

Interim measures of the European Court of Human Rights

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Abstract:

The European Court of Human Rights may, pursuant to Rule 39 of its Rules of Court, indicate interim measures to the parties to the proceedings before it. Interim measures are urgent measures which apply only where there is an imminent risk of irreparable harm to a right protected by the European Convention on Human Rights, where they are necessary in the interests of the parties or for the proper conduct of the proceedings. These measures are taken in the context of the conduct of the proceedings before the Court and do not prejudice its subsequent decisions on the admissibility or merits of the cases in question.

Keywords: Interim measures; the European Court of Human Rights; urgent measures; the European Convention on Human Rights

Introduction:

Under the Convention system, interim measures may, in exceptional circumstances, whether at the request of a party or of any other person concerned, or of the Court's own motion, be indicated under Rule 39 of the Rules of Court, where there is an imminent risk of irreparable harm. They play a vital role in avoiding irreversible situations that would prevent national courts and/or the Court from properly examining Convention complaints and, where appropriate, in securing to the applicant the practical and effective benefit of the Convention rights asserted.

The provision on interim measures is contained in the Rules of Procedure of the European Court of Human Rights, but not in the European Convention on Human Rights. The Chamber or its President may request interim measures, on their own initiative, at the request of one of the parties or the person concerned. The Committee of Ministers is informed directly, and the Chamber or its President may invite the parties to provide any information concerning the application of interim measures.

The text of Rule 39 was amended on 23 February 2024¹, with a view to further clarifying the circumstances in which interim measures may be indicated and the threshold to

¹ - Rule 39– Interim measures as amended by the Court on 4 July 2005, 16 January 2012, 14 January 2013 and 23 February 2024(Rules of Court28 March 2024

1. The Court may, in exceptional circumstances, whether at the request of a party or of any other person concerned, or of its own motion, indicate to the parties any interim measure which it considers should be adopted. Such measures, applicable in cases of imminent risk of irreparable harm to a Convention right, which,

be reached in relation to their request and application. The amendment also sought to align the text of the Rule with the Court's well-established case-law and practice in relation to interim measures.¹

What is an interim measure?

This is an emergency measure that only applies when there is an imminent risk of irreparable harm, in the absence of the measures in question. It serves to stop or prevent a violation of a right protected by the Convention.

Accordingly, the Court may suspend removal (which leads to release), or request the State to take the necessary measures to ensure that the applicant's conditions of detention are compatible with Article 3 of the Convention (without requesting the applicant's release).

These measures are only granted in exceptional circumstances. They are binding and are therefore obligatory for the State concerned. The European Court of Human Rights has published a new version of the Rules of Court, which incorporates amendments to Rule 39 of the Rules of Court on interim measures. These amendments were adopted by the Plenary Court on 23 February 2024 following consultations with the Contracting Parties and other relevant stakeholders.

They aim to clarify and codify existing practice regarding interim measures. The Court has also revised the Practice Direction accompanying the new Rule 39 of the Rules. This direction contains specific guidance on the substantive and procedural aspects of the procedure relating to interim measures and aims to bring greater clarity and transparency to the conduct of proceedings. Both texts are available on the Court's website and entered into force on 28 March 2024.

The European Court of Human Rights may, under Rule 39 of its Rules of Court, indicate interim measures to parties to the proceedings before it. Interim measures are urgent measures that apply only where there is an imminent risk of irreparable harm to a Convention right and where such measure is necessary in the interests of the parties or the proper conduct of the proceedings. Such measures are decided in connection with proceedings before the Court without prejudging any subsequent decisions on the admissibility or merits of the case in question.

on account of its nature, would not be susceptible to reparation, restoration or adequate compensation, may be adopted where necessary in the interests of the parties or the proper conduct of the proceedings.

2. The Court's power to decide on requests for interim measures shall be exercised by duty judges appointed pursuant to paragraph 5 of this Rule or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court.

3. Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.

4. A duty judge appointed pursuant to paragraph 5 of this Rule or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court may request information from the parties on any matter connected with the implementation of any interim measure indicated.

