

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 37336/23
Karim MOUELHI
against Belgium

The European Court of Human Rights (First Section), sitting on 28 April 2026 as a Chamber composed of:

Ivana Jelić, *President*,
Erik Wennerström,
Frédéric Krenc,
Davor Derenčinović,
Alain Chablais,
Artūrs Kučs,
Anna Adamska-Gallant, *judges*,
and Ilse Freiwirth, *Section Registrar*,

Having regard to:

the application (no. 37336/23) against the Kingdom of Belgium lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 13 October 2023 by a Tunisian national, Mr Karim Mouelhi ("the applicant"), who was born in 1983 and lives in the Netherlands, and was represented by Ms M. Mostaert, a lawyer practising in Brussels;

the decision to give notice of the complaints raised under Articles 3, 6 and 13 of the Convention to the Belgian Government ("the Government"), represented by their Agent, Ms I. Niedlispacher, of the Federal Justice Department, and to declare the remainder of the application inadmissible;

the interim measure indicated to the respondent Government under Rule 39 of the Rules of Court, which was subsequently lifted;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by the Human Rights Centre of the University of Ghent, which was granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

INTRODUCTION

1. Like *Camara v. Belgium* (no. 49255/22, 18 July 2023), the present case concerns an applicant for international protection who alleged that he had gone without material assistance or accommodation in Belgium for several months, despite a final judgment of the Employment Tribunal ordering the Belgian State to grant him such assistance in accordance with its legal obligations.

THE FACTS

A. The facts as submitted by the applicant

2. The applicant claimed to have arrived in Belgium on 1 September 2020.

3. He applied for international protection on 9 December 2020 and was allocated a place in a reception centre. He was transferred to other reception centres several times for disciplinary reasons and was temporarily expelled on three occasions for breaches of the reception facility rules and regulations. He further alleged that he had been hospitalised in a psychiatric ward and held on remand in 2021 and 2022.

4. By decision of the Federal Agency for the reception of asylum seekers (*Agence fédérale pour l'accueil des demandeurs d'asile* – Fedasil) of 18 August 2022 he was permanently barred from the asylum network on disciplinary grounds.

5. On 18 November 2022 he applied to the Brussels French-Language Employment Tribunal, asking it to set aside the decision of 18 August 2022 (see paragraph 4 above) and order Fedasil to provide him with accommodation and, on pain of a coercive fine, material assistance within the meaning of the Law of 12 January 2007 on the reception of asylum-seekers and other categories of foreign nationals.

6. In a judgment delivered on 8 May 2023 following adversarial proceedings, the Employment Tribunal set aside the decision in question and allowed the applicant's claim. It ordered Fedasil to accommodate the applicant in an appropriate reception centre for his mental health, or in any other appropriate facility, and to supply him with the material assistance provided for by law, on pain of a daily fine of 100 euros (EUR) as of the third day following service of the judgment. The judgment was served on Fedasil on 24 May 2023 and, in the absence of an appeal, became final one month later. The applicant alleged that it had not been enforced.

B. The proceedings before the Court

7. On 13 October 2023 the applicant asked the Court to indicate an interim measure under Rule 39 of the Rules of Court. He stated that the purpose of his request was to secure "living conditions [which were] compatible with human dignity, given that [his] current situation as an applicant for international protection living on the streets amount[ed] to inhuman and degrading treatment and [put] his life and physical integrity at risk". In particular, despite the Employment Tribunal's judgment and the expiry of the deadline for lodging an appeal, "the applicant [was] still currently reduced to living on the streets. He [slept] in parcs or squats, without access to adequate sanitary facilities. He [had] no access to running water or electricity".

8. On 18 October 2023 the Court granted the applicant's request and indicated to the Belgian State that it was to provide him with accommodation and material assistance to meet his basic needs, thereby enforcing the Employment Tribunal's judgment in his case (see paragraph 6 above). The applicant was asked to complete his file by sending an application form.

