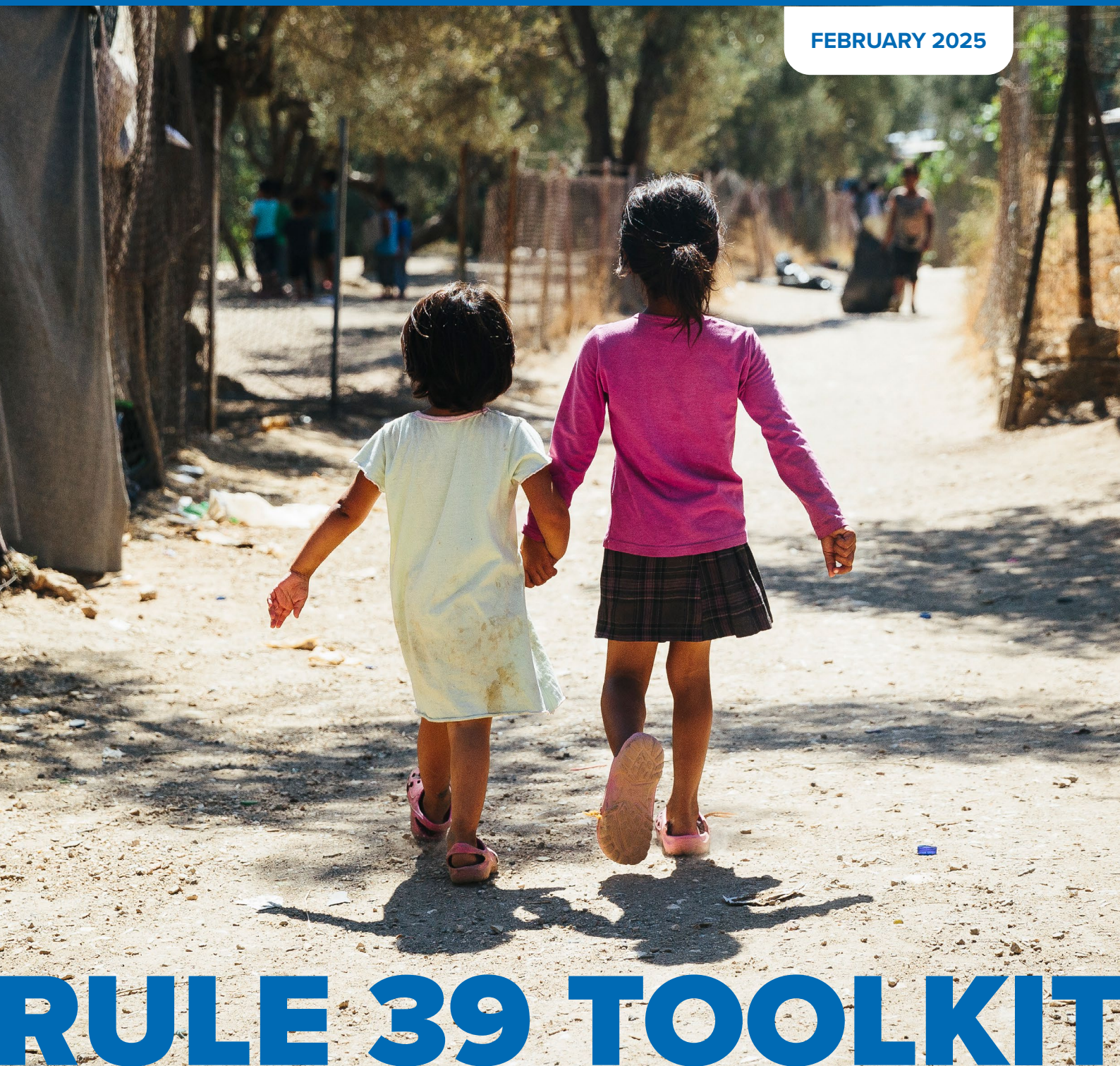


TOOLKIT ON HOW TO REQUEST INTERIM MEASURES UNDER RULE 39 OF THE RULES OF THE EUROPEAN COURT OF HUMAN RIGHTS FOR PERSONS IN NEED OF INTERNATIONAL PROTECTION

FEBRUARY 2025



RULE 39 TOOLKIT

This toolkit is aimed at informing legal practitioners on how to submit a request for interim measures under Rule 39 to the European Court of Human Rights. It is not UNHCR's role, nor that of its staff, to request such measures.

This toolkit was prepared by UNHCR with the assistance of experts, and members of the Registry of the European Court of Human Rights kindly reviewed it. It is not in any way binding on the Court.

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Cover photograph:

Greece: Two young refugees from Afghanistan hold hands in an informal camp adjacent to the Moria reception and identification centre on Lesbos.

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1. INTRODUCTION

The European Court of Human Rights, sitting in Strasbourg (hereafter, “the Court”), is an international Court of the Council of Europe set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights (hereafter, “the ECHR”). It is not to be confused with the Court of Justice of the European Union, sitting in Luxembourg, nor the International Court of Justice based in The Hague.

The European Convention on Human Rights is an international treaty under which the member States of the Council of Europe promise to secure fundamental civil and political rights, not only to their own citizens but also to everyone within their jurisdiction (Article 1 of the ECHR).

Under Rule 39 of the Rules of Court¹, the European Court of Human Rights may indicate interim measures to the parties of the proceedings. These are urgent measures granted on an exceptional basis when applicants would otherwise face an imminent risk of irreparable harm.

For persons in need of international protection, Rule 39 interim measures may ensure the prevention of imminent irreparable harm.

For example, interim measures have been issued by the Court to suspend or prevent their deportation or

removal, or to ensure dignified reception conditions (see paragraph 4.1. below).

Thanks to their speediness of action, interim measures are frequently relied upon by persons in need of international protection to ensure respect of their fundamental rights.

They are decided without prejudging any subsequent decisions on the admissibility or merits of the case. They are legally binding on the party to whom they are addressed. The Court receives a high number of incomplete and/or unsubstantiated requests for interim measures. Between 2019 and 2023, 7,676 interim measures requests were submitted to the Court and only 2,745 of those were granted². Almost half (3,368) were found outside the scope³, thus, it is of paramount importance that requests for interim measures are complete and well-substantiated.

Information concerning the correct use of interim measures is available on the Court’s website⁴, and is provided on the Court’s new Rule 39 site (see paragraphs 6.1 and following for more details)⁵.

The purpose of this “Rule 39 Toolkit” is to strengthen the protection of persons seeking asylum, by providing legal practitioners with further practical information about Rule 39 interim measures and assisting them in preparing their requests under this Rule.

1. The “Rules of Court” are rules of procedure issued by the Plenary Court under Art. 25 d) of the ECHR. This edition of the Rules of Court incorporates amendments in respect of Rule 39 adopted on 23 February 2024 by the Plenary Court and entered into force on 28 March 2024 and the Practice Direction on Requests for Interim Measures issued by the President of the Court in accordance with Rule 32 of the Rules of Court. The latest version is available on the Court’s website at [Rules of Court - 28 March 2024 \(coe.int\)](https://www.echr.coe.int/Document/2024/03/Rules_of_Court_-_28_March_2024_(coe.int)); Practice Direction: [Practice Direction: Requests for interim measures \(coe.int\)](https://www.echr.coe.int/Document/2024/03/Practice_Direction_-_Requests_for_interim_measures_(coe.int)); practical information document: [How to contact the Court for an interim measure \(coe.int\)](https://www.echr.coe.int/Document/2024/03/How_to_contact_the_Court_for_an_interim_measure_(coe.int)).
2. Statistics on Interim measures, available at https://www.echr.coe.int/Documents/Stats_art_39_01_ENG.pdf.
3. *Ibid.*
4. See the page dedicated to Applicants: [https://www.echr.coe.int/Pages/home.aspx?p=applicants&c=#n1365511916164_pointer \(ENG/FR\)](https://www.echr.coe.int/Pages/home.aspx?p=applicants&c=#n1365511916164_pointer_(ENG/FR)).
5. <https://r39.echr.coe.int/>.

