

DOUGLASS CASSEL
CENTER FOR CIVIL AND HUMAN RIGHTS
301 NOTRE DAME LAW SCHOOL
Notre Dame, Indiana USA 46556
(574) 631-7895
Doug.Cassel@nd.edu

January 25, 2006

Worldview Commentary No. 236 on Chicago Public Radio, 91.5 FM WBEZ

“Russian Repression: Is the Bad Old Bear Back?”

Ever since Russia joined Europe’s leading inter-governmental human rights body a decade ago, a clash has seemed all but inevitable. The battle – between European rule of law and raw Russian power -- is now underway. Who will win? No one knows.

The Council of Europe (not to be confused with the smaller European Union) now has 46 member countries. Born in the ashes of World War II, its mission from the beginning has been to shore up democracy and human rights. From its initial base of western European democracies, it expanded after the Cold War to embrace nearly all former Soviet satellites in Eastern Europe as well as the newly independent European states that emerged from the Soviet Union. Russia joined the Council in 1996.

The Council protects human rights through judicial, diplomatic, training and monitoring means. All member countries of the Council must ratify the European Convention on Human Rights, which guarantees a basic bill of rights. They must also join the European Court of Human Rights in Strasbourg, France. The Court hears lawsuits brought against governments by victims of human rights violations. Each year it orders governments in hundreds of cases to pay money damages and to provide other remedies to victims.

When governments fail or stall in complying with the Court’s judgments, the Council’s Committee of Ministers – the foreign ministers of all member states – hounds the offending government until it lives up to its treaty obligation to obey the Court.

The human rights work of the Court and the Ministers is overseen, in turn, by the Council’s Parliamentary Assembly, which consists of designated members of the parliaments in each country.

Russia ratified the European Convention on Human Rights in 1998. After a delay of several years as cases worked their way through the system, conflicts between Russia and the Council’s human rights machinery came into the open in 2004. The battle is now raging on several fronts.

One involves Russia’s refusal to comply with a judgment by the Court’s highest body, a Grand Chamber of 17 judges, including the Court’s president and vice presidents. In July 2004 the Court held Russia responsible for the torture and detention of four Moldovan citizens, including a member of Moldova’s delegation to the Council’s Parliamentary Assembly.

The victims had been imprisoned and tortured by the *de facto* government of a predominantly Russian ethnic enclave in Moldova, calling itself the Moldavian Republic of Transdniestra.

Although not recognized by the United Nations or by any nation, this rump government rejects the authority of the central government of Moldova.

Over the last decade this so-called government has received military, financial and political support by Russia. The Court accordingly found Russia liable for the detentions and torture, and ordered Russia to pay 568,000 euros in damages (about \$700,000 at today's rates). The Court also made clear that Russia must "take every measure" to bring about the release of the 3 victims still detained (one had already been released). Only the Russian judge on the Court dissented from this 16-1 ruling against Russia.

Since then, Russia has paid the money damages, but refuses to do anything to free the two victims who remain in prison. Russia's foreign ministry called the Court's judgment politicized. Even though the Committee of Ministers has issued two resolutions and a letter calling on Russia to take "all necessary steps" to free the prisoners, Russia refuses to do so. Under international law, Russia argues, it cannot be ordered to interfere in detentions by a foreign "government."

The Committee of Ministers has taken no action, however, beyond polite words. On the contrary, it is now about to allow Russia, as part of the normal rotation among countries, to chair the Committee.

This week the Parliamentary Assembly publicly chastened the Ministers, not only for failing to ensure compliance with the Court's judgments in this and other cases, but also for doing little to halt Russia's continuing, massive human rights violations in Chechnya. The parliamentarians warn that the "lack of effective reaction" by the Ministers "has the capacity to seriously threaten the credibility of the whole Organization" -- i.e., the Council of Europe.

Beyond open defiance, Russia indirectly attacks the Court in other ways. Several Chechen victims who filed cases before the Court, and their family members, have been mysteriously killed or disappeared. In the Moldovan case the Court also found that Russia violated the right of access to the Court, by pressuring Moldova to withdraw a part of its brief that implied Russian responsibility for the detentions.

In November Russia cancelled the visa of British lawyer Bill Bowring, who has assisted Russian victims in some 80 cases before the Court, just as he was about to observe a Russian criminal trial of a Chechen human rights activist. The Kremlin has since passed a new law which makes it difficult if not impossible for foreign human rights groups to operate in Russia, and which threatens to put local human rights groups out of business.

The long-awaited battle, then, is joined. Will the democratic governments of Europe stand up to Russian bullying? Or will Russia drag down what has been, until now, the world's most effective international human rights machinery?

Doug Cassel's commentaries are broadcast Wednesdays during the noon hour of the Worldview program on Chicago Public Radio, 91.5 FM. Views expressed are personal views of the author and not necessarily those of Notre Dame Law School, the Center for Civil and Human Rights or Chicago Public Radio.