5. The President of the Court shall appoint Vice-Presidents of Sections as duty judges to decide on requests for interim measures.

¹ - Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024.

https://www.echr.coe.int/documents/d/echr/PD_interim_measures_eng

In the majority of cases, the applicant requests the suspension of an expulsion or an extradition.

The Court grants requests for interim measures only in exceptional circumstances, when applicants would otherwise face an imminent risk of irreparable harm to a Convention right¹. Such measures are then indicated to the respondent Government. However, it is also possible for the Court to indicate measures under Rule 39 to applicants.²

The Court's practice is to examine each request on an individual and priority basis through a written procedure.

According to Rule 39 § 2, the Court's power **to decide on requests for interim measures shall be exercised by duty judges appointed pursuant to paragraph 5 of this Rule or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court.** Duty Judges are the Vice-Presidents of Sections appointed by the President of the Court in accordance with Rule 39 § 5 to decide on requests for interim measures and have the primary role in the Rule 39 procedure.

Rulings of the Court regarding interim measures are notified to the parties in the form of a decision. The names of the judges who adopt decisions in the procedure governing interim measures are systematically indicated in the decisions.

The Court may indicate interim measures until further notice, for the duration of the proceedings before the Court or for a limited period of time, depending on the circumstances of the case.

No appeal lies against any decision in relation to requests for interim measures.

Contracting Parties may, however, request the Court to reconsider its decision to indicate interim measures if they consider that the measures are no longer necessary or where they possess information which was not available at the relevant time or not made available to the Court in a timely fashion.

In the event of a change in circumstances, applicants may lodge fresh request for interim measures where the initial request has not been granted.

A measure under Rule 39 may be discontinued at any time by a decision of the Court.

In particular, as an order under Rule 39 is linked to the proceedings before the Court, the measure will be lifted if the application is not pursued³.

¹- In the case *Rackete and Others v. Italy* (no. 32969/19), for example, the Court decided, in June 2019, not to indicate to the Italian Government an interim measure requiring that the applicants (nationals of Niger, Guinea, Cameroon, Mali, Ivory Coast, Ghana, Burkina Faso and Guinea-Conakry) be authorized to disembark in Italy from the ship *Sea-Watch 3*; at the same time, however, the Court indicated to the Government that it was relying on the Italian authorities to continue to provide all necessary assistance to those persons on board *Sea-Watch 3* who were in a vulnerable situation on account of their age or state of health (see press release of 25 June 2019).

²- For example, in the case of *Ilaşcu and Others v. the Republic of Moldova and Russia*, where the Court asked one of the applicants to stop a hunger-strike (see paragraph 11 of the Grand Chamber judgment of 8 July 2004). See also the *Rodić and Others v. Bosnia and Herzegovina* judgment of 27 May 2008. More recently, in the case *Saakashvili v. Georgia* (no. 54641/21), the Court urged the applicant to call off his hunger strike and, at the same time, it indicated to the Government of Georgia to inform it about the applicant's current state of health, to ensure his safety in prison, and to provide him with appropriate medical care for the post-hunger-strike recovery period (see press release of 16 November 2021).

³- The European Court of Human Rights, Factsheet – Interim measures, March 2024, pp 1, 2 2024, https://www.echr.coe.int/documents/d/echr/fs_interim_measures_eng

What measures can be requested?

The two main cases in which an interim measure may be requested are

1. Threats to life (violation of Article 2 of the Convention);¹
2. Treatment, torture, and inhuman and degrading treatment (violation of Article 3 of the Convention).²

In addition to measures requested for violations of Article 3, other violations of rights guaranteed by the Convention may be alleged (provided there is an imminent risk of irreparable harm):

- Right to a fair trial (Article 6);³
- Right to respect for private and family life (Article 8);⁴
- Right to freedom of expression (Article 10);⁵

¹- Article 2 – Right to life

1- Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2- Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- a. in defence of any person from unlawful violence;
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c. in action lawfully taken for the purpose of quelling a riot or insurrection

²- Article 3 – Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment

³- Article 6 – Right to a fair trial

1- In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of

the court in special circumstances where publicity would prejudice the interests of justice.

2- Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3- Everyone charged with a criminal offence has the following minimum rights:

- a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- b. to have adequate time and facilities for the preparation of his defence;
- c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

⁴-Article 8 – Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

⁵- Article 10 – Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or

When to file an application?

Applicants must have exercised domestic suspensive remedies before filing an application with the ECHR. The application must be filed as soon as possible after the domestic decision:

If the application concerns risks associated with return: after notification of the refusal of entry, demonstrating the absence of a suspensive appeal against the refusal of entry.

If the application concerns inhuman and degrading treatment, related to detention conditions: after the decision of the first judicial judge, arguing that the appeal has no suspensive effect.

If the person is an asylum seeker: 48 hours after the decision of the Ministry of the Interior (explaining the reasons why no appeal could be filed) or after the decision of the administrative court. It should also be noted that an appeal before the administrative court of appeal has no suspensive effect. The application must be filed at least one business day before the expected return date.

Applications are accepted Monday through Friday, 8 a.m. to 4 p.m. Applications received on weekends and holidays are processed the following business day.

Decision-making process regarding requests for interim measures

Following the review of the Rule 39 decision-making process undertaken by the plenary Court in 2023, irrespective of the nature of the decision adopted (for example, granting of interim measures, rejection of requests, adjournment of the examination of requests, lifting of existing interim measures), all rulings of the Court regarding interim measures are notified to the parties in the form of a decision signed by the duty judge, the President of the Section or the Grand Chamber, or the President of the Court, as applicable. The names of the judges who adopt decisions in the procedure governing interim measures are systematically indicated in the decisions.¹

Decisions are accompanied by a letter from the Registry which includes information relating to the procedure, along with any instructions to or requests made of the parties.

Applicants are informed of the decisions of the Court regarding requests for interim measures via the ECHR Rule 39 Site, by fax or by post.

The Court may indicate interim measures until further notice, for the duration of the proceedings before the Court or for a limited period of time, depending on the circumstances of the case.

Where interim measures are granted for a limited period of time, this is done for a variety of different reasons, such as: pending receipt of relevant information from the parties at the request of the Court; in order to enable domestic courts to consider fully in ongoing proceedings the matter which is the subject of the interim-measure request; because it is

crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

¹-Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p3, <https://www.echr.coe.int/practice-directions>

considered that a request should be examined by a collegiate body and more time is needed to schedule a meeting; or because the duty judge considers that more time is needed before issuing a decision.¹

Where the Court has requested more information, both parties are invited, under Rule 54 § 2 (a)² of the Rules of Court, to provide the necessary information within a specified period of time. The length of the period in question depends on the circumstances of the case and the urgency of the request. In such cases, upon receipt of the information from the parties, the Court may decide to prolong, not to prolong or to lift any interim measure in place.

The Court may also decide to adjourn the examination of requests for interim measures and invite the parties to provide information, where the degree of urgency so permits, in cases where the information that the applicants were able to submit to the Court is not sufficient to enable the Court to examine the request and where it is deemed feasible to request information from the respondent Contracting Party prior to any decision being taken.³

When the examination of the request is adjourned, the respondent Contracting Party or both parties are invited, under Rule 54 § 2 (a), to provide the necessary information within a specified period of time. The length of the period in question depends on the circumstances of the case and the degree of urgency of the request. Upon receipt of the information from the parties, the Court may either adjourn the examination of the request again and put further questions to the parties or deliver its decision on the request for interim measures.⁴

The Court may also decide to give notice of an interim measure to the Committee of Ministers, under Rule 39 § 3⁵ of the Rules of Court, where the judicial body that adopted the interim measure considers notification to be justified. In such circumstances, the parties are informed of the notification.

Where a respondent Contracting Party has allegedly failed to comply with an interim measure and the Court decides to give notice of the application or part of the application to the respondent Contracting Party, the Committee of Ministers may also be notified of any question posed relating to compliance with obligations under Article 34 of the Convention⁶.