9. On 20 November 2023 the applicant submitted his application form in accordance with Rule 47 § 1. On the form, he stated that, since his exclusion from the reception network (see paragraph 4 above), he had been forced to live on the streets in extremely difficult conditions, without access to running water or electricity. It was very hard for him to procure enough to eat, a situation which was only making his psychological suffering more acute. The form contained the following passage in particular: "To date: despite a domestic decision – which has been served –, the expiry of the deadline for appeal and an interim measure indicated by your Court, the applicant is still forced to live on the streets. Furthermore, no penalty payment has been made. The applicant has been homeless for more than a year, despite the fact that, under the law ... and a judgment delivered by the Employment Tribunal ..., he is entitled to accommodation in a reception centre ..."

10. On 19 January 2024 the Court asked the applicant to inform it of any further developments in his case since the application had been lodged. In particular, it requested details as to the applicant's place of residence and the status of his asylum claim.

11. In reply, on 12 February 2024, the applicant's representative stated that she was still in contact with him and that he wished to pursue his application. She explained that, of all her clients who were applicants for international protection, the applicant was the only one who had yet to be provided with accommodation by the Belgian authorities and that, for want of such accommodation by the State, he was "living on the streets and rel[ied] on civic solidarity to find shelter on certain nights and to provide for his basic needs".

12. On 3 April 2024 notice of the complaints under Article 3, Article 6 § 1 and Article 13 of the Convention was given to the Government under Rule 54 § 2 (b).

13. On 11 June 2025 the Court decided, in the light of the information supplied by the parties, to lift the interim measure indicated under Rule 39 (see paragraph 8 above).

C. Information supplied by the Government

14. In their observations of 24 June 2024 on the admissibility and merits of the application, the Government submitted, with supporting evidence, that the applicant had lodged an application for international protection in the Netherlands on 18 May 2023. They provided a copy of an email sent by the Netherlands authorities to the Belgian authorities on 13 May 2024, which showed that the applicant had been provided with accommodation by the Netherlands authorities from 19 May 2023 onwards and was still registered as a resident in the Netherlands at the time of sending. The Government added that, as indicated in a document drawn up by the Belgian Aliens Office, the Netherlands had become the State responsible for examining the applicant's application for international protection as of 8 January 2024.

15. In his observations in reply dated 10 September 2024 the applicant did not dispute the information provided by the Government and confirmed that he had left Belgium for the Netherlands because he had heard that accommodation could be obtained there. He had seen this as "an opportunity to put an end to his daily struggle to find food and shelter" but had intended to return to Belgium as soon as Fedasil invited him to an asylum interview. He pointed out that the Belgian authorities had failed to notify him of any decision to discontinue his asylum proceedings and that Fedasil had never mentioned that he would lose his right to accommodation upon applying for asylum in another State.

COMPLAINTS

16. The applicant complained that the conditions in which he had been forced to live for several months had amounted to inhuman and degrading treatment in breach of Article 3 of the Convention. Pointing out that the Employment Tribunal's judgment in his case had not been enforced, he submitted that there had also been a violation of Article 6 § 1 of the Convention, read in conjunction with Article 13.

THE LAW

17. The Court reiterates at the outset that, in principle, any conduct by an applicant which is manifestly contrary to the purpose of the right of individual

application as provided for in the Convention and which impedes the proper functioning of the Court or the smooth conduct of the proceedings before it can be considered an abuse of that right within the meaning of Article 35 § 3 (a) of the Convention (see *S.A.S. v. France* [GC], n° 43835/11, § 66, ECHR 2014 (extracts), and *Bivolaru v. Romania*, no. 28796/04, § 82, 28 February 2017). The relevant parts of that provision read as follows:

> "3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:
>
> (a) the application is ... an abuse of the right of individual application; ..."

