Provisional edition

**Preventing harm to refugees and migrants in extradition and expulsion cases: Rule 39 indications by the European Court of Human Rights**

Recommendation 1956 (2011)

1.       Referring to its [Resolution 1788](http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/ASP/Doc/RefRedirectEN.asp?Doc=%20Resolution%201788) (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 emphasises that the power to invoke interim measures under Rule 39 of the Rules of the European Court of Human Rights ("the Court") plays an important role in ensuring the effectiveness of the right of individual petition.

2.       The Assembly is not only concerned about a certain increase in the number of requests for interim measures filed with the Court, but also that their number could rise dramatically as and when applications come from across Europe and not just from a few member states. However, pressures linked to the number of applications and workload should not lead to a dilution of standards and of the protection offered to the individual.

3.       A major concern of the Assembly is the growing number of member states that have recently ignored interim measures ordered by the Court under Rule 39. This emphasises the need for the Committee of Ministers to reinforce its role in the execution of the Court’s judgments.

4.       The Assembly therefore invites the Committee of Ministers to:

4.1.       consider extending its mandate under Article 46 of the Convention by introducing a competence to monitor compliance with the letter and spirit of Rule 39 measures of which notice has been given under Rule 39(2) of the Rules of Court;

4.2.       fully use its competence pursuant to Article 46 of the Convention in resolving the cases of non-compliance in a way which fully and effectively upholds the Convention, ensure, in collaboration with the Court, that a mechanism or working method is established for follow-up in cases of non-compliance, and investigate cases and/or publish statements in this connection;

4.3.       give priority to judgments finding violations of Article 34 of the Convention in cases concerning expulsion and extradition of aliens, while supervising their execution by respondent states according to Article 46 of the Convention;

4.4.       seek to find an interim resolution calling for individual and/or general measures, in those cases where an individual has been expelled to a state which has no wish to return him or her;

4.5.       co-operate with the Court and other relevant actors in order to make available up-to-date Rule 39 statistics and publish information on the extent of compliance by contracting parties;

4.6.       assess current practice at national level and by the Court in view of the increase in the number of Rule 39 applications against some states and examine solutions to improve the efficiency and consistency of national practice and the Court’s practice and procedure in dealing with these applications;

4.7.       organise, with relevant bodies of the Council of Europe and the Court, an exchange of views with all relevant actors, including civil society, on the challenges faced by the Court and governments in dealing with interim measures, taking into account the fact that the number of requests could increase greatly in the future.

4.8.       create a working group to identify best practice in relation to access to the Court and compliance with the “letter and spirit” of Rule 39, taking into account, *inter alia*, issues such as the circumstances in which “objective impediments” may validly be raised and the steps that need to be taken to rectify actions taken following any failure to follow interim measures.