



**Resolution CM/Res(2010)25
on member states' duty to respect and protect the right of individual application to the
European Court of Human Rights**

*(Adopted by the Committee of Ministers on 10 November 2010
at the 1097th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Reiterating its commitment to the system of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereinafter "the Convention") as the cornerstone of human rights protection in Europe;

Emphasising that the right of individuals to apply to the European Court of Human Rights (hereinafter referred to as "the Court") is a central element of the convention system and must be respected and protected at all levels;

Stressing that respect for this right and its protection from any interference are essential for the effectiveness of the Convention system of human rights protection;

Recalling that all States Parties to the Convention have undertaken not to hinder in any way the effective exercise of this right, as stipulated by Article 34 of the Convention;

Recalling that positive obligations, including to investigate, form an essential characteristic of the Convention system as a whole;

Recalling also that the Court's case law has clearly established that Article 34 of the Convention entails an obligation for States Parties to comply with an indication of interim measures made under Rule 39 of the Rules of Court and that non-compliance may imply a violation of Article 34 of the Convention;

Noting therefore with concern that there have been isolated, but nevertheless alarming, failures to respect and protect the right of individual application (such as obstructing the applicant's communication with the Court, refusing to allow the applicant to contact his lawyer, bringing pressure to bear on witnesses or bringing inappropriate proceedings against the applicant's representatives), as found in recent years by the Court;

Deploring any interference with applicants or persons intending to apply to the Court, members of their families, their lawyers and other representatives and witnesses, and being determined to take action to prevent such interference;

Recalling the 1996 European Agreement relating to persons participating in proceedings of the European Court of Human Rights (ETS No. 161);

Recalling its Resolutions ResDH(2001)66 and ResDH(2006)45 on the states' obligation to co-operate with the European Court of Human Rights,

Calls upon the States Parties to:

1. refrain from putting pressure on applicants or persons who have indicated an intention to apply to the Court, members of their families, their lawyers and other representatives and witnesses aimed at deterring applications to the Court, having applications which have already been submitted withdrawn or having proceedings before the Court not pursued;

2. fulfil their positive obligations to protect applicants or persons who have indicated an intention to apply to the Court, members of their families, their lawyers and other representatives and witnesses from reprisals by individuals or groups including, where appropriate, by allowing applicants and witnesses to participate in witness protection programmes and providing appropriate forms of effective protection, including at international level;

3. in this context, take prompt and effective action with regard to any interim measures indicated by the Court so as to ensure compliance with their obligations under the relevant provisions of the Convention;

4. identify and appropriately investigate all cases of alleged interference with the right of individual application, having regard to the positive obligations already arising under the Convention in light of the Court's case law;

5. take any appropriate further action, in accordance with domestic law, against persons suspected of being the perpetrators and instigators of such interference, including, where justified, by seeking their prosecution and the punishment of those found guilty;

6. if they have not already done so, ratify the 1996 European Agreement relating to persons participating in proceedings of the European Court of Human Rights,

Decides also to examine urgently, particularly in the context of its supervision of the execution of judgments finding a violation of Article 34, to any incident of interference with the right of individual application and encourages the Secretary General to consider exercising his powers under Article 52 of the Convention where justified by the circumstances.