



The interim measure indicated in the case of *Armenia v. Azerbaijan*¹ and Rule 39² proceedings with regard to alleged captives to remain in force

On 29 September 2020, acting on a request for a general interim measure lodged by Armenia against Azerbaijan, the European Court of Human Rights decided to apply Rule 39 of the Rules of Court in regard to the conflict in and around Nagorno-Karabakh. Taking the view that the situation gave rise to a risk of serious violations of the Convention, the Court called upon both Azerbaijan and Armenia to refrain from taking any measures, in particular military action, which might entail breaches of the Convention rights of the civilian population, including putting their life and health at risk, and to comply with their obligations under the Convention, notably in respect of Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment).

By a statement of 4 November 2020, the Court pointed out that, while the above decision specifically mentioned the rights of civilians, it also called on the States to comply with their obligations under the Convention. It clarified that the latter expression included also the Convention rights of those who were captured during the conflict and those whose rights might otherwise be violated.

The Court has also received numerous requests under Rule 39 concerning alleged captives. The requests received so far concern 148 individuals. They have been lodged by the Government of either Armenia or Azerbaijan or by relatives of the captives. In all these cases, the Court has invited the respondent Government to provide information on the individuals concerned, in particular whether they have been captured, under what conditions they are being held, including any medical examinations or treatment they have undergone, and whether, in view of the exchange of prisoners of war and other detainees envisaged in the ceasefire agreement signed on 9 November 2020, any measures to repatriate the captives have been taken or planned. Simultaneously, the Court has either suspended the examination under Rule 39 when the respondent Government have provided adequate information on their captives or applied Rule 39 when the Government have not given sufficient information or have not given any information at all.

On 3 December 2020 the Government of Azerbaijan asked the Court to suspend the proceedings on interim measures until the applicants show that they have addressed the International Committee of the Red Cross (ICRC). They argued that the issues raised fell entirely under international humanitarian law and that some applicants had failed to properly substantiate their Rule 39 requests and their claim that there was a real danger of irreparable harm to the captives. They further requested the Court to lift the interim measure indicated on 29 September 2020 in respect of Azerbaijan. In this regard, they referred to the above ceasefire agreement of 9 November 2020. In response, the Government of Armenia asked the Court to reject the requests.

On 15 December 2020 the Court (sitting as a Chamber of seven judges) examined the requests made by the Azerbaijani Government. It noted that a very large number of Rule 39 requests, predominantly directed against Azerbaijan, continue to arrive at the Court, containing allegations that individuals have been captured and, in some cases, severely ill-treated. The Azerbaijani Government have frequently failed to provide the information requested by the Court. Moreover, the possibility to address the ICRC does not preclude applicants from seizing the Court, claiming

¹ *Armenia v. Azerbaijan* (no. 42521/20), lodged on 27 September 2020.

² Rule 39 of the [Rules of Court](#).

violations of the Convention and requesting the application of Rule 39. In these circumstances, the Court did not find any basis for discontinuing or suspending the examination of requests under Rule 39 in reasonably substantiated cases concerning alleged captives.

The Court further noted that the mutual exchange of captives had started on 14 December 2020. It welcomed this development. For the time being, however, it found that the general interim measure of 29 September 2020, as interpreted on 4 November 2020 and addressed to both Armenia and Azerbaijan, should remain in force, as a reminder to both parties of their obligations under the Convention. It therefore rejected the Azerbaijani Government's request to lift that measure.

Accordingly, the Court reaffirmed the above-mentioned general interim measure and decided to continue to examine Rule 39 requests concerning alleged individual captives, to apply Rule 39 when the circumstances merit such action and to request specific information from the respondent Government on the alleged captives. It reminded both parties of their obligation to abide by all interim measures issued pursuant to Rule 39. The Court will keep these procedures under review.

List of Inter-State cases in relation to the Nagorno-Karabakh conflict and previous press releases

- **Armenia v. Azerbaijan** no. 42521/20, lodged on 27 September 2020
Link to previous press releases: [28.9.2020](#) and [30.9.2020](#)
- **Armenia v. Turkey** no. 43517/20, lodged on 4 October 2020
Link to previous press releases: [6.10.2020](#) and [14.10.2020](#) and [2.12.2020](#)
- **Azerbaijan v. Armenia** no. 47319/20, lodged on 27 October 2020
Link to previous press release: [27.10.2020](#)
- Link to the [Statement on requests for interim measures concerning the conflict in and around Nagorno-Karabakh](#) (of 4.11.2020).

Links to related documents

- Rule 39 of the [Rules of Court](#)
- [Factsheet on interim measures](#)
- [Inter-State cases](#)

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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.