Both parties have a duty to cooperate fully in the conduct of proceedings and, in particular, to take such action within their power as the Court considers necessary for the

¹Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p3, <https://www.echr.coe.int/practice-directions>

²- (a) request the parties to submit any factual information, documents or other material considered by the Chamber or its President to be relevant;

³- Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p3, <https://www.echr.coe.int/practice-directions>

⁴- Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p3, <https://www.echr.coe.int/practice-directions>

⁵- 3. Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.

⁶- Article 34 – Individual applications:” The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right

proper administration of justice (see Rule 44A). As regards applicants, this means a duty to ensure that requests for interim measures are lodged in a timely manner and contain all the necessary information and documents. It is crucial that applicants do not delay lodging their request in order to create a greater degree of urgency. Such delays may adversely affect the rights and interests of applicants and the ability of the Court to deal effectively with requests for interim measures.¹

As regards Contracting Parties, in many cases, although not in all, control of the degree of urgency may lie within their province. The Court emphasises that it is always open to Contracting Parties to signal to the Court in advance when they consider a Rule 39 request may be imminent, providing any relevant information when they do so.

The Court's rulings on requests for interim measures are notified to the parties in the form of a decision, signed by the judicial body that adopted it. Further reasoning pertaining to the ruling may be provided subject to the discretion of that judicial body.

No appeal lies against any decision in relation to requests for interim measures.²

A respondent Contracting Party may, however, request the Court to reconsider its decision to indicate interim measures if they consider that the measures are no longer necessary or where they possess information which was not available at the relevant time or not made available to the Court in a timely fashion. There is no set time-limit for lodging such requests. When a request for reconsideration is received, comments may be sought from the other party, to be received within a specified period of time. The Court then examines the parties' submissions and delivers its decision on the request for reconsideration based on any updated and relevant factual and legal information.

In the event of a change in circumstances, applicants may lodge a fresh request for interim measures where the initial request has not been granted.

A measure under Rule 39 may be lifted at any time by a decision of the Court. In particular, as an order under Rule 39 is linked to the proceedings before the Court, the measure will be lifted if the application is not pursued.

Where warranted, the Court may decide to declare an application inadmissible at the same time as rejecting a request for interim measures.

In accordance with the Court's priority policy, applications in which interim measures have been indicated fall within the category of "Urgent applications" (category I). They therefore take precedence over applications in other categories and are processed and adjudicated as soon as possible (see further The Court's Priority Policy).³

¹- Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p 4, <https://www.echr.coe.int/practice-directions>

²- Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p 4, <https://www.echr.coe.int/practice-directions>

³- Requests for interim measures (Rule 39 of the Rules of Court) Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024, p3, <https://www.echr.coe.int/practice-directions>

Examples of intérim masures

1- Expulsion cases with a health / medical element

A. Khachaturov v. Armenia (24 June 2021 (judgment))

This case concerned the Armenian authorities' decision to extradite the applicant to Russia, where criminal proceedings for attempted bribe-taking were pending against him. The applicant, who suffered from the effects of a past stroke, claimed that his medical condition did not render him fit for being transferred either by air or land.

In November 2017, the Court granted a request by the applicant for an interim measure under Rule 39 of the Rules of Court and, after considering the parties' submissions on the issue, in February 2018, it decided to maintain the measure. In its judgment, the Court concluded that there would be a violation of Article 3 of the Convention if the applicant was extradited to Russia without the Armenian authorities having assessed the risk faced by him during his transfer in view of the information as to his state of health.¹

B. N. v. the United Kingdom (no. 26565/05) (27 May 2008 (Grand Chamber – judgment))

The applicant, who was HIV-positive, claimed that to return her to Uganda would cause her suffering and lead to her early death, which amounted to inhuman and degrading treatment.

