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

Resolution 1991 (2014)[1]
Final version

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

Parliamentary Assembly

1. Recalling its Resolution 1571 (2007) on member States' duty to co-operate with the European Court of Human Rights and Resolution 1788 (2011) on preventing harm to refugees and migrants in extradition and expulsion cases: Rule 39 indications by the European Court of Human Rights, the Parliamentary Assembly stresses the importance of the right of individual application to the European Court of Human Rights ("the Court"). The protection of this right is the purpose of individual measures indicated by the Court under Rule 39 of its Rules of Court, which are designed to prevent the creation of a fait accompli.

2. The Assembly considers any disrespect of a legally binding measure ordered by the Court, such as interim measures indicated under Rule 39, as a clear disregard for the European system of protection of human rights under the European Convention on Human Rights (ETS No. 5, "the Convention").

3. The Assembly therefore calls on all States Parties to the Convention to respect the Court's interim measures and to provide it with all the information and evidence it requests.

4. The Assembly strongly condemns instances of outright violations by several States Parties to the Convention (Italy, the Russian Federation, the Slovak Republic and Turkey) of the Court's interim measures aimed at protecting applicants from extradition or deportation to countries where they would be at risk of, in particular, torture, as well as of the interim measures in relation to Russia's military actions in Georgia (see *Georgia v. Russia II*).

5. The Assembly insists that international co-operation between law-enforcement bodies based on regional agreements, such as the Shanghai Cooperation Organisation, or on long-standing relations, must not violate a State Party's binding commitments under the Convention.

6. The Assembly is therefore particularly concerned about the recent phenomenon, observed in the Russian Federation, of the temporary disappearance of applicants protected by interim measures and their subsequent reappearance in the country which had requested extradition. The clandestine methods used indicate that the authorities had to be aware of the illegality of such actions, which can be likened to the practice of "extraordinary renditions" repeatedly condemned by the Assembly.

7. The Assembly welcomes the Court's increasing use of factual presumptions and the reversal of the burden of proof in dealing with refusals of States Parties to co-operate with it, which consist in their failure to provide full, frank and fair disclosure in response to requests by the Court for further information or evidence.

1. *Assembly debate* on 10 April 2014 (17th Sitting) (see Doc. 13435, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Kimmo Sasi). *Text adopted by the Assembly* on 10 April 2014 (17th Sitting).
See also Recommendation 2043 (2014).

8. Regarding interim measures under Rule 39, and welcoming the fact that the Court has begun indicating positive measures and follow-up requirements in order to ensure the effective protection of the rights of applicants at risk, the Assembly:

8.1. encourages the Court to be as specific as necessary in indicating such measures and to cautiously explore the possibility of ordering damages on the basis of Article 41 of the Convention in case of violations of interim measures;

8.2. invites the Court to speed up, as far as possible, the proceedings on the merits in cases in which it indicates interim measures.