



## Delays in taking charge of asylum-seekers, even after final court decisions, violated several Convention provisions

The case of [M.V. and Others v. Belgium](#) (application no. 52836/22 and 3 others) concerned four applicants for international protection who had not been provided with accommodation or material support for several months in Belgium. That was despite final decisions by the Brussels Employment Tribunal ordering the Belgian State to grant them such assistance in accordance with its legal obligations.

In today's **Chamber judgment**<sup>1</sup> the European Court of Human Rights held, unanimously, that there had been:

**A violation of Article 3 (prohibition of degrading treatment)** of the European Convention on Human Rights. The conditions in which the applicants had had to live – on the street for several months with no means of providing for their essential needs, even during the winter – had exceeded a level of severity sufficient to engage Article 3. The applicants had thus been victims of degrading treatment that had entailed a lack of respect for their dignity.

**A violation of Article 6 § 1 (right to a fair hearing).** While the Court was aware of the difficult situation the Belgian State had been facing, the time taken to enforce the court decisions concerning the applicants could not be regarded as reasonable.

**The Court also held that the Belgian authorities had failed to fulfil their obligations under Article 34 (right of individual application) of the Convention,** because the time taken between the indication of interim measures and their application by the authorities had not been reasonable. Those measures, moreover, had confirmed a final order that had previously been issued by the domestic courts.

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

### Principal facts

The applicants are four individuals who arrived in Belgium in 2022 and applied for international protection. They allegedly lived and slept on the street in Brussels, in extremely precarious conditions, despite final decisions by the Brussels French-Language Employment Tribunal ordering the Belgian State to provide them with accommodation and material support in accordance with its legal obligations.

The events took place between 2022 and 2023, from the time they applied for international protection until they were assigned a place in a reception centre. In particular, the applicants allegedly lived in a state of utter destitution, lasting 111 days for M.V. (an Angolan national born in 1995), 212 days for B.L. (a Guinean national born in 2001), 338 days for S.N. (a Chinese national born in 1996) and 134 days for G.D. (a Cameroonian national born in 1989). The situation also persisted after the European Court had issued interim measures indicating to the Belgian State that it should enforce the decisions of the

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

Brussels Employment Tribunal and provide the applicants with accommodation and material support to meet their basic needs.

## Complaints, procedure and composition of the Court

Relying on Article 3 of the Convention (prohibition of inhuman and degrading treatment), the applicants argued that the conditions in which they had been forced to live for several months had amounted to inhuman and degrading treatment.

They also complained under Article 6 (right to a fair hearing) that the decisions of the Brussels French-Language Employment Tribunal had not been enforced.

Lastly, relying on Article 34 (right of individual application), they submitted that the Belgian authorities had not applied the interim measures indicated by the European Court within a reasonable time.

The applications were lodged with the European Court of Human Rights between November 2022 and January 2023.

Judgment was given by a Chamber of seven judges, composed as follows:

Ivana Jelić (Montenegro), *President*,  
Erik Wennerström (Sweden),  
Raffaele Sabato (Italy),  
Frédéric Krenc (Belgium),  
Davor Derenčinović (Croatia),  
Alain Chablais (Liechtenstein),  
Anna Adamska-Gallant (Poland),

and also Ilse Freiwirth, *Section Registrar*.

## Decision of the Court

### Article 3

The Court began by reiterating that Article 3 could not be interpreted as obliging the States Parties to provide everyone within their jurisdiction with a home. In the case at hand, however, there was an obligation to provide accommodation or decent material conditions to impoverished asylum-seekers under Belgian legislation, itself transposing European Union law. The Court also reiterated that to fall within the scope of Article 3 the inhuman or degrading treatment had to attain a minimum level of severity. In that regard, it emphasised that a violation of Article 3 could not automatically be found for the sole reason that domestic law had been infringed.

In the present case, the applicants had depended on the material support provided for under domestic law to meet their basic needs. They were entitled to such assistance on the condition that they had been granted permission to remain in the country as asylum-seekers. The applicants' allegations as to their living conditions on the street were corroborated by information adduced by the parties concerning the general state of destitution faced by asylum-seekers in Belgium at that time. They were also supported by information issued by the Committee of Ministers regarding the execution of the *Camara v. Belgium* judgment<sup>2</sup>.

The Court acknowledged the substantial efforts deployed by the Belgian authorities to contribute to the financing of associative schemes, create additional accommodation, recruit staff and shorten processing times for asylum applications. It also took note of the additional measures adopted since

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2. *Camara v. Belgium*, no. 49255/22, 18 July 2023.

the delivery of the *Camera* judgment. However, the constraints inherent in such a crisis could not, in themselves, justify a breach of Article 3 in respect of the applicants for the period under consideration.

Since the Belgian authorities had breached their legal obligation to provide accommodation to the applicants, they had to be held responsible for the conditions in which the applicants had lived for several months, including during the winter – on the street, with no resources or access to sanitary facilities, lacking any means of providing for their essential needs and in constant fear for their safety. The applicants had thus been victims of degrading treatment that had entailed a lack of respect for their dignity. A level of severity sufficient to engage Article 3 of the Convention had been exceeded as a result of those living conditions, together with the lack of an appropriate response from the Belgian authorities – even though the applicants had given notice on many occasions of their inability to secure practical enjoyment of their rights and to meet their essential needs. There had therefore been a violation of Article 3 of the Convention.

### Article 6

The Court noted that the enforcement of the final court decisions given in the applicants' favour had not been spontaneous and had only taken place as the result of interim measures indicated by the Court, which had themselves been applied after some delay. In particular, the relevant decisions of the Employment Tribunal had been enforced in part through the provision of accommodation for the applicants respectively 67 days (M.V.), 147 days (B.L.), 262 days (S.N.) and 82 days (G.D.) after those decisions had become final.

While the Court was aware of the difficult situation the Belgian State had been facing, it considered that the time taken by the Belgian authorities to enforce the court decisions concerning the applicants and aimed at protecting human dignity could not be regarded as reasonable. Those decisions had not, moreover, been enforced in full, since the coercive fines imposed on the State had not been paid to date. In addition, the Government had acknowledged before the Court that there had been a violation of Article 6 § 1 of the Convention in respect of the applicants and had committed to pursuing all efforts to put an end to the systemic problem identified in the *Camara* judgment as quickly as possible. There had therefore been a violation of Article 6 § 1 of the Convention.

### Article 34

The Court observed that the interim measures had been applied through the provision of accommodation for the applicants respectively 21 days (M.V.), 107 days (B.L.), 261 days (S.N.) and 64 days (G.D.) after it had indicated those measures. It could accept that some time might be needed to apply such measures entailing a positive benefit, provided that all steps had been taken with the greatest care in order to comply as quickly as possible.

In the case at hand, regardless of the scale of the crisis stemming from the saturation of the asylum-seeker reception network, the Court did not find reasonable the time taken between the indication of the interim measures and their application by the authorities in view of the following considerations. The applicants' conduct had in no way hindered or delayed that application. The authorities, on the other hand, had taken no immediate steps with regard to the applicants following the indication of the interim measures. Those measures, moreover, had confirmed a final order that had previously been issued by the domestic courts. Since the Government had not shown that the authorities had taken all reasonable steps to comply with the interim measures as quickly as possible, the Court concluded that the Belgian authorities had failed to fulfil their obligations under Article 34 of the Convention with respect to the applicants.

### Just satisfaction (Article 41)

The Court held that Belgium was to pay M.V. 5,070 euros (EUR), B.L. EUR 8,450, S.N. EUR 12,350 and G.D. EUR 6,000 in respect of non-pecuniary damage.