RULE 39 (extract from Rules of Court 28.03.2024)

1. The Court may, in exceptional circumstances, whether at the request of a party or of any other person concerned, or of its own motion, indicate to the parties any interim measure which it considers should be adopted. Such measures, applicable in cases of 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, may be adopted where necessary in the interests of the parties or the proper conduct of the proceedings.
2. The Court's power to decide on requests for interim measures shall be exercised by duty judges appointed pursuant to paragraph 5 of this Rule or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court.
3. Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.
4. A duty judge appointed pursuant to paragraph 5 of this Rule or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court may request information from the parties on any matter connected with the implementation of any interim measure indicated.
5. The President of the Court shall appoint Vice-Presidents of Sections as duty judges to decide on requests for interim measures.

**2. RATIONALE OF RULE 39****What is the purpose of interim measures?**

Under the Court's case law, interim measures "**play a vital role in avoiding irreversible situations that would prevent the Court from properly examining the application and, where appropriate, securing to the applicant the practical and effective benefit of the Convention rights asserted**"⁶. In other words, interim measures are instrumental to the examination and application on the merits of the case and to an effective protection of the ECHR rights at stake.

For example, applicants for international protection may wish to complain to the European Court of

Human Rights of a decision by the authorities of a host country to refuse international protection and return them to their country of origin, where they fear for their lives. In such a case, the Court may issue interim measures to prevent the impending deportation, thus ensuring that the applicants' right to life is not irremediably compromised before the Court has had the opportunity to examine their claim.

In line with their rationale, interim measures should in principle always be accompanied, or followed, by an individual application on the merits of the case under Article 34 of the ECHR. An order under Rule 39 is linked to the proceedings before the Court. If such an application is not submitted, the interim measure may be lifted (and thus lose its effects) and the application may be struck out of the Court's list of cases due to the absence of intention to pursue the application (for more information see paragraph 10.4. below). Where warranted, the Court may decide to declare an application inadmissible at the same time as rejecting a request for interim measures.

6. Rule 39§1. See also ECtHR, [Mamatkulov and Askarov v. Türkiye](#), App. no. 46827/99 and 46951/99, Grand Chamber Judgment of 4 February 2005, para 125.



3. SCOPE OF RULE 39

What is the scope of protection of Rule 39?

Rule 39, which was newly codified in March 2024, refers to the fact that interim measures are applicable in cases of “imminent risk of irreparable harm to a Convention right”⁷.

The notion of “irreparable harm to a Convention right” has been defined as harm which, on account of its nature, would not be susceptible to reparation, restoration or adequate compensation. According to the ECtHR Practice Direction: **the term “restoration” should be understood as referring to return to the situation before any harm was done. Interim measures are thus indicated by the Court where there is a risk that the absence of such measures would lead to a situation in which restitutio in integrum and other forms of reparation would not be possible if the Court were to consider them warranted at the end of the proceedings before it. The circumstances of a case must therefore exceed a high threshold of seriousness for Rule 39 to be engaged. Interim measures are indicated only where there is *prima facie* evidence of an imminent risk of irreparable harm, and not where the applicants would merely endure hardship in the absence of interim measures**⁸.

Imminency of an irreparable harm is a key requirement which needs to be adequately detailed and substantiated in any Rule 39 request. By way of example, in a case concerning deportation of applicants for international protection, it is necessary to detail and substantiate the fact that the deportation is impending and that, if carried out, would cause irreparable harm (for more information see paragraphs 7.1. and following).

The Court’s case law and practice has demonstrated that interim measures usually apply for the protection of certain ECHR rights. Rule 39 is usually applied in cases concerning the right to life (Article 2 of the ECHR) and the right not to be subjected to torture or inhuman or degrading treatment or punishment (Article 3 of the ECHR). In respect of applicants for international protection, interim measures are very often applied to prevent expulsions entailing a risk for life or exposure to ill-treatment. However, interim measures may also be adopted to ensure that the basic needs of applicants for international protection are met, or that the reception conditions (including immigration detention) to which they are exposed are respectful of human dignity⁹.

Only exceptionally may interim measures be indicated in response to certain requests concerning the right to a fair trial (Article 6 of the Convention)¹⁰, the right to respect for private and family life (Article 8 of the Convention)¹¹, and freedom of expression (Article 10 of the Convention)¹².

In the Court’s case-law as it currently stands, Rule 39 is **not** applied to protect property rights, to obtain the release of an applicant who is in prison pending the Court’s decision as to the fairness of the proceedings, to ensure the holding of a *referendum*, to prevent the dissolution of a political party; or to freeze the adoption of constitutional amendments affecting the term of office of members of the judiciary¹³.

Interim measures are applied only in limited situations: the most typical cases are ones in which there are fears of:

- a threat to life (situation falling under Article 2 of the Convention) or
- Ill-treatment prohibited by Article 3 of the Convention (prohibition of torture and inhuman or degrading treatment).

7. *Ibid.*, para 104.

8. [ECtHR Practice Direction](#) on Requests for Interim Measures, para 6.

9. On reception conditions see, for instance, ECtHR, *Camara v. Belgium*, App. no. 49255/22, [Press Release 31.10.2022](#). On detention, see for instance ECtHR, *N.B. and others v. France*, App. no. 49775/20, 31 March 2022, para 15. [For further case law references, see below para 4.1.](#)

10. ECtHR, *Wróbel v. Poland*, App. no. 6904/22, [Press Release of 8 February 2022](#); ECtHR, *Öcalan v. Türkiye*, App. no. 46221/99, Grand Chamber judgment of 12 May 2005.

11. ECtHR, *Eskinazi and Chelouche V. Türkiye (dec)*, App. no. 14600/05, 6 December 2005.

12. ECtHR, *ANO RID Novaya Gazeta and Others v. Russia*, App. no. 11884/22, [Press Release of 10 March 2022](#).

13. For more information, see the Court’s [Factsheet on Interim Measures](#).



4. OVERVIEW OF RULE 39 INTERIM MEASURES

What kind of measures can the Court indicate?

Rule 39 allows the Court's judges to issue "**any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings**". Interim measures indicated by the Court may require the parties to refrain from undertaking certain actions or direct them to take specific measures¹⁴. While there is no public database of interim measure decisions, information as to their possible content can be derived from the Court's case law and press releases issued by the Registry, and the practical experience shared by lawyers or NGOs¹⁵.

4.1. Interim measures for applicants seeking international protection

In the context of individual applications (Article 34 of the ECHR), interim measures are mostly indicated to the respondent State, although it is also possible for

the Court to indicate interim measures to the applicants¹⁶. In cases concerning persons seeking international protection, the Court has for instance requested States to:

- not return the applicants to a given country, and allow their lawyers to make necessary contact with them¹⁷;
- provide the applicants with first-aid assistance (food, water, clothing, adequate medical care) and temporary shelter if possible, and ensure adequate legal assistance (e.g., legal guardianship) to the unaccompanied children among them¹⁸;
- provide the applicants with accommodation and material assistance to meet their basic needs for the duration of the proceedings before the Court¹⁹;
- not expel the applicants until further notice, pending the outcome of the proceedings before the Court, or for a certain period of time²⁰;
- grant to an applicant already within the jurisdiction of the state leave to disembark and have access to the territory, access to a lawyer and the opportunity to lodge an asylum application²¹;
- put an end to the administrative detention of a family of asylum-seekers including a child²²;
- transfer an applicant whose minor age is contested under an age-assessment procedure deprived of procedural guarantees, to facilities where his reception conditions as unaccompanied child can be ensured, in line with the presumption of minority²³.

