



Court decides requests for interim measures from homeless asylum-seekers in Belgium

On 13 December 2022 the European Court of Human Rights, sitting as a Chamber of seven judges, examined requests for interim measures made under Rule 39 of the [Rules of Court](#) by applicants who, having lodged claims for international protection with the Belgian authorities either as adults or as unaccompanied minors, have been left without accommodation in Belgium because the asylum reception system there is purportedly at capacity.

The Court decided to indicate an interim measure to the Belgian State in respect of 143 adult male applicants who had obtained a final domestic decision, as yet uncomplied with, from the Brussels Labour Court. It also decided pursuant to Rule 39 § 2 of the [Rules of Court](#) to give notice of the interim measure to the Committee of Ministers. The case has been listed as **Al-Shujaa and Others v. Belgium** (application no. 52208/22 and 142 others).

The Court decided to reject the requests for interim measures of those applicants (adults or unaccompanied minors) who had not obtained a final domestic decision. There are 57 such applicants.

The Court took note of the decision of some applicants (unaccompanied minors) to withdraw their requests for interim measures because they had since obtained accommodation.

Principal facts and requests for interim measures

From September to December 2022 the Court received requests for interim measures under Rule 39 of the Rules of Court from about 832 applicants. They are asylum-seekers of various nationalities. About 58 of them have identified themselves to the Belgian authorities as unaccompanied minors.

The applicants, who are in Belgium and have no accommodation, complain that they have not been allocated places in the reception system by the Federal Agency for the Reception of Asylum Seekers (Fedasil) in accordance with the Law of 12 January 2007 (“the 2007 Act”).

Some of the applicants brought proceedings in the Brussels Labour Court (*tribunal du travail*) and obtained final domestic decisions directing that Fedasil was to assign them a place of accommodation and grant them the support required by section 6 of the 2007 Act, in default of which Fedasil was to be liable for damages which would continue to accrue until it did as directed. Those decisions have not been complied with to date.

Some applicants have not sued in the Labour Court or have yet to receive a final domestic decision.

Still others have been assigned places of accommodation since lodging interim measure requests with the Court.

Complaints

The applicants allege an infringement of their rights under Article 3 (prohibition of inhuman and degrading treatment) of the Convention. Some of them also allege a violation of Article 8 (right to respect for private and family life) of the Convention and of Article 6 (right to a fair hearing) read in conjunction with Article 13 (right to an effective remedy).

Decisions of the Court

The Court decided to indicate an interim measure to the Belgian State in the case of **Al-Shujaa and Others v. Belgium** (application no. 52208/22 and 142 others), concerning 143 applicants who had obtained domestic decisions which had become final. The Court directed the Belgian Government to comply with the decisions of the Brussels Labour Court and provide the applicants in question with accommodation and material assistance to meet their basic needs for the duration of the proceedings before the Court. The Court also decided, pursuant to Rule 39 § 2 of the Rules of Court, to give notice of the interim measure to the Committee of Ministers.

Furthermore the Court decided to reject the requests for interim measures of those applicants (adults or unaccompanied minors) who had not obtained a final domestic decision. There are 57 such applicants.

The Court took note of the withdrawal of the interim measure requests of some applicants (unaccompanied minors) as they had obtained accommodation.

Other relevant information

The Court has already indicated interim measures in the following cases concerning adult asylum-seekers without accommodation:

- Interim measure of 31 October 2022, **Camara v. Belgium**, application no. 49255/22: [link to press release](#).
- Interim measure of 15 November 2022, **Msallem and 147 Others v. Belgium**, applications nos. 48987/22 and 147 others: [link to press release](#).
- Interim measure of 21 November 2022, **Rezei Shayan and 189 Others v. Belgium**, applications nos. 49464/22 and 189 others.
- Interim measure of 1 December 2022, **Almassri and 121 Others v. Belgium**, applications nos. 49424/22 and 121 others.

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 a real risk of irreversible harm. For further information, see the [factsheet on interim measures](#).

Failure by a contracting State to comply with a Rule 39 measure may give rise to a violation of Article 34 of the Convention (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, §§ 128-129 and operative paragraph 5, ECHR 2005-I).

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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.