the Court for the Russian legislation and law enforcement practice and in this connection the problem of determination of the status of the Convention and Court's Judgments in the Russian legal system, is difficult to overestimate especially taking into account positive dynamics of formation of the practice of referring to these acts by Russian courts of all levels in the course of consideration of concrete cases.

¹⁹ See: Judgment of the European court on the case «Kalashnikov v. Russia» of July 15, 2002. Complaint № 47095/99 // Rossiyskaya gazeta. 2002. December 17, 19.

²⁰ See: Judgment of the European court on the case «Fadeeva v. Russia» of June 9, 2005. Complaint № 55723/00 // <http://www.echr.coe.int/echr>.

²¹ The information on special sessions of Committee of ministers of the Council of Europe on February, 13-14th, 2007 and on April, 3-4rd, 2007, devoted to execution of the Judgments of the Court taken out in relation to Russia, is prepared by the assistant of the International law department of the PFUR N. F. Kisliitsina.