



Application about illegal occupation of a building belonging to the Madrid Housing Institute was premature

In its decision in the case of [A.M.B. and Others v. Spain](#) (application no. 77842/12) the European Court of Human Rights has, by a majority, declared the application inadmissible. The decision is final.

The case concerned the illegal occupation of a building belonging to the Madrid Housing Institute and a squatter's complaint about the decision to evict her from that building. An interim measure (under Rule 39 of the Rules of Court) had been applied by the Court on 12 December 2012 suspending the eviction measure ordered against Ms A.M.B. who was occupying the building with her two children.

Having regard to the observations submitted by the Spanish Government, the Court took the view that the maintaining of the interim measure was no longer justified and therefore lifted it.

Finding that the appeal before the Spanish Constitutional Court was still pending, the Court found that the application was premature and decided to reject it.

Principal facts

The first applicant, Ms A.M.B., is a Spanish national who was born in 1988 and lives in Madrid (Spain). She has two minor children, who were born in 2004 and 2007.

Ms A.M.B. and her two children have been living since July 2009 in a building belonging to the Madrid Housing Institute (IVIMA), where they squatted an empty flat. Ms A.M.B., who is unemployed, receives a minimum subsistence allowance and a maintenance payment for her children. She submits that she has unsuccessfully applied to the authorities for housing since 2007.

On 22 February 2011 the director of the IVIMA took note of the illegal occupation of the flat and ordered its restitution, without proposing a replacement solution. The legal department of the Autonomous Community of Madrid applied to the courts for an eviction order. On 16 October 2012 the court ordered A.M.B.'s eviction, indicating that it was necessary to "take the necessary measures for the better protection of the minors living in the flat". The court noted that her situation was not different from that of many other families who were waiting for housing and that the illegal occupation could not be justified. Ms A.M.B. appealed, seeking the suspension of the eviction measure.

On 6 December 2012 Ms A.M.B. requested the European Court of Human Rights to indicate an interim measure (Rule 39 of the Rules of Court). On 12 December 2012, on the basis of the information received from the Spanish Government concerning alternative re-housing measures, the Court decided to indicate to the Spanish Government that Ms A.M.B. and her two children should not be evicted. At the same time, the Court decided to communicate the application to the Government.

The Spanish High Court of Justice dismissed Ms A.M.B.'s appeal against the eviction decision of 16 October 2012 and she lodged an *amparo* appeal with the Constitutional Court. That appeal is still pending.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 6 December 2012.

Relying on Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private and family life) Ms A.M.B. complained about the eviction decision and about the lack of an alternative housing solution. She explained that she had nowhere else to go.

The decision was given by a Chamber of seven, composed as follows:

Josep **Casadevall** (Andorra), *President*,
 Alvina **Gyulumyan** (Armenia),
 Ján **Šikuta** (Slovakia),
 Luis **López Guerra** (Spain),
 Nona **Tsotsoria** (Georgia),
 Johannes **Silvis** (the Netherlands),
 Valeriu **Grițco** (the Republic of Moldova), *Judges*,

and also Santiago **Quesada**, *Section Registrar*.

Decision of the Court

The Spanish Government argued that if Ms A.M.B. was evicted and did not wish to return to live with her parents, with whom she had been living previously, she could make use of the possibilities offered by the authorities. The welfare services would act immediately to ensure that Ms A.M.B. or her children were not left to their own devices. Ms A.M.B. had not, for the time being, sought the assistance of any of the welfare services which could guide her through the procedure to be followed for a housing application. Ms A.M.B., for her part, demanded that the Government first offer her an alternative housing solution. She criticised the general system for the allocation of social housing.

Having regard to the observations submitted by the Government, the Court took the view that the maintaining of the interim measure under Rule 39 was no longer justified and thus lifted it.

As regards the remainder of the application, the Court observed that the *amparo* appeal lodged by Ms A.M.B. before the Spanish Constitutional Court was still pending. Consequently, it found that the application was premature and decided to reject it.

The decision is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Denis Lambert (tel: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Jean Conte (tel: + 33 3 90 21 58 77)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.