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Refusing impunity for the killers of Sergei Magnitsky

Reply to Recommendation¹: Recommendation 2031 (2014)
Committee of Ministers

1. With respect to the Assembly's invitation to the Committee of Ministers to examine ways and means of improving international co-operation in investigating the "money trail" of the funds originating in the fraudulent tax reimbursements denounced by Mr Magnitsky, the Committee notes that two Council of Europe conventions are of relevance in this context and do provide, *inter alia*, for international co-operation in money-laundering investigations – the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141)² and the Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198).³

2. Moreover, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) assesses its members' compliance with all relevant international standards in the legal, financial and law enforcement sectors through a peer review process of mutual evaluations. Although MONEYVAL does not address individual cases, it aims to provide its members with the capacity to fight money-laundering within their borders and to co-operate in order to prevent transborder money-laundering. At the international level, MONEYVAL works closely together with the Financial Action Task Force on Money Laundering (FATF). The Russian Federation is a member of both these bodies. MONEYVAL examined a report from the Russian Federation in 2008 and progress reports in 2009 and 2011. A further progress report was examined in September 2014.

3. The Committee recalls that the tragic death of Mr Magnitsky has been discussed by the Committee of Ministers on two occasions on the basis of questions put by members of the Assembly. In October 2011, in a reply to a first written question, the Committee of Ministers stated that it expected the investigation of the death of Mr Magnitsky to be carried out in "a rapid, effective and transparent manner, with a view to clarifying the circumstances surrounding the death of Sergey Magnitsky and ensuring that those responsible are identified and brought to justice."

4. The Parliamentary Assembly also invites the Committee of Ministers to examine ways and means of ensuring that the Russian Federation fully participates in these efforts and holds to account the perpetrators and beneficiaries both of the crime committed against Mr Magnitsky and that denounced by him. In this respect, the Committee refers to its reply to the above-mentioned written question, in which it underlined that the allegations made in the Magnitsky case should be properly investigated and those responsible "identified and brought to justice." The Committee reiterates its call for an effective investigation and the bringing to justice of those responsible.

1. Adopted at the 1210th meeting of the Ministers' Deputies (22 and 24 October 2014).

2. This convention has been ratified by all Council of Europe member States and Australia. One of the purposes of the convention is to facilitate international co-operation as regards investigative assistance, search, seizure and confiscation of the proceeds from all types of criminality, especially serious crimes, and in particular drug offences, arms dealing, terrorist offences, trafficking in children and young women (see Resolution No. 3 of the 16th Conference of the European Ministers of Justice, 1988) and other offences which generate large profits.

3. This convention has been ratified by 24 member States and has been signed by the Russian Federation.



5. Finally, the Committee of Ministers notes that an application was lodged to the European Court of Human Rights by Mr Magnitsky which his wife joined after his death and that a second application was subsequently introduced by Mr Magnitsky's mother. These cases are still pending before the Court.