



Conviction for spitting on portrait of President Putin breached the Convention

In today's **Chamber** judgment¹ in the case of [Karuyev v. Russia](#) (application no. 4161/13) the European Court of Human Rights held, by 6 votes to 1, that there had been:

a violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned the applicant's conviction for spitting on a portrait of Russian President Putin in 2012, in the wake of his re-election. He had been convicted of a breach of public order and sentenced to 15 days of detention.

The Court was not satisfied that the elements of an offence – "breach of public order" – under the relevant domestic law had been made out when prosecuting the applicant. Spitting on the portrait of President Putin had been an expression of his political opinion and had not led to any public disturbance. Nor had the act involved any foul language, harassment or damage to property. His conviction had not therefore been "prescribed by law" within the meaning of the Convention.

Principal facts

The applicant, Dmitriy Sergeyevich Karuyev, is a Russian national who was born in 1992 and lives in Cheboksary (Russia).

On 6 May 2012, Mr Karuyev, with others, took part in a performance intended to express hope for an end to Russian President Vladimir Putin's rule. In particular, they installed a portrait of the President of Russia outside a public reception centre in Cheboksary, laying two carnations in front of it to mark his years in power – reflecting the Russian tradition of leaving flowers on a tombstone next to the image of the deceased. 30 minutes into the performance Mr Karuyev spat on the portrait.

He was arrested four hours later, and subsequently convicted of a minor breach of public order and sentenced to 15 days' detention. The courts essentially ruled that he had shown "flagrant disrespect for society" by degrading "the honour and dignity of the popularly elected President of Russia."

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression) of the European Convention, Mr Karuyev argued that his act had been an expression of his political opposition and that the real purpose of his conviction had been to suppress any criticism of President Putin.

The application was lodged with the European Court of Human Rights on 30 November 2012.

Judgment was given by a Chamber of seven judges, composed as follows:

Georges **Ravarani** (Luxembourg), *President*,
Dmitry **Dedov** (Russia),
María **Elósegui** (Spain),

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Darian Pavli (Albania),
Anja Seibert-Fohr (Germany),
Andreas Zünd (Switzerland),
Frédéric Krenc (Belgium),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

The Government argued, on the one hand, that spitting on the portrait of the President of Russia had been a form of immoral conduct and that the applicant's conviction had been necessary for the prevention of disorder.

The Court considered, on the other hand, that the act of spitting on the portrait of a politician in the wake of his re-election was an expression of political opinion. In that context, the applicant's conviction and resulting 15 days of detention had amounted to an interference with his freedom of expression.

Furthermore, the Court was not satisfied that the elements of an offence under Article 20.1 § 1, the provision under which the applicant had been prosecuted, had been made out. The main element "breach of public order manifesting a flagrant disrespect for society" had to be accompanied by proof of using obscene language, harassment or destruction or damage of property.

However, the domestic authorities had produced no evidence that the performance had caused a public disturbance or provoked outrage by passers-by. On the facts, the performance in which the applicant had participated had essentially been peaceful. Indeed, police officers present during the performance had not seen any reason to intervene and the applicant had been arrested only four hours later.

Therefore, the applicant's prosecution had not had a clear and foreseeable basis in domestic law and his conviction had not been "prescribed by law" within the meaning of the European Convention.

There had accordingly been a violation of Article 10.

Just satisfaction (Article 41)

The Court held, by 6 votes to 1, that Russia was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage, and EUR 2,400 in respect of costs and expenses.

Separate opinions

Judge Pavli expressed a concurring opinion, while Judge Dedov expressed a dissenting opinion. These opinions are annexed to the judgment.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.