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Repetitive non-compliance by Italy with interim measures ordered by the European Court of Human Rights

Reply to Written question[1]: Written question No. 571 (Doc. 12000)
Committee of Ministers

Written Question No. 571 by Mrs Däubler-Gmelin (Doc. 12000)

The recent expulsion of Mr Ali Toumi to Tunisia is the fourth case, since 2005, in which the Italian authorities have – in blatant breach of the country's obligations under the European Convention on Human Rights and the Strasbourg Court's clearly established case-law – failed, to respect an interim measures order.

As Chairperson of the Committee on Legal Affairs and Human Rights, Mrs Däubler-Gmelin considers that it is totally unacceptable to ignore binding interim measures ordered by the European Court of Human Rights and that it is disgraceful, for a mature democracy like Italy, to have sent Ali Toumi back to Tunisia, as this is a case in which there exists an imminent risk of irreparable damage to the applicant.

In one of the four cases, that of Mrs Hamidovic (Application No. 31956/05), the applicant has been allowed to return to Italy. The Committee of Ministers, the Council of Europe's executive organ and guardian of respect of European human rights standards, is duty bound to do its utmost to ensure that the other three persons concerned, namely Mr Khemais (Application No. 246/07, judgment of 20 February 2009), Mr Trabelsi (Application No. 50163/08) and Mr Toumi (Application No. 25719/09) are also allowed to return to Italy without further delay. Can the Committee of Ministers confirm that it will deal with this important matter with all necessary expediency?

Mrs Däubler-Gmelin,

To ask the Committee of Ministers,

What steps has the Committee of Ministers taken with respect to the repetitive non-compliance by Italy, a founding member of the Council of Europe, with interim measures ordered by the European Court of Human Rights?

What measures does it intend to take in order to ensure that Italy complies with interim measures ordered by the European Court of Human Rights?

Reply by the Committee of Ministers

The Committee of Ministers is supervising the execution of the judgment of the European Court of Human Rights in the Ben Khemais case (Application No. 246/07, judgment of 20 February 2009) as part of its function laid down in Article 46, paragraph 2, of the European Convention on Human Rights. In reply to the question put forward by the honourable member, it would like to communicate to the Parliamentary Assembly the text of the decision it adopted in the context of this case at its 1078th meeting (DH) (2-4 March 2010), which reads as follows:

"The Deputies

1. adopted at the 1083rd meeting of the Ministers' Deputies (21 April 2010)

1. noted that the Italian authorities are fully committed to complying with interim measures indicated by the European Court under Rule 39 of the Rules of Court;

2. noted further that the Italian authorities have made certain efforts aimed at collecting information on the applicant's situation in prison in addition to the diplomatic assurances given by the Tunisian authorities;

3. welcomed the Italian authorities' readiness to pursue their efforts in this respect;

4. took note of the information provided by the Italian authorities that, in a similar case in which the European Court indicated an interim measure under Rule 39, an Italian court decided to apply an alternative measure to deportation by way of placing the applicant in a working centre (casa di lavoro);

5. invited the Italian authorities to clarify whether this alternative measure, or any other similar measures, will be applied in all other similar cases of new interim measures indicated by the Court under Rule 39 and offer sufficient effective safeguards in order to prevent similar violations in the future;

6. decided to resume consideration of this item at their 1086th meeting (1-3 June 2010) (DH), in the light of updated information to be provided on individual and general measures."