14. Practice Direction, para 5.

15. The Court's case law is available in the HUDOC database (<https://hudoc.echr.coe.int/eng>), which also includes a collection of Press Releases from the Registry (<https://hudoc.echr.coe.int/eng-press>), whereby advanced search can be conducted using several parameters, including by selecting "Interim Measures" under "Document type" in the left part of the screen (<https://hudoc.echr.coe.int/eng-press#%22documentcollectionid%22:%22R39%22%22>).

16. Interim measures may also be indicated to individuals: see e.g. ECtHR, *Ilaşcu and Others v. Moldova and Russia* [GC], App. No. 48787/99, Judgment of 8 July 2004, para 11, where the Court decided to urge one of the applicants to call off his hunger strike.

17. ECtHR, *R.A. and Others v. Poland*, App. no. 42120/21, [Press Release of 28.09.2021](#).

18. ECtHR, *R.A. and Others v. Poland*, App. no. 42120/21 and ECtHR, *H.M.M. and Others v. Latvia* App. no. 42165/21, [Press Release 25.08.2021](#), and "ECHR grants an interim measure in case concerning the SeaWatch 3 vessel", [Press Release ECHR 043 \(2019\) of 29.01.2019](#).

19. ECtHR, *Camara v. Belgium*, App. no. 49255/22, [Press Release 31.10.2022](#).

20. ECtHR, *O.M. and D.S. v. Ukraine* App. no. 18603/12, 15 September 2022, para 43.

21. ECtHR, *Kebe and others v. Ukraine*, App. no. 12552/12, 12 January 2017, paras 24-25.

22. ECtHR, *N.B. and others v. France*, App. no. 49775/20, 31 March 2022, para 15.

23. ECtHR, *Darboe and Camara v. Italy*, App. no. 5797/17, 21 July 2022, paras 30-41.

Furthermore, in two very exceptional cases, the Court has also requested States to:

- not remove the applicants from the State territory until the expiry of a given period following the delivery of the final domestic decision in the ongoing judicial review proceedings²⁴;
- receive and register the applicant's asylum application and forward it for examination to the competent authorities²⁵.

4.2. Interim measures in inter-State cases

Not necessarily related to the protection of asylum-seekers, interim measures may also be indicated in inter-State cases (Article 33 of the ECHR). For example, the Court has indicated several interim measures to both Azerbaijan and Armenia in the pending inter-State cases concerning the conflict between the two countries in and around Nagorno-Karabakh²⁶. The interim measures included an indication to both states to **“refrain from taking any measures, in particular military actions, 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 engagements 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) of the Convention”**²⁷, and in 2022, an indication to the Government of Azerbaijan, **“to take all measures that are within their jurisdiction to ensure safe passage through the “Lachin Corridor” of seriously ill persons in need of medical treatment in Armenia and others who were stranded on the road without shelter or means of subsistence”**²⁸.



5. RULE 39 APPLICANTS

Who can submit a Rule 39 request?

Request for interim measures can be submitted by any person facing an imminent risk of irreparable harm to a right that, according to the Court's practice, can be protected under Rule 39. Persons wishing to submit an interim measure request should either have a pending case before the Court or intend to subsequently lodge an individual application under Article 34 of the ECHR.

Applicants can submit requests for interim measures regardless of their nationality or lack thereof, provided they are under the jurisdiction of one of the States Parties to the ECHR (within the meaning of Article 1 of the ECHR)²⁹. It is not necessary to be represented by a lawyer to lodge a request for interim measures (see below), although the support of a lawyer can help ensuring that all the necessary conditions are complied with.

5.1. Can children apply?

Children, including those who are unaccompanied or separated from their parents or guardians by law or custom, can apply to the Court. As with any other applicant, at this stage of the proceedings, children do not need legal representation. Furthermore, to apply to the Court children do not need the intermediary of their guardian or parents (but the legal guardian or parent can introduce the request in a child's interest).

24. ECtHR, *N.S.K. v. the United Kingdom*, App. no. 28774/22, [Press Release of 14.6.22](#).

25. ECtHR, *M.K. and others v. Poland* App. no. 40503/17 42902/17 43643/17, 23 July 2020, para 21.

26. ECtHR, *Armenia v. Azerbaijan* App. no. 42521/20 and *Azerbaijan v. Armenia* App. no. 47319/20, Press Releases [04.11.2020](#) and [16.12.2020](#).

27. ECtHR, *Armenia v. Azerbaijan* App. no. 42521/20 [Press Release 30.09.2020](#).

28. ECtHR, *Armenia v. Azerbaijan* (no. 4), App. no. 15389/22, [Press Release 21.12.2022](#).

29. Only very exceptionally the Court has indicated interim measures in favour of applicants for international protection who were not yet within a State's jurisdiction. In the case ECtHR, *M.K. and others v. Poland* App. no. 40503/17 42902/17 43643/17, 23 July 2020, quite exceptionally the Court imposed to the Polish authorities that, if the applicant presented himself to a border checkpoint, he should be allowed to apply for asylum and not returned to the neighbouring country (see para 21 of the judgment). In the cases *R.A. and Others v. Poland*, App. no. 42120/21 and ECtHR, *H.M.M. and Others v. Latvia* App. no. 42165/21, [Press Release 25.08.2021](#), the interim measure imposed only the provision of food, water, clothing, adequate medical care and, if possible, temporary shelter, to the applicants outside State territory, without imposing that they be allowed access to it.

5.2. Family applications

When a whole family faces an imminent risk of irreparable harm, family members can apply together or individually.

5.3. Grouped requests

Requests for interim measures may be submitted jointly by a group of persons facing the same factual situation (e.g., an impending removal from territory; land and sea summary returns, or “pushback” situations; lack of adequate reception conditions; etc.). A request submitted jointly by multiple applicants needs to provide all the necessary information, accompanied by relevant evidence, for each individual applicant (see paragraphs 6.5. and 6.6).

5.4. Representation

In all proceedings before the Court, the need to be represented by “**an advocate authorised to practise in any of the Contracting Parties and resident in the territory of one of them, or any other person approved by the President of the Chamber**” arises only following notification of the application to the respondent Contracting Party³⁰. Therefore, at this stage of the procedure there is no absolute need for applicants to be represented by a fully qualified lawyer when introducing a request for interim measures (unless this is done in the context of a pending case which has already been notified to the respondent State). Their representative can be a lawyer, a family member, friend, NGO, or other person. Persons seeking international protection frequently submit Rule 39 requests with the assistance of NGOs or lawyers.

5.5. Power of attorney

If a request for interim measures is submitted through a representative, copy of a written authority form bearing the applicants’ signature should be provided³¹. If there are objective obstacles in obtaining the applicants’ signature on an authority form, the representative should explain the situation to the Court and in any case always submit evidence of existing contact with the applicants and their willingness to be represented³². In the absence of such evidence, the request may be rejected. The representative should also submit an authority form as soon as physical access to the applicants is possible.

5.6. Issues in accessing applicants

In certain circumstances it may be difficult or even impossible for the applicants to communicate with their representative and vice versa (e.g., when applicants are detained, or stranded in borders areas). In these cases, the Rule 39 request should refer to the obstacles and ask the Court to invite the defending State to facilitate communication between the applicants and their representative. The Court has already intervened to indicate that contacts should be ensured between representatives and applicants for international protection stranded in inaccessible border areas³³.

