Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13185
23 April 2013

Urgent need to deal with new failures to co-operate with the European Court of Human Rights

Motion for a recommendation
tabled by Mr Boriss CILEVIČS and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

The right of individual petition remains a cornerstone of the system of protection of human rights under the European Court of Human Rights. States Parties undertook not to hinder its exercise (Article 34 of the Convention) and to co-operate with the European Court of Human Rights (Article 38 of the Convention). In 2007, the Parliamentary Assembly reminded member States of their duty to co-operate with the Court, focusing on the duty to refrain from pressuring (potential) applicants, to comply with interim measures and to furnish necessary facilities (Resolution 1570 (2007), Recommendation 1809 (2007) and Doc. 11183).

In recent years, the Court has found fewer violations of Article 38. The Court has changed its approach by replacing findings of failure to co-operate with findings of substantive violations.

Regarding Article 34 of the Convention and States' compliance with Rule 39 of the Rules of the Court, a worrisome trend has emerged: applicants benefiting from an interim measure disappear in suspect circumstances and then either resurface in their home/requesting countries or never re-appear at all. In several such cases, the Court has already concluded that the applicants had been forcibly removed with the involvement of the authorities of the State to which the interim measure was addressed.

In order to prevent such abuses, States Parties should be required to take appropriate positive measures, including police protection, in order to prevent applicants in whose respect an interim measure was granted under Rule 39 from forcible removal, particularly in cases where applicants are wanted by a State that is not a Party to the Convention.

These matters require the urgent attention of the Committee of Ministers and the Parliamentary Assembly, as such incidents undermine the authority of the Court and the effectiveness of the Convention system as a whole.

Signed (see overleaf)

Signed[1]*:*

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