In this case the Court decided to apply Rule 39 of the Rules of Court, requesting the Government of the United Kingdom to refrain from deporting the applicant pending the outcome of the proceedings before it. Concluding in its judgment that the applicant's case did not disclose "very exceptional circumstances", the Court found that the implementation of the decision to remove her to Uganda would not give rise to a violation of Article 3 of the Convention

2- Other applications of interim measures (Persons sentenced to death)

A. Saadoune v. Russia and Ukraine (no. 28944/22) 16 Pending application – Interim measures indicated on 16 June 2022

This case concerns a Moroccan national, member of the Armed Forces of Ukraine who surrendered to the Russian forces during recent hostilities and has since been sentenced to death in the so-called "Donetsk People's Republic" On 14 June 2022 the applicant's representative made a request to the Court under Rule 39 of the Rules of Court to ensure his Convention rights.

The Court indicated in particular to the Government of the Russian Federation, under Rule 39 of the Rules of Court, that they should ensure that the death penalty imposed on the

¹ - [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22002-13319%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-13319%22]})

Extradition

Decision to extradite applicant unfit for travel, even with medical supervision, due to severe health condition: extradition without proper assessment of transfer risks would entail a breach

Facts – The applicant, a Russian national of Armenian origin, faced extradition from the Armenian authorities to Russia where criminal proceedings for attempted bribe-taking were pending against him. The applicant unsuccessfully challenged the extradition decision which became final on 30 November 2017. On that date the Court granted his request for an interim measure under Rule 39 of the Rules of Court and, after considering the parties' submissions on the issue, on 6 February 2018, decided to maintain the measure. Relying on Articles 2 and 3 of the Convention, the applicant claimed that his medical condition did not render him fit for being transferred either by air or land.

applicant was not carried out, ensure appropriate conditions of his detention, and provide him with any necessary medical assistance and medication.

The Court also indicated to the Government of Ukraine to ensure, in so far as it was possible to do so, respect for the Convention rights of the applicant.¹

B. Pinner v. Russia and Ukraine (no. 31217/22) and Aslin v. Russia and Ukraine (no. 31233/22) Pending application – Interim measures indicated on 29 June 2022

These applications concern two British nationals who are members of the Armed Forces of Ukraine who surrendered to the Russian forces during recent hostilities and have since been sentenced to death in the so-called “Donetsk People’s Republic”.

On 27 June 2022 the applicants’ representatives made their requests to the Court under Rule 39 of the Rules of Court to ensure their Convention rights.

The Court indicated in particular to the Government of the Russian Federation, under Rule 39 of the Rules of Court, that they should ensure that the death penalty imposed on the applicants was not carried out; ensure appropriate conditions of their detention; and provide them with any necessary medical assistance and medication. The Court also indicated to the Government of Ukraine to ensure, in so far as it was possible to do so, respect for the Convention rights of the applicants requérants².

3- Saturation of the network for receiving asylum-seekers

Camara v. Belgium (no. 49255/22) Pending application – Interim measure indicated on 31 October 2022

This case concerns a Guinean national who applied to the Belgian authorities for international protection on 15 July 2022. Since then, he has lived on the street, not having been assigned a place in a reception facility by the Federal Agency for the Reception of Asylum-Seekers (Fedasil) on account of the alleged saturation of the network for receiving asylum-seekers in Belgium.

The Court decided to indicate an interim measure under Rule 39 of the Rules of Court and to enjoin the Belgian State to enforce the order made by the Brussels French-language Labour Court on 22 July 2022 (namely to house the applicant in reception centre, or else in a hotel or any other suitable facility should no places be available, and to ensure his reception as defined in the Law of 12 January 2007, subject to penalties for non-compliance) and to provide the applicant with accommodation and material assistance to meet his basic needs.