30. See Rule 36 of the Rules of Court.

31. The format provided by the Court can be used (https://www.echr.coe.int/Documents/Authority_Form_ENG.pdf). However, in the context of interim measures, other formats are also acceptable.

32. The evidence may consist of copies of messages exchanged with the applicants on a mobile application (WhatsApp) can be sufficient to meet the Court’s requirements that the legal representative had a written power of attorney or authority to act and to lodge the application: ECtHR, *J.R. and others v. Greece*, App. no. 22696/16, 25 January 2018, paras 72-74. See also UNHCR press release concerning the case: [A Mobile Messaging App facilitates access to justice | UNHCR Blog](#).

33. ECtHR, *R.A. and Others v. Poland*, App. no. 42120/21, [Press Release of 28.09.2021](#). See also above, paragraph 4.1.



6. RULE 39 REQUESTS

How should a Rule 39 request be submitted?

Requests for interim measures can only be submitted via the ECHR Rule 39 Site, by fax, or by post. The Court does not deal with requests sent by email. Practical information on how to submit interim measures requests is provided on the Court's website, in the page dedicated to the applicants³⁴.

6.1. The ECHR Rule 39 site

The ECHR Rule 39 Site (<https://r39.echr.coe.int>), launched in 2022, is available to all users. An ECHR Services account is required to use the site. To create an account, it is necessary to provide an email address, and to have downloaded an Authenticator App (available for several platforms, e.g., via the Apple or Google App Stores).

Once an account has been created, requests for interim measures can be submitted electronically. To submit requests, it is mandatory to:

1. fill in the field "Title of the request". Here, the purpose of the request should be briefly provided (e.g., "prevention of impending expulsion");
2. fill in all the fields related to the applicants (name, current address, date of birth and nationality), the Representative (name and contact details) and the State concerned;
3. submit at least one attachment. Attachments will usually be more than one, consisting of the request for interim measures and all related evidence. All attachments must be in PDF format.

The document "Practice Direction"³⁵ contains a section III. on "Practical Information regarding interim measures", available on the Court's website, which provides practical details on how to lodge a request via the ECtHR Rule 39 Site³⁶.

After submitting a request, it will appear as "submitted" in the system. Further information or documents can be submitted via the ECHR Rule 39 Site only if requested to do so by the Court. If it is necessary to provide to the Court an update about a pending request, it is still possible to do so by fax or post. Once the Court has decided on a request, it appears as "closed" in the system and remains available for 3 months.

6.2. Grouped requests

If there are several applicants, you must use the "Add/Edit other Applicants" button, and then fill in the necessary details in respect of each applicant.

34. https://www.echr.coe.int/Pages/home.aspx?p=applicants&c=#n1365511916164_pointer (ENG/FR).

35. Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024: [Practice Direction: Requests for interim measures \(coe.int\)](https://www.echr.coe.int/Pages/home.aspx?p=applicants&c=#n1365511916164_pointer).

36. Section III. of the "Practice Direction" also provides details on how to lodge a request via fax or by post.

6.3. Requests sent by fax or post

The dedicated fax numbers for sending interim measures requests are: +33 3 90 21 43 50 and +33 3 88 41 39 00. The Court recommends that any faxes exceeding 10 pages be sent in several parts so that they can be received and processed in the best possible conditions.

Requests sent via post are to be addressed to: European Court of Human Rights, Council of Europe, 67075 STRASBOURG CEDEX, FRANCE.

6.4. Language

Requests should, where possible, be in one of the official languages of the Contracting States. However, as the Court's official languages are English and French, their use should be favoured to expedite the treatment of the case if the applicants (or their representative) are equally comfortable with using them in communications with the Court.

6.5. Formalities

When submitting Rule 39 requests through the ECHR Rule 39 site, applicants must respect the formalities imposed by the system (see paragraph 6.1.). For requests submitted via fax or post there is no specific form, so nothing prevents applicants from submitting them on blank paper. However, applicants must still respect the Court's instructions, available both on the Court's website³⁷, and on the ECHR Rule 39 site.

Notably, to facilitate the Court's work, it is in any case recommended to present the facts of the case before separately developing legal arguments.

Furthermore, requests sent by fax or post should be marked as follows in bold on the face of the request:

"Rule 39 – Urgent

Person to contact (name and contact details): ..."

In expulsion or extradition cases, the following should also be specified:

"Scheduled date and time of removal and destination: ..."

To ensure compliance with the Court's requirements, applicants may use the official Application Form for

lodging individual applications, available in several languages on the Court's website³⁸. If the request for interim measures is submitted in the context of an individual application under Article 34 of the ECHR, then the use of the Application Form is mandatory.

6.6. Contact details

While a Rule 39 request is pending before the Court, UNHCR recommends that applicants or their representatives remain as available as possible. For this purpose:

- an email address, a phone number, ideally a mobile, should be provided so the Court can reach the Applicant/representative as quickly as possible should a request lack information;
- this phone number should be legible and written on the cover page of the request.



7. SUBSTANTIATING RULE 39 REQUESTS

What should be proven and how?

While requests for interim measures are often lodged under difficult circumstances, including time constraints, they must be appropriately substantiated, otherwise they will not be examined by the Court. There are no established or specific principles in terms of which standard and burden of proof shall be applied in the Rule 39 context, although several basic principles emerge from the Court's practice.

As underlined in the Court's Practice Direction, the circumstances of a case must exceed a high threshold of seriousness for Rule 39 to be engaged. "Interim measures are indicated only where there is *prima facie* evidence of an imminent risk of irreparable harm, and not where the applicants would

37. The Court's instructions to submit a Rule 39 request are available at: <https://www.echr.coe.int/documents/d/echr/im-procedure-eng>.

38. The general Application Form is available at: <https://www.echr.coe.int/Pages/home.aspx?p=applicants/forms&c=>.

merely endure hardship in the absence of interim measures³⁹.”

As a general rule, it is essential that applicants submit all available information and documents concerning the relevant domestic proceedings (including the decisions adopted by national courts, tribunals, or other authorities in their case) and provide reasons for challenging the outcome of those proceedings. In expulsion/extradition cases, applicants should submit all documents concerning the expulsion/extradition proceedings and the asylum proceedings and explain in detail the reasons for challenging their outcome.

This is particularly relevant because of the well-established principle that “**where domestic proceedings have taken place, it is not the Court’s task to substitute its own assessment of the facts for that of the domestic courts and, as a general rule, it is for those courts to assess the evidence before them (...). As a general principle, the national authorities are best placed to assess not just the facts but, more particularly, the credibility of witnesses since it is they who have had an opportunity to see, hear and assess the demeanor of the individual concerned**”⁴⁰.

7.1. Who bears the burden of proof?

Under the Court’s case law, the assessment of evidence in Convention proceedings is habitually guided by the principle *affirmanti incumbit probatio* (the burden of proof lies upon the party who affirms)⁴¹. Accordingly, in cases concerning expulsion from territory, “[i]t is in principle for the applicant to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he would be exposed to a real risk of being subjected to treatment contrary to Article 3”⁴².

7.2. What to prove?

In requests for interim measures, applicants must plausibly assert the occurrence of a risk of irreparable harm to the enjoyment of one of the core rights under the ECHR⁴³. The risk plausibly asserted must be an individualised one: the Court’s case law in deportation cases has clarified that “[a]s a general rule, an asylum-seeker cannot be seen as having discharged the burden of proof until he or she provides a substantiated account of an individual, and thus a real, risk of ill-treatment upon deportation that is capable of distinguishing his or her situation from the general perils in the country of destination”⁴⁴.

