



Court refuses to grant interim measure requested by Alsace Nature association to suspend underground storage of hazardous waste in Wittelsheim

The European Court of Human Rights has today refused to grant an interim measure in the case of **Alsace Nature and Others v. France** (application no. 11833/24) concerning the suspension of a project for the permanent underground storage, in Wittelsheim, of hazardous waste that is liable to contaminate the groundwater in the Alsace region.

In the light of its case-law, and having regard to the evidence adduced in support of the interim measure and the additional observations and information provided by the parties, without prejudging any subsequent decision on the admissibility or merits of the case, the Court considered that, in these very specific circumstances, the applicant parties had not sufficiently established the “imminent risk of irreparable harm to a Convention right” on which they had relied and that the domestic authorities’ assessment of that risk, in the context of urgent proceedings, had been based on serious grounds which it saw no reason to call into question for the purposes of Rule 39 § 1 of the Rules of Court.

Accordingly, the Court decided not to indicate the requested interim measure to the French Government under Rule 39 of the Rules of Court.

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 to a Convention right.

The applicants are the Alsace Nature association, which is registered in Strasbourg, and five French nationals – Etienne Chamik, Nadine Flory, Yann Flory, Myriam Grosz and Agnès Koelbein-Chamik – who were born between 1933 and 1968 and live in Wittelsheim, Richwiller and Cernay (all in France).

On 3 February 1997 the prefect of the *département* of the Haut-Rhin authorised the Stocamine company (which became the Mines de potasse d’Alsace company) to operate a reversible underground storage facility for industrial waste for a period of 30 years on land that was part of the municipality of Wittelsheim in Alsace.

The site’s operation was halted as the result of a fire that broke out on 10 September 2002, leaving several thousand tonnes of ultimate waste.

From 2014 to 2017 destocking operations focusing on the items regarded as the most hazardous were carried out, which revealed, in particular, the presence of non-regulation waste.

An operation to entomb the waste permanently was authorised by a prefectoral order of 28 September 2023. The applicants lodged an urgent application with the Strasbourg Administrative Court seeking a stay of execution of that order, which was granted by that court in a decision delivered on 7 November 2023.

The Government appealed against that decision on points of law. In a reasoned judgment delivered on 16 February 2024 the *Conseil d’État* quashed the Strasbourg Administrative Court’s decision of 7 November 2023 on the grounds that the condition of urgency for staying the order’s execution could not be regarded as having been met.

On 23 April 2024 the applicant parties asked the European Court of Human Rights, under Rule 39 of its Rules of Court, to indicate to the French Government that the waste-entombment works should be suspended until such time as the Administrative Court – before which a hearing was scheduled for the second half of 2024 – could rule on the merits of the case, or until the Court’s ruling on the merits of the application. The Court put questions to the parties.

In the light of its case-law, and having regard to the evidence adduced in support of the interim measure request and the additional observations and information provided by the parties, without prejudging any subsequent decision on the admissibility or merits of the case, the Court considered that, in these very specific circumstances, the applicant parties had not sufficiently established the “imminent risk of irreparable harm to a Convention right” on which they had relied and that the domestic authorities’ assessment of that risk, in the context of urgent proceedings, had been based on serious grounds which it saw no reason to call into question for the purposes of Rule 39 § 1 of the Rules of Court.

Measures under Rule 39 of the [Rules of Court](#) are decided in connection with proceedings before the Court, without prejudging any subsequent decisions on the admissibility or merits of the case. The Court grants such requests only on an exceptional basis, when the applicants would otherwise face an imminent risk of irreparable harm. For further information, see [the factsheet on interim measures](#).

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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.