

Grand Chamber to examine case concerning situation of Afghan nationals stranded at Belarusian-Polish border

The Chamber of the European Court of Human Rights to which the case **R.A. and Others v. Poland** (application no. 42120/21) had been allocated has **relinquished jurisdiction in favour of the Grand Chamber of the Court**¹.

The case concerns a group of 32 Afghan nationals who claim to have fled Afghanistan after the Taliban came to power. They were left stranded in a makeshift camp on the border between Belarus and Poland from 8 August until 23 October 2021.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicants, 32 Afghan nationals, say that they crossed the Belarusian-Polish border in early August 2021 before being forcibly pushed back to Belarus by Polish border guards. They set up a makeshift camp near the Polish village of Usnarz Górny, where they were left stranded in problematic sanitary and humanitarian conditions between the Polish police, on the one hand, and their Belarusian counterparts, on the other. The applicants allege that their claims for asylum in Poland were not considered by the Polish authorities.

On 20 October 2021 17 of the 32 applicants crossed the barbed wire fence along the Belarusian-Polish border. They were allegedly then apprehended by the Polish police, who took them to the border crossing and sent them back to Belarus.

Complaints and procedure

The application was lodged with the Court on 20 August 2021, accompanied by a request for an interim measure (Rule 39 of the Rules of Court).

Relying on Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, the applicants complain of having been deprived by the Polish authorities of access to asylum procedures and of being exposed to the risk, if returned to Afghanistan, of treatment in breach of the Convention and, if sent to Belarus, of chain *refoulement*. They also complain about their material and sanitary conditions. Relying on Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens) to the Convention and on Article 13 (prohibition of discrimination) taken together with Article 3 of the Convention and Article 4 of Protocol No. 4 to the Convention, the applicants further complain that they have been subjected to a collective expulsion and that no effective remedy has been available to them. Lastly, under Article 34 (right of individual petition) of the Convention, they complain of the failure by Poland to apply the interim measures indicated by the Court (see below).

On 25 August 2021 the Court granted the request for an interim measure and indicated to the Polish Government to provide the applicants with food, water, clothing, adequate medical care and, if

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-judge Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

possible, temporary shelter. It also clarified that the interim measure should not be understood as requiring that Poland let the applicants enter its territory.

On 27 September 2021 the Court extended the interim measure and gave notice to the Polish Government of the application, with questions from the Court. The Court also decided to give priority to this application under Rule 41 of the Rules of Court. In addition, the Court indicated two new measures to the Government under Rule 39, asking them (i) to allow the applicants' lawyers to make necessary contact with them, for the purpose of the proceedings before the Court; and (ii) not to send the applicants to Belarus, provided that they were actually on Polish territory.

The Chamber of the European Court of Human Rights to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 25 June 2024.

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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.