See also: press release of 16 November 2022 concerning the indication of an interim measure in a similar case; press release of 16 December 2022 concerning the indication by the Court of interim measures in cases involving 160 applicants who had obtained domestic decisions which had become final, in which the Court directed the Belgian Government to comply with the decisions of the Brussels Labour Court and provide the applicants in question with accommodation and material assistance to meet their basic needs for the duration of the proceedings before the Court; press release of 1 June 2023 concerning the striking-out of the

¹ - On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

² - On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

<https://hudoc.echr.coe.int/eng-press?i=003-7374646-10079287>

list of cases and lifting of interim measures in respect of 1,350 incomplete applications from asylum-seekers in Belgium
Statistics interim measures

Interim measures (2019-2024)¹

	2019	2020	2021	2022	2023	2024
Granted	145	253	232	1094	1418	371
Refused	544	712	519	685	359	347
Outside the scope	881	1064	1171	1337	858	912

The Court makes available to the public statistics on interim measures by State and key theme 2024 as well as on interim measures 2019-2024.²

Since interim measures are granted by the Court only under well-defined conditions (when there is an imminent risk of irremediable harm to a right protected by the Convention and the measures in question are necessary in the interest of the parties or the proper conduct of the proceedings), most requests for interim measures are not granted.

In 2023 the total number of decisions on interim measures (2,635) decreased by 15% compared with 2022 (3,116). The Court granted requests for interim measures in 1,419 cases (an increase of 30% in relation to the total of 1,094 in 2022) and dismissed them in 359 cases (a decrease of 48% compared with 685 in 2022). 91% of the requests granted (1,297 requests) concerned immigration issues in Belgium. It should be noted that 94% of the requests granted concerned issues other than expulsion or extradition. The remainder fell outside the scope of Rule 39 of the Rules of Court.³

Indeed, requests for interim measures are refused more often than they are granted. Across 2021-2023, only 2,745 of 7,676 requests were successful (36%). Of these, 2,047 related to Belgium, principally in respect of its treatment of asylum seekers (see *Camara v Belgium*, app no. 49255/22). In contrast, 18 states had no interim measures indicated in respect of them in that period.

In United Kingdom cases, in 2021-2023, of 178 requests made, only 11 (6%) were successful. Recent debate here focusses on interim measures in relation to the treatment of those seeking asylum (in particular the proposed “Rwanda” scheme). However, at first reading, the change to Rule 39 is unlikely to impact such cases. The removal of a person from the state contrary to their Article 2 or 3 rights is the classic example of when the Court will indicate measures. The Practice Direction makes clear that domestic remedies with suspensive

¹ -The statistics on interim measures refer to the number of decisions taken by the Court to grant or to refuse requests under Rule 39 of the Rules of Court. They also contain figures for requests declared outside the scope of application of Rule 39. Details are available by a Contracting State since 2017.

² -https://www.echr.coe.int/documents/d/echr/stats_art_39_01_eng-1

³ - The European Court of Human Rights, Factsheet – Interim measures, March 2024, p 16, https://www.echr.coe.int/documents/d/echr/fs_interim_measures_eng

effect must first be exhausted. Once that is done, however, the European Court may step in to preserve a victim's rights.

There is a positive impact to the amendment even if, perhaps especially if, it does not alter the Court's approach. The rule of law requires clarity and accessibility. The new Rule 39 more clearly, and more accessibly, reflects the Court's actual practice. In that sense it is a useful codification of the case-law¹.

Conclusion

The amendments to Rule 39 have codified, and in doing so clarified, the threshold for indication of interim measures. It is likely that the threshold has not actually changed – but the proof of that will be in how the Court treats future applicants. For those applicants, it is obvious that compliance with the new Rule, and Practice Direction, will be essential to the prospects of success.

For the Court, its use of this power remains a delicate one, as non-compliance by states – however illegal – undermines the Court's own authority. And for states that may bristle in the face of that authority, it is worth remembering the company that would be kept if they were to reject it outright. Interim measures may be an exceptional component of the international legal system – but they are also a vital one.

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The European Court of Human Rights, Factsheet – Interim measures, March 2024, pp 1, 2 2024,

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<https://hudoc.echr.coe.int/eng-press?i=003-7374646-10079287>

https://www.echr.coe.int/documents/d/echr/stats_art_39_01_eng-1

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¹- M., pp. 65–70.