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# Court Finds Violations in Khodorkovsky Case

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Mikhail Khodorkovsky, left, and his co-defendant Platon Lebedev talk behind a glass enclosure at a court room in Moscow, Russia in 2010. **Alexander Zemlianichenko Jr**

The European Court of Human Rights issued a ruling Thursday saying the prosecution of former oil tycoon Mikhail Khodorkovsky and his business partner Platon Lebedev was not politically motivated but there were multiple violations during the trial — paving the way for a possible re-examination of the case against them.

Khodorkovsky and Lebedev were arrested in 2003 after being charged with fraud and tax evasion in what was widely seen as political punishment against Khodorkovsky for challenging President Vladimir Putin. Russian authorities have called those allegations unreasonable.

Sentenced in 2005 to nine years in prison, Khodorkovsky and Lebedev were tried together again in a second case and convicted in 2010 of stealing oil from Yukos and laundering

the proceeds. Last December, the Moscow City Court reduced their sentence from 13 to 11 years, meaning they will be released in 2014.

The European court's ruling on Thursday said that during the first trial in 2005, the defense did not share equal rights with the prosecution and there was pressure put on lawyers — a ruling the lawyers say may warrant the release of their clients.

Russia's Justice Ministry said Thursday that the ruling could be seen as revealing new information, which would be grounds to repeal the sentences and completely re-examine the first case against the pair, RIA Novosti reported.

"The European Court can't rule on whether or not a person is guilty, but it defines the minimum standards that make a trial fair, and some of these standards were violated," Khodorkovsky's lawyer, Karinna Moskalenko, said by phone.

"We've been fighting for this [ruling] since 2005. It will come into effect within three months, and it will be interesting to see what Russian authorities will do," Moskalenko said, adding that Russian legislation contains norms that demand special actions if the European court finds violations, including possibly repealing a sentence.

Lebedev's lawyer, Vladimir Krasnov, told RIA Novosti that the Supreme Court could demand to re-examine the criminal case after the European Court's ruling.

Rulings by the European Court of Human Rights are mandatory for implementation, but according to law, Russia can still appeal the decision with the court's Grand Chamber.

Next month, Russia's Supreme Court will consider a separate complaint by the pair's lawyers saying that the arrest of their clients was illegal and the length of their prison sentences was unfair.

The European court also said it was illegal to send Khodorkovsky and Lebedev to prisons in remote areas of Russia, since it prevented them from keeping in touch with their families.

The 2005 ruling by the Meshchansky District Court forcing Khodorkovsky to pay 17.3 billion rubles to the state was also deemed illegal by the European court.

The court said Lebedev's right to freedom and personal inviolability had been violated, though no inhumane treatment was applied against him.

The court also said, however, that Khodorkovsky's and Lebedev's allegations about the impartiality of the judge made their complaint unreasonable.

This is not the first ruling of the European Court of Human Rights concerning Khodorkovsky and Lebedev. In 2011, the court said Khodorkovsky's arrest before his conviction was illegal but refused to consider it politically motivated.

Thursday's ruling also stated that there were not enough grounds to consider the trial politically motivated, adding, however, that the court was "prepared to admit that some government officials had their own reasons to push for the applicants' prosecution."

"The court agreed that circumstantial evidence surrounding the applicants' arrest and trial constituted, at first glance, a case of politically motivated prosecution," the court said.

Sergei Nikitin, head of Amnesty International's Moscow Bureau, said by phone that the court's ruling was fair, since it confirmed a number of violations that "indeed took place during the trial."

"As for political motivations, that is probably not up to the European Court to decide; maybe that is the problem," he said.

During the arrest, investigation and first trial, Amnesty International said there was major political context for such actions against Khodorkovsky and Lebedev. After the second trial, the group acknowledged the pair to be prisoners of conscience.

Khodorkovsky's mother, Marina Khodorkovskaya, said she was disappointed with the European Court of Human Right's decision. In an interview with the BBC Russian Service on Thursday, she expressed doubt about the competence of the European Court in making a decision about whether or not there were political motivations and blamed the court for showing too much indulgence to the Russian government.

Lyudmila Alexeyeva, veteran human rights activists and head of Moscow Helsinki Group, voiced a similar opinion, telling Interfax the ruling was "not only lenient but cowardly."

"My attitude to this ruling is negative; if they didn't see a political basis here, they apparently had a vision problem," she said.

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