A. Applicable principles

18. An application may be rejected as an abuse of the right of individual application if, among other reasons, it was knowingly based on untrue facts. The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. The same applies if new, important developments have occurred during the proceedings before the Court and where, despite being expressly required to do so by Rule 47 § 7, the applicant has failed to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts. However, even in such cases, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *Savickis and Others v. Latvia* [GC], no. 49270/11, § 149, 9 June 2022, with further references).

19. The implementation of Article 35 § 3 (a) of the Convention is an "exceptional procedural measure" and the concept of "abuse" must be understood in its ordinary sense according to general legal theory – namely, the harmful exercise of a right by its holder for purposes other than those for which it is designed (see *Kovačević v. Bosnia and Herzegovina* [GC], no. 43651/22, § 131, 25 June 2025).

20. The Court may examine this issue of its own motion, since it is for the Court itself to monitor compliance with the procedural obligations imposed by the Convention and the Rules of Court on the applicant party (see *Kovačević*, cited above, § 130).

21. The Court reiterates, moreover, that a representative who has been validly designated under Rule 36 is deemed to act on behalf of the applicant who appointed him or her in the proceedings before the Court (see, to similar effect, *Nagmetov v. Russia* [GC], no. 35589/08, § 75, 30 March 2017).

B. Application to the present case

22. In the present case, the Court considers that it must examine of its own motion whether, in view of the information provided by the Government (see paragraph 14 above), the case discloses an abuse of the right of individual application. That information shows that, at the time when the applicant sought an interim measure from the Court in October 2023 directing the Belgian State to provide him with accommodation and material support to meet his basic needs (see paragraph 7 above), he was no longer in Belgium but had been accommodated as an applicant for international protection in the Netherlands for nearly five months.

23. Contrary to what he alleged in his request for an interim measure, the applicant was therefore not reduced to living on the streets in Belgium in the utterly destitute state described by him (see paragraph 7 above). The information he provided to the Court was thus untrue.

24. The fact which has been brought to the Court's attention, namely, that the applicant was not living on the streets in an utterly destitute state, would undoubtedly have had a decisive influence on its examination of his request for an interim measure in view of the risk alleged under Article 3 of the Convention. The Court applies Rule 39 only in restricted circumstances (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, § 103, ECHR 2005-I). Under that Rule and the Practice Direction on requests for interim measures (issued by the President of the Court in accordance with Rule 32), as in force at the relevant time, the Court could indicate an interim measure only "in exceptional circumstances", in order to avert "a real risk of serious, irreversible harm if the measure [was] not applied" (see also the wording of Rule 39 § 1 as amended on 23 February 2024 and currently in force, which refers to an "imminent risk of irreparable harm to a Convention right, which, on account of its nature, would not be susceptible to reparation, restoration or adequate compensation").

25. The Court reiterates that although applicants are by no means expected to set out all possible information about a case in their application, it is their duty to present, at least, the essential facts at their disposal which are clearly of significant importance for the Court to be able to assess the case properly (see *Komatinović v. Serbia* (dec.), no. 75681/10, 29 January 2013, and *Şevcenco and Timoşin v. the Republic of Moldova* (dec.), nos. 35215/06 and 43414/08, § 25, 21 April 2020, with regard to applicants' duties under Rule 47 § 7). The same applies to Rule 39 requests (on this point, see paragraphs 23 and 34 of the Practice Direction on requests for interim measures, issued by the President of the Court under Rule 32, as amended on 23 February 2024).

26. Likewise, the Court takes the view that the act of deliberately providing it with false information in the context of a request for an interim measure under Rule 39 can amount to an abuse of the right of individual

application in the same way and under the same conditions as it might if such information were provided in an application form lodged under Rule 47 § 1 (for examples of false information provided in an application form, see *Kongresna Narodna Stranka and Others v. Bosnia and Herzegovina* (dec.), no. 414/11, §§ 18-19, 26 April 2016, and *Mamić and Others v. Croatia* (dec.), nos. 21714/22 and 2 others, §§ 120-25, 9 July 2024). To hold otherwise would be to compromise the credibility of the Court's judicial role and the authority of the interim measures it is empowered to indicate.

27. Moreover, the Court notes that in the present case the applicant failed to correct the information in question when submitting his completed application form after the interim measure had been indicated (see paragraph **Error! Reference source not found.** above). On the contrary, he expressly reiterated that he was still forced to sleep on the streets in conditions incompatible with Article 3 of the Convention. Furthermore, when asked to inform the Court of any developments in his case, he confirmed, on 12 February 2024, that he was still in contact with his representative and alleged that he was still living on the streets in Belgium, "rely[ing] on civic solidarity to find shelter on certain nights and to provide for his basic needs" (see paragraph 11 above). However, these statements are fundamentally contradicted by the information supplied by the Government to the effect that the applicant had been accommodated by the Netherlands authorities since 19 May 2023, after filing an application for international protection in that country, and that he had been registered in the Netherlands ever since (see paragraph 14 above).

28. The Court observes that the applicant did not dispute the information provided by the Government and confirmed in his observations that he had left Belgium for the Netherlands because he had heard that accommodation could be obtained there (see paragraph 15 above). He had seen this as "an opportunity to put an end to his daily struggle to find food and shelter but [had] intended to return to Belgium" as soon as Fedasil invited him to an asylum interview.

29. The Court finds that the circumstances set out above show that the applicant deliberately sought to mislead it by providing erroneous information in support of his request for an interim measure (see paragraphs 22-23 above) and in his subsequent application form (see paragraph 27 above), thereby preventing it from ruling on the admissibility and merits of that application in full knowledge of the facts (see, to similar effect, *Dimo Dimov and Others v. Bulgaria*, no. 30044/10, § 46, 7 July 2020; see also *Şevcenco and Timoşin*, cited above, § 26, in which the Court found that, absent a sufficient explanation as to why an applicant had failed to provide information concerning the very core of the case, it could conclude that his or her intention had been to mislead it).

30. In this connection, the Court reiterates and stresses the duty of applicants, under Rules 44C § 1 and 47 § 7, to divulge of their own motion

any information relevant to the application, in addition to the more general duty to cooperate with it under Rule 44A (see *Gross*, cited above, § 33). The Court further stresses that the lawyers who represent applicants before the Court play an essential role in the Convention system, since they are the ones who submit the facts and arguments on which the Court must then rule. Bound as they are by ethical obligations which justify their specific status in the administration of justice (see *Morice v. France* [GC], no. 29369/10, § 132, ECHR 2015), rigour and professionalism are expected of them. In particular, they are required to cooperate with the Court constructively and in good faith by refraining from submitting requests on the basis of misleading information (see Rule 44D; see also, to similar effect, *Ferrara and Others v. Italy* (dec.), nos. 2394/22 and 18 others, § 66, 16 May 2023, with further references).

31. Compliance with these requirements is all the more crucial when the Court is confronted with a massive influx of requests for interim measures and applications relating to the same issue, as it was in the present case (see *Camara v. Belgium*, no. 49255/22, §§ 85 and 145, 18 July 2023, regarding the systemic problem identified by the Court). Given their large number, cases of this kind place significant strain on the Court's capacity to administer justice effectively and carry out the tasks entrusted to it under Article 19 of the Convention (see, to similar effect, *Volozhanin and Znakovan v. Ukraine* (dec.), nos. 19951/21 and 31160/21, §§ 37-38, 3 March 2026), at a time when other applications concerning proven facts require its utmost attention. In the Court's view, it is important that proceedings before it not be diverted from their purpose.

32. Having regard to all the foregoing considerations, the Court finds that the applicant's conduct amounts to an abuse of the right of individual application and that the application must be dismissed accordingly pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in French and notified in writing on 21 May 2026.

Ilse Freiwirth Registrar	Ivana Jelić President