By way of example, an individualised risk can be the applicants’ fear of being persecuted in their country of origin because of political, ethnic or religious reasons⁴⁵. Such an individualised risk must be plausibly asserted, for instance by submitting evidence demonstrating that the applicants are members of a religious or ethnic minority known for being persecuted in the country of origin, or that they have expressed political views that give rise to persecution in that country.

In contrast, a generalised risk does not always suffice to ground a request for interim measures. A generalised risk may be the applicants’ exposure to a situation of general insecurity in the country of origin, which however does not entail a concrete and direct threat to the applicants’ personal safety.

7.3. How much to prove?

Rule 39 requests for interim measures are not expected to meet the standard of proof applied to an individual application under Article 34 of the ECHR. Due to the short timeframes involved, it would be difficult for Rule 39 requests to do so. Furthermore, when an interim measure is indicated, it is not for the Court to analyse the case in depth – and indeed it will often not have all of the information it needs to do so⁴⁶. Nonetheless, when requesting an interim measure, applicants should prove, to the extent

39. Practice direction.

40. ECtHR, *F.G. v. Sweden* [GC], App. no. 43611/11, 23 March 2016, para 118 and case law cited therein.

41. ECtHR, *Fadeyeva v. Russia*, App. no. 55723/00, 9 June 2005, para 79.

42. ECtHR, *Saadi v. Italy* [GC], App. no. 37201/06, 28 February 2008, para 129.

43. ECtHR, *Paladi v. Moldova* [GC], App. no. 39806/05, 10 March 2009, para 89.

44. ECtHR, *J K and others v Sweden* [GC], App. no. 59166/12, 23 August 2016, para 94.

45. ECtHR, *F.H. v. Sweden*, App. no. 32621/06, 20 January 2009.

46. ECtHR, *M.S.S. v. Belgium and Greece* [GC], App. no. 30696/09 21 January 2011, para 355.

possible, that there are substantial grounds for believing that in the absence of the measure they would face an imminent risk of irreparable harm to their Convention rights.

The Court has stated that “**it follows from the very nature of interim measures that a decision on whether they should be indicated in a given case will often have to be made within a very short lapse of time (...). Consequently, the full facts of the case will often remain undetermined until the Court’s judgment on the merits (...). It is precisely for the purpose of preserving the Court’s ability to render such a judgment (...) that such measures are indicated. Until that time, it may be unavoidable for the Court to indicate interim measures on the basis of facts which, despite making a *prima facie* case in favour of such measures, are subsequently added to or challenged to the point of calling into question the measures’ justification**”⁴⁷.

7.4. How must the imminent risk of irreparable harm be proven?

Applicants must specify in detail the grounds on which their fears are based and the nature of the alleged risks they face. Their description of the events should be as detailed as possible: a mere reference to submissions in other documents or domestic proceedings is not sufficient.

Applicants must also provide all available documentary evidence to substantiate their alleged risks: the mere expression of their fear is rarely considered as sufficient evidence⁴⁸. The Court’s

proceedings are governed by the principle of the free admission and assessment of evidence⁴⁹, so applicants can rely on a variety of forms of evidence (e.g., recent medical reports, photographs, documents demonstrating the applicant’s vulnerability, press articles or reports concerning the applicant’s situation, etc.).

While the Court will primarily rely on the current and future situation of the applicant in order to determine the existence of a risk, past information, including the applicant’s previous experiences, may also be relevant. By way of example, applicants for international protection fearing a risk to life in their country of origin can submit evidence of past ill-treatment to substantiate the existence of such risk. Individual applications under Article 34 of the ECHR as well as requests for Rule 39 interim measures should thus combine elements of the applicant’s previous experiences together with updated personal (and, if relevant, family) information.

While applicants should always plausibly assert the existence of an individualised risk (see above, paragraph 7.2.), such risk may well be inferred from a well-known general situation. For instance, applicants for international protection who fear persecution by reason of their sexual orientation or gender identity might refer to reliable documentation attesting that in their country-of-origin LGBTIQ+ people are persecuted and routinely exposed to violence.

To sum up, while requests for Rule 39 interim measures should predominately focus on the applicant’s personal situation, general information can also be submitted in support of claims, including relevant and recent UNHCR documentation⁵⁰ and information from external sources (e.g., from reputable NGOs, the UN and national agencies).

47. *Ibid.*, para 355.

48. The Court’s case law on Article 3 of the ECHR shows that the mere expression of a fear of persecution upon return does not in itself amount to a “real risk”. When considering whether an alleged risk of irreparable harm is real, the Court takes into account a combination of facts and circumstances including the credibility of the facts presented by the applicant, the general situation in the country and, where relevant, UNHCR’s position and relevant reports.

49. ECtHR, [Nachova and others v. Bulgaria](#) [GC], App. nos. 43577/98 and 43579/98, 6 July 2005, para 147.

50. This may include documents relevant to the individual like the UNHCR refugee certificate, country of origin information, guidance notes and positions on returns.

7.5. Credibility

In conducting the credibility assessment of the applicant's account of the events, the Court will examine whether the allegations and information provided in the request for Rule 39 interim measures are consistent with those provided in the individual application under Article 34 of the ECHR. Consequently, it is important that the allegations and information submitted in both are consistent. In this regard, and in parallel with the pursuit of interim measures, it is extremely important to substantiate asylum claims at the domestic level from the beginning of the national procedure⁵¹. The Court will rarely be convinced by later submissions that could have been submitted earlier in the process. The early submission of all relevant documentation, together with the initial claim, may help to persuade the Court of the applicant's good faith and the overall credibility of the claim.

"I—) requests for interim measures should be individuated, fully reasoned, be sent with all relevant documentation including the decisions of the national authorities and courts, and be sent in good time before the expected date of removal. (...) It must be emphasized that failure to comply with the conditions set out in the Practice Direction may lead to such cases not being accepted for examination by the Court."

— STATEMENT ISSUED BY THE PRESIDENT OF THE COURT CONCERNING REQUESTS FOR INTERIM MEASURES, 11 FEBRUARY 2011.

7.6. What documents should be submitted?

Requests **MUST** be accompanied by all necessary supporting documents. The Court will not necessarily contact applicants whose requests for interim measures are incomplete, nor will it examine incomplete requests.

Documents to be submitted include:

- documentary evidence to prove the applicants' fears and alleged risks (e.g., recent medical reports, photographs, documents demonstrating the applicant's vulnerability, press articles or reports concerning the applicant's situation, etc.);
- documents of the domestic proceedings in the Contracting State (e.g., for persons seeking international protection, documents concerning their asylum request and related asylum proceedings, such as copies of national authorities' decisions, judicial decisions, petitions submitted to the national authorities and courts, etc.);
- in cases of removal/expulsion/extradition, all relevant documents (e.g., official notification of the removal date, search warrants, arrest warrants, criminal convictions, press articles or reports concerning the applicant, country reports etc.).

Other material which is considered to substantiate the applicant's allegations should also be included, for example:

- documents from NGOs/UN agencies;
- pertinent press releases;
- news or academic articles.

All documents submitted must be:

- in their full version;
- in their original language (provided this is one of the official languages of the State parties to the ECHR);
- photocopies (the Court will not return the documents to the applicants).

51. ECtHR, [Nasimi v. Sweden](#), App. No. 38865/02, Decision of 16 March 2004.



8. RULE 39 REQUEST TIMING

When should a Rule 39 request be submitted?

8.1. Imminent risk

In general, requests for interim measures under Rule 39 should be made as soon as an imminent risk of harm to relevant ECHR right(s) exists. For example, in deportation/removal cases, the request should be made as soon as an imminent risk of removal exists. If the date of the removal is known, then the request should be submitted ideally at least one working day before the scheduled time of removal. If the date of the removal is unknown, and discovered shortly beforehand, this should be clearly stated and explained in the request.

Where a final domestic decision has not been adopted yet, but its adoption is imminent and there is a risk of immediate enforcement, the request for interim measures should be submitted without waiting for that decision, clearly indicating the date on which it will be taken and that the request is subject to the final domestic decision being negative.

8.2. Domestic remedies with suspensive effect

Applicants in expulsion or extradition cases should pursue domestic remedies which are capable of suspending removal, before applying to the Court for interim measures. Where it remains open to an applicant to pursue domestic remedies which have suspensive effect, the Court will not apply Rule 39 to prevent the removal.

It is important to keep in mind that the Court is intended to be subsidiary to the national systems safeguarding human rights. Therefore, even in the

context of interim measure requests, particular attention should be paid to the available remedies and their effectiveness⁵².

8.3. Timing of the submission

Rule 39 requests should be submitted in sufficient time to provide the Court with at least one working day to deal with them. In deportation/removal cases, this means at least one working day before the date of the expected deportation/removal⁵³.

If the Court is facing many Rule 39 requests, there is no guarantee that requests will be examined speedily, although the Court will do its best to deal with meritorious cases which arrive late where no fault attaches to the applicants for failing to apply in time.

8.4. Working hours of the Court

Interim measure requests are received by the Registry staff from Monday to Friday from 8 a.m. to 4 p.m. (Strasbourg Local time: GMT+1). Requests received after 4 p.m. will not normally be dealt with on that day. Requests received during weekends and French public holidays are not dealt with on those days but are processed during the next working day. During the Christmas holidays period, the Court's registry maintains a stand-by system to deal with any urgent Rule 39 request, but the system is not operational on 25 and 26 December and 1 January. The list of public and other holidays to which the Court's conforms is available on the Court's website⁵⁴.

8.5. Date and time of removal

In cases concerning deportation/removal from territory, applicants should in all cases indicate the date and time of their expected removal since this element is directly relevant to the determination of the imminent nature of the risk. If applicants are not able to provide this information, it should be expressly noted and explained in their Rule 39 request for interim measures. Applicants should keep the Court informed of any further developments and, where relevant, explain why they consider their expulsion to be imminent.

52. This requirement should not be confused with the formal obligation to exhaust domestic remedies before sending the individual application under Article 34 of the ECHR to the Court, referred to in Article 35 para 1 of the ECHR, although the two may overlap in practice.

53. The list of public and other holidays when the Court's Registry is closed can be consulted on the Court's Internet site: www.echr.coe.int/contact.

54. At the page Contact Information: <https://www.echr.coe.int/Pages/home.aspx?p=contact&c=>.



9. PROCEDURE AND DECISION

How is the request examined?

Once the request has been submitted, it will be considered as speedily as possible by the Court. The procedure is conducted in writing, and every request is examined individually. Grouped requests may be considered jointly.

9.1. Decision-making bodies in the Rule 39 procedure (taken from the Court's Practice Direction)

The Court's power to decide on requests for interim measures is exercised by duty judges or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court (Rule 39 § 2).

Duty judges are the judges elected as Vice-Presidents of the five Sections pursuant to Rule 8. They are appointed by the President of the Court in accordance with Rule 39 § 5 to decide on requests for interim measures. Since 2022, all five Vice-Presidents of the Sections serve as duty judges. As a matter of practice, duty judges do not examine requests for interim measures against the Contracting Party in respect of which that judge has been elected or is a national. In the amended version of Rule 39, the plenary Court decided to introduce a specific legal basis allowing the President of the Court, where necessary, to indicate interim measures.

Requests for interim measures in new individual applications are primarily examined by duty judges with the assistance of a specialised unit within the Registry of the Court. Duty judges retain the possibility to refer a request for interim measures to one of the other decision-makers listed in Rule 39 § 2, including collegiate bodies. Referrals may occur in a variety of situations and will depend on the nature of the request, the case in which the request is made, and the degree of urgency involved. The latter may mean that referral to a collegiate body is not possible such that the duty judge may decide to temporarily

apply Rule 39 with a view, *inter alia*, to facilitating the subsequent examination of the request for an interim measure by such a body. The examination of a request by a collegiate body is a decision which lies with the Court itself. Requests for interim measures lodged in inter-State applications, individual applications pending before the Grand Chamber and communicated individual applications already assigned to Sections are, in principle, examined by the President of the Court, the President of the Grand Chamber or Section Presidents. The possibility of referral to a collegiate body also applies where the decision-making authority lies in the first instance with the President of the Court, the President of the Grand Chamber or Section Presidents.

9.2. Requests outside the scope

If the request clearly does not concern a right that, according to the Court's practice, can be protected under Rule 39, the Applicant will receive a letter from the Registry stating that the request is outside the scope of Rule 39 and will not be submitted to a judge for decision.

9.3. Unsubstantiated or incomplete requests

If the request is not sufficiently substantiated nor includes sufficient documentation, the applicant will receive a letter from the Registry stating that the request will not be submitted to a judge for decision. For example, in cases concerning deportation, the Court will not consider a request in which the risk faced in the event of deportation is not substantiated; the Court will consider as incomplete a request in which no information is provided as to the expected date of deportation, or in which no documents are provided about the domestic proceedings grounding it. Another example of an unsubstantiated request is one concerning an alleged informal removal ("pushback") from state territory, where the applicants do not provide evidence of their presence on the territory of the state.

The Registry letter will normally indicate which aspects need to be better substantiated and which documents are missing. While it falls on the applicants to promptly complete their requests, the Registry letter may also include a deadline by which the applicants need to reply. If no reply is received by this deadline, the file is destroyed in due course without further notice.

9.4. Judicial decisions on interim measure requests

Since the review of the Rule 39 decision-making process undertaken by the plenary Court in 2023 and in 2024, irrespective of the nature of the decision adopted (for example, granting of interim measures, rejection of requests, adjournment of the examination of requests, adjournment of the examination of requests, lifting of existing interim measures), all ruling of the Court regarding interim measures are notified to the parties in the form of a decision signed by the duty judge, the President of the Section or the Grand Chamber, or the President of the Court, as applicable. The names of the judges who adopt decisions in the procedure governing interim measures are systematically indicated in the decisions.

Decisions are accompanied by a letter from the Registry which includes information relating to the procedure, along with any instructions to or requests made of the parties. Applicants are informed of the decisions of the Court regarding requests for interim measures via the ECHR Rule 39 Site, by fax or by post.

Adequately substantiated requests for interim measures falling inside the scope of Rule 39 are submitted to a judicial formation of the Court for decision. This is the case, for instance, of requests made by applicants facing deportation who provide to the Court sufficient details and evidence of the fact that in the receiving country they would face persecution for political, ethnic, or religious reasons⁵⁵, ill-treatment related to their sexual orientation⁵⁶, or death at the hands of the authorities⁵⁷.

The Court's decisions on requests for interim measures are generally not reasoned, and no appeal lies against them. The decisions are only communicated to the parties of the proceedings and not made public on the HUDOC database unless they are the object of a Press Release from the Registry⁵⁸.

Decision not to indicate the interim measures

Based on the materials submitted before it, the Court may refuse to indicate the interim measures requested. A Rule 39 request can be refused for various reasons. For instance, in cases concerning deportation from territory, because the risk of deportation is not imminent, or if deportation does not appear to lead to an imminent risk of irreparable harm.

Reasons for refusal of a Rule 39 request are only given by the Court on an *ad hoc* basis. When a request is found to be premature, this is always clarified in the decision.

Decision to suspend the examination of the request

The Court may also decide to adjourn the examination of requests for interim measures and invite the parties to provide information, where the degree of urgency so permits, in cases where the information that the applicants were able to submit to the Court is not sufficient to enable the Court to examine the request and where it is deemed feasible to request information from the respondent Contracting Party prior to any decision being taken. When the examination of the request is adjourned, the respondent Contracting Party or both parties are invited, under Rule 54 § 2 (a), to provide the necessary information within a specified period of time. The length of the period in question depends on the circumstances of the case and the degree of urgency of the request. Upon receipt of the information from the parties, the Court may either adjourn the examination of the request again and put further questions to the parties or deliver its decision on the request for interim measures.

Questions to the parties and request for comments may also be asked by the Court after the indication of an interim measure (see below).

55. E.g., ECtHR, *F.H. v. Sweden*, App. no. 32621/06, 20 January 2009, paras 39–46.

56. E.g., ECtHR, *M.E. v. Sweden* [GC], App. no. 71398/12, 8 April 2015, para 4.

57. E.g., ECtHR, *Jabari v. Türkiye*, App. no. 40035/98, 11 July 2000, para 6.

58. Press Releases are collected in the HUDOC database at a dedicated page: <https://hudoc.echr.coe.int/eng-press> and Press Releases on interim measures can be found by selecting “Interim measures” under “Document type” on the left of the screen: [https://hudoc.echr.coe.int/eng-press#\[%22documentcollectionid%22:\[%22R39%22\]\]](https://hudoc.echr.coe.int/eng-press#[%22documentcollectionid%22:[%22R39%22]]).

Decision to indicate the interim measures

Based on the materials submitted before it, the Court may decide to indicate interim measures.

The Court may indicate interim measures until further notice, for the duration of the proceedings before the Court or for a limited period of time, depending on the circumstances of the case.

Where interim measures are granted for a limited period of time, this is done for a variety of different reasons, such as: pending receipt of relevant information from the parties at the request of the Court; in order to enable domestic courts to consider fully in ongoing proceedings the matter which is the subject of the interim-measure request; because it is considered that a request should be examined by a collegiate body and more time is needed to schedule a meeting; or because the duty judge considers that more time is needed before issuing a decision.

This can be done at the Court's initiative or upon the applicants' request (or that of their representative).

In practice, the Court often applies Rule 39 with a time-limit when the casefile requires further information (unless the information missing is so central that the request may be considered incomplete, see above paragraph 9.4). If the Court applies the measures with a time-limit while asking for information, one or both parties will be invited to reply to questions before the replies are forwarded to the other party for information or comments. For example, in cases concerning a *prima facie* risk of informal removal from territory, the Court may indicate that the applicants should not be removed while requesting more information from the parties (e.g., relating to the applicants' exact whereabouts and whether they have had the opportunity to ask for international protection).

Where the Court has requested more information, both parties are invited, under Rule 54 § 2 (a) of the Rules of Court, to provide the necessary information within a specified period of time. The length of the period in question depends on the circumstances of the case and the urgency of the request. In such cases, upon receipt of the information from the parties, the Court may decide to prolong, not to prolong or to lift any interim measure in place.

9.5. Communication of decisions

The applicants or their representatives are informed of the decision of the Court to grant or refuse Rule 39 interim measures by a formal decision sent through the Rule 39 site, or by email and post if the request was not submitted through the site. Where the Court decides to indicate a Rule 39 interim measure, the defending State is also informed. If interim measures are urgently required, the Court may first inform the parties by phone before sending a confirmation letter of its decision.

If the request for interim measure was submitted prior to the introduction of an individual application under Article 34 of the ECHR, the Court's decision (even if negative) will invite the Applicant to submit a duly completed application form (i.e., an individual application under Article 34 of the ECHR) within a deadline. If the Applicant does not reply to the Court by this deadline, the application may be struck out of the list of cases without further notice.

9.6. Follow-up

Applicants who apply for an interim measure under Rule 39 should always ensure that they reply to the correspondence from the Court's Registry. Where a measure has been refused, they should inform the Court whether they wish to pursue the application. Where a measure has been applied, they must keep the Court regularly and promptly informed about the state of any pending domestic proceedings and of any other development concerning their status which can be relevant to the Rule 39 procedure. Failure to do so may lead to the case being struck out of the Court's list of cases.

9.7. Further procedural decisions

When deciding on interim measure requests, the Court may also adopt further procedural decisions.

- The Court may decide to immediately communicate the case to the respondent Government if Rule 39 is applied, or to declare the application inadmissible if Rule 39 is not applied, thus anticipating decisions that are usually adopted at a subsequent stage, when an individual application under Article 34 of the ECHR has been lodged.
- The Court may also decide to give notice of an interim measure to the Committee of Ministers, under Rule 39 § 3 of the Rules of Court, where the judicial body that adopted the interim measure


considers notification to be justified. In such circumstances, the parties are informed of the notification.

- In cases concerning applicants for international protection, the Court sometimes gives priority to the case under Rule 41 of the Rules of Court. The priority procedure foreseen by Rule 41 of the Rules of Court implies that an individual application under Article 34 of the ECHR is examined by the Court as a matter of priority in respect of other cases⁵⁹. Application of Rule 41 can be expressly requested by the applicants regardless of the granting or rejection of a Rule 39 interim measure. In practice, the priority procedure implies that the delays for examination of the case by the Court are reduced; however, this does not guarantee the examination of the case in a very short delay, as the full procedure still has to be respected and therefore, the Court

needs several months to issue a judgment in which Rule 41 is applied.

- In cases concerning applicants for international protection, the Court often grants anonymity under Rule 47 § 4 Rules of Court and confidentiality under Rule 33 § 1 Rules of Court. Anonymity and confidentiality can be requested by the applicants or applied by the Court *proprio motu*. Anonymity is non-disclosure of the applicants' identities to the public. In all public documents concerning the case the applicants are accordingly referred to by letters of the alphabet. Confidentiality also means non-accessibility to the public of certain documents pertaining to the case. Furthermore, if anonymity is granted the principle of confidentiality is also applied in documents in which the applicants' names appear, or which could otherwise easily lead to their identification.

An example of decision from the Court informing the applicant of a decision to indicate interim measure. The decision also refers to the Priority (under Article 41 of the ECHR) and Confidentiality (under Article 47§4 of the ECHR) of the case.



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

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ECHR-LE2.2bR
[REDACTED]

[REDACTED]

BY POST AND FAX ()

Application no. [REDACTED]

Dear Madam,

I acknowledge receipt of your correspondence of [REDACTED] requesting the European Court of Human Rights under Rule 39 of the Rules of Court to prevent the applicants' removal to [REDACTED].

Decision on interim measure
The Court's decision on the request for interim measures is enclosed.

The parties' attention is drawn to the fact that failure of a Contracting State to comply with a measure indicated under Rule 39 may entail a breach of Article 34 of the Convention (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, §§ 128 and 129, ECHR 2005-I; *Paladi v. Moldova* [GC], no. 39806/05, §§ 84-106, 10 March 2009; *M.K. and Others v. Poland*, nos. 40503/17 and 2 others, §§ 229-38, 23 July 2020; and *K.I. v. France*, no. 5560/19, § 115, 15 April 2021).

Additional information
You should inform the Court of any change in your address or email or those of the applicants. Furthermore, you must inform the Court about any major developments regarding the above case, and submit any further relevant decisions of the domestic authorities.

During the proceedings the Court may send the applicants a request for further information. Failure to reply to that request may lead the Court to conclude that the applicants are no longer interested in pursuing their application and to strike it out of its list of cases.

59. See also the Court's priority policy https://www.echr.coe.int/Documents/Priority_policy_ENG.pdf.



SECTION

DECISION

v.

(no.)

Request for interim measures lodged on

The European Court of Human Rights (, the duty judge) has, on , examined the request.

The Court decides, in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Government of , under Rule 39 of the Rules of Court, that the applicants should not be removed for the duration of the proceedings before the Court.

The Court decides to give priority to the application under Rule 41.

The Court decides, under Rule 47 § 4, not to disclose the applicants' identity to the public. In all of the Court's public documents the applicants will accordingly be referred to using the letters of the alphabet shown in the appendix.

Any documents deposited with the Registry in which their names appear or which could otherwise easily lead to their identification should not be made accessible to the public (Rule 33 § 1) and shall remain confidential. [This concerns in particular the following document[s]:]

Duty Judge



An example of decision from the Court informing the applicant of a decision to indicate interim measure. The decision also refers to the Priority (under Article 41 of the ECHR) and Confidentiality (under Article 47§4 of the ECHR) of the case.



10. WHAT HAPPENS AFTERWARDS

What happens after a decision has been adopted?

10.1. Interim measures were not indicated

No appeal can be filed against a decision not to indicate interim measures. The rejection of a Rule 39 request does not prevent the Applicant, at least in law, from pursuing proceedings before the Court by lodging an individual application under Article 34 of the ECHR, which merits the Court will assess regardless of the refusal of the Rule 39 request. Applicants may also submit a new request for interim measures, but only if new elements arise.

Where a person whose request for an interim measure has been refused is removed to another Contracting Party, he or she can, if necessary, introduce a fresh request against that State under Rule 39 of the Rules of Court or an application under Article 34 of the Convention.

10.2. Interim measures were indicated

Under the Court's case law, Rule 39 interim measures are legally binding for the period during which they remain in force⁶⁰. The State to which the measures are indicated must therefore conform to the Court's order, and failure to do so will necessarily lead to a violation of Article 34 of the ECHR.

10.3. Issues of compliance

Although interim measures are provided for only in the Rules of Court and not in the European Convention on Human Rights, the States Parties are under an obligation to comply with them. The Court clarified this obligation and binding effect in two Grand Chamber judgments: **Mamatkulov and Askarov v. Türkiye**, and **Paladi v. the Republic of Moldova**⁶¹.

In the judgment **Mamatkulov and Askarov v. Türkiye**, the Court clarified that **"by virtue of Article 34 of the Convention, Contracting States undertake to refrain from any act or omission that may hinder the effective exercise of an individual applicant's right of application. A failure by a Contracting State to comply with interim measures is to be regarded as preventing the Court from effectively examining the applicant's complaint and as hindering the effective exercise of his or her right and, accordingly, as a violation of Article 34"**⁶².

In the judgment **Paladi v. Moldova**, the Court further elaborated on the topic, stating that **"Article 34 will be breached if the authorities of a Contracting State fail to take all steps which could reasonably have been taken in order to comply with the measure indicated by the Court"**⁶³. The same judgment also established some key principles, notably:

- The fact that it is for the Court, and not for the domestic authorities concerned, to verify compliance with interim measures⁶⁴; and

60. ECtHR, **Mamatkulov and Askarov v. Türkiye**, App. no. 46827/99 and 46951/99, Grand Chamber Judgment of 4 February 2005, para 100.

61. ECtHR, **Mamatkulov and Askarov v. Türkiye**, App. no. 46827/99 and 46951/99, Grand Chamber Judgment of 4 February 2005; ECtHR, **Paladi v. Moldova**, App. no. 39806/05, Grand Chamber Judgment of 10 March 2009.

62. ECtHR, **Mamatkulov and Askarov v. Türkiye**, cited, para 128.

63. ECtHR, **Paladi v. Moldova**, cited above, para 88.

64. ECtHR, **Paladi v. Moldova**, cited above, para 90.

- The fact that responsibility lies with the State to demonstrate to the Court that the interim measures were complied with or, in an exceptional case, that there were objective impediments which prevented compliance. In the latter case, the State must also show that the authorities took all reasonable steps to remove the impediments and to keep the Court informed of the situation⁶⁵.

In the same judgment the Court has also clarified that, to determine whether a State has complied with interim measures, the following legal approach is adopted:

- the fact that the harm which Rule 39 was designed to prevent does not occur is irrelevant to the assessment of the State's compliance with the given interim measures⁶⁶;
- the point of departure to assess whether the respondent State has complied with the interim measures is the formulation of the interim measure themselves⁶⁷;
- the Court examines whether the State concerned complied with the letter and the spirit of the interim measures indicated⁶⁸.

Therefore, if a State does not comply with interim measures indicated to it, the applicants should immediately inform the Court by fax or post and raise the issue of a violation of Article 34 of the ECHR in their individual applications.

Where a respondent Contracting Party has allegedly failed to comply with an interim measure and the Court decides to give notice of the application or part of the application to the respondent Contracting Party, the Committee of Ministers may also be notified of any question posed relating to compliance with obligations under Article 34 of the Convention.

10.4. Lifting of an interim measure

Rule 39 interim measures may be lifted by the Court when:

- the Court considers it necessary to do so (e.g., if the applicants are no longer considered to be at risk of imminent and irreparable harm or where the risk of harm would no longer be imminent, such as in cases where the failed asylum-seeker is invited to submit a new claim for asylum to the domestic authorities);
- the applicants request it (e.g., to facilitate voluntary return to their country of origin);
- the defending Government requests it (e.g., if a State considers it is in possession of material capable of convincing the Court to annul the interim measure and informs the Court accordingly); or
- the applicant has failed to inform the Court of their intention concerning the lodging of an individual application under Article 34 of the ECHR, within the time limit indicated.

Applicants must always reply to any letter that the Court might send requesting comments about the possible lifting of an interim measure request.

10.5. Article 35 § 2 (b) of the Convention and Rule 39 of the Rules of Court

Under Article 35 § 2 (b) of the Convention, the Court is barred from dealing with applications which are substantially the same as a matter already examined by it or which has already been submitted to another procedure of international investigation or settlement and contains no new, relevant information. This also applies at the Rule 39 stage. Where applicants apply to the Court with a request for interim measures and it is apparent that they have the same matter pending before another international body, such as the UN Human Rights Committee, there is no scope for application of Rule 39. The applicant's complaints shall be rejected as inadmissible under Article 35 § 2 (b) by a duty judge.

65. ECtHR, *Paladi v. Moldova*, cited above, para 92.

66. *Ibid.*, para 89 in fine.

67. *Ibid.*, para 91.

68. *Ibid.*



11. CHECK-LIST FOR MAKING A REQUEST

Before sending a Rule 39 request to the European Court of Human Rights, please ensure that the applicant is facing an imminent risk of irreparable harm to a right that, according to the Court's practice, can be protected under Rule 39.

Requests should be written in an official language of a Contracting State and contain the following information and documents:

- Applicant's first name(s);
- Applicant's last name(s);
- Current address of the applicant or place of detention;
- Date of birth;
- Nationality(ies) or lack thereof;
- If there are several applicants, "First name(s)", "Last name(s)", "Current address", "Date of birth" and "Nationality(ies)" in respect of each applicant;
- First name(s), Last name(s), Address and Capacity of the Representative, if any;
- State(s) against which the request is being lodged.

The information and documents indicated below should also be submitted along with the request.

☐ Grounds for the request for interim measures:

1. Detailed description of the current situation;
2. Nature of the alleged imminent risk of irreparable harