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## WAR AND INTERNATIONAL OBLIGATIONS: INVESTIGATING RUSSIAN FEDERATION'S COUNCIL OF EUROPE MEMBERSHIP CESSATION PROCEDURE AS A SANCTION FOR ARMED AGGRESSION AGAINST UKRAINE

ORCID ID: 0000-0002-4190-7288

Artem Nazarko  
PhD student, Faculty of Law  
*Palacký University Olomouc*

*CZECH REPUBLIC*

Following the end of World War II, there was a rise in the creation of international intergovernmental organizations, which achieved significant success at the regional level. In 1949, in response to calls for unity, ten states signed the Statute of the Council of Europe, which invited all European countries that acknowledge and safeguard fundamental human rights and freedoms, uphold the principles of the rule of law, and actively collaborate to attain the Statute's goal (Article 3) to become members [1]. The Council of Europe has been instrumental in protecting human rights and freedoms in European member states and the continent as a whole. Its legal mechanism for safeguarding human rights is recognized as one of the best. However, concerns have been raised about whether member states of the Council of Europe fully adhere to their international legal obligations and if being a member state ensures complete compliance with human rights standards. Presently, almost all European countries, including Russian Federation until recently, are members of the Council of Europe.

Nowadays, nobody could have imagined that the peaceful sky of Ukraine and its vast steppes would turn red with the blood of its citizens and soldiers and that the shared European values of human rights protection, democratic institutions, and the rule of law would be tarnished by the insidious aggression of an enemy - Russian Federation. The prohibition of crimes against humanity is recognized by modern international law as an imperative norm, and its violation inevitably leads to the application of international responsibility to the perpetrator. The ongoing war in Ukraine, which is directly linked to the Russian Federation's aggressive actions towards Ukraine and has resulted in the Russian Federation's unprecedented expulsion from the Council of Europe, is the basis for this investigation into the procedure for the forced termination of membership in this international organization. For example, in 1969, Greece was excluded from the Council of Europe after a military coup led to the establishment of the so-called "black colonels" regime, which destroyed virtually all democratic institutions and established a harsh military dictatorship over the next seven years. In response to the Greek government's actions, the Council of Europe decided to exclude Greece from the international democratic institution. However, on the eve of the exclusion, the black colonels declared a voluntary withdrawal. Greece's return to the democratic regime and to the ranks of the European organization occurred after the fall of the junta in 1974. There was also a case of temporary deprivation of a state's right to representation in the Council of Europe's statutory bodies. Specifically, in 1980, due to a military coup in Turkey that was accompanied by significant human rights violations, the powers of

the Turkish delegation were temporarily suspended. After democratic elections were held and violations of international commitments regarding human rights were eliminated, Turkey's right to representation was restored [2].

When discussing Ukraine's participation in the European community, it is important to note that Ukraine became a full member in 1995 after receiving a positive conclusion from the Parliamentary Assembly and an invitation from the Committee of Ministers. Later, Ukraine joined the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 [3]. In 1997, Ukraine ratified the Convention and its additional Protocols No. 1, 2, 4, 7, and 11. From this period on, in my opinion, Ukraine has developed and significantly reformed legal science and improved its legislation, which corresponds to the principles and norms of modern international law, which, in turn, is part of the European legal space. The adoption of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter referred to as the Convention of 1950) by the members of the Council of Europe in 1950 is considered an undeniable achievement of the organization. The Convention of 1950 is a legal instrument that established a supervisory mechanism - a judicial body, to ensure effective control over the implementation of the obligations of member states in protecting the human rights and fundamental freedoms of individuals. The European Court of Human Rights (hereafter referred to as the ECHR or Court), created in 1959, serves as this mechanism. The ECHR has established procedures for immediate suspension of violations of the Convention of 1950. These procedures include temporary protective measures, which were introduced in 2005 and improved in 2012-2013. Such measures may be applied at the request of one of the parties or on the Court's own initiative if deemed necessary for the parties' interests or for the proper conduct of the case [art. 39, 4]. According to the Court's established practice, these temporary measures are urgent and only applied in cases with a risk of irreversible harm. They are implemented until a decision on the merits of the case is reached. The Court considers requests for interim measures on an individual basis and in a prioritized manner at the request of a contracting party.

To counter the large-scale military invasion of Ukraine by the Russian Federation, the Committee of Ministers of the Council of Europe suspended the Russian Federation's right to representation in the statutory bodies of the Council of Europe on February 25th [5]. This was a lawful response to the Russian Federation's serious violations of its statutory obligations, as defined in Article 3, which prompted Article 8 of the organization's founding document to be enforced. On February 28th, in response to the "mass violations of human rights committed by Russian troops during the military aggression against the sovereign territory of Ukraine," the Ukrainian government submitted an urgent request to the ECHR under application number 11055/22 "Ukraine v. Russia (X)" seeking interim measures against the Russian Federation. On the following day, the President of the ECHR considered the request. The ECHR took into account the current conditions of hostilities in different parts of Ukraine. It stated that there is a real and constant risk of serious violations of the rights of the civilian population, mentioned in the European Convention on Human Rights and Fundamental Freedoms, in particular under art. 2 "Right to Life", art. 3 "Prohibition of Torture" and art. 8 "Right to Respect for Private and Family Life" [6]. It is also worth noting that in the practice of the ECHR, there have already been cases of applying interim measures, namely: in the cases "Ukraine v. Russia", "Ukraine and the Netherlands v. Russia", "Georgia v. Russia (II)", "Armenia v. Azerbaijan", "Armenia v. Turkey". Despite the decision of the ECHR, the Russian Federation has continued to grossly violate the Council of Europe's Statute, the Convention 1950, and humanitarian norms, which are incompatible with its status as a member of the democratic European institution. The Council of Europe has continued to receive

evidence of the indiscriminate use of artillery, rockets, and bombing with prohibited phosphorus and cluster bombs by Russian armed forces, attacks on civilian objects and humanitarian corridors, hostage-taking, and attacks on dangerous objects in Ukraine,

After extended discussions, nearly all deputies, with three abstentions, passed the resolution “Consequences of Russian aggression against Ukraine” during an extraordinary session of the Parliamentary Assembly on March 15. The Assembly's belief that the Russian Federation can no longer continue as a member state of the organization prompted the resolution to recommend applying Article 8 of the Statute to the aggressor. This article authorizes the Committee of Ministers to make a decision to terminate Council of Europe membership starting from a date determined by the Committee [1]. This resolution is extraordinary in the Organization's lengthy history because it gives the Committee authority to initiate formal proceedings to exclude the Russian Federation from the list of participating states. On March 16, 2022, the Russian Federation's flag was lowered outside the Council of Europe building in Strasbourg. Interestingly, on the same day, the Russian Ministry of Foreign Affairs submitted a statement on voluntary withdrawal from the Council of Europe to disregard the sense of the sanction in the form of exclusion from the international institution. In addition, Russian Federation was informed of its intention to denounce the Convention of 1950. According to Article 58 (3) of the Convention of 1950, a party that ceases to be a member of the Council of Europe also ceases to be a party to the Convention.

**Conclusion.** The recent violation of international obligations by the Russian Federation has been an unparalleled event since the formation of the Council of Europe. The consequences of such actions could lead to international isolation and the employment of various political and legal mechanisms in response. One method of influence on violators of statutory obligations is the collective condemnation, which may result in the exclusion of a nation from an international organization. The Council of Europe Statute outlines the procedure for exclusion, with the Committee of Ministers first suspending the right to representation, followed by the Committee's decision on the cessation of participation at the recommendation of the Parliamentary Assembly. Additionally, Russia has not executed the ECHR decision made on March 1, 2022, and as a party to the Convention 1950, this neglect may incur international responsibility in the future proceedings of the “Ukraine v. Russia (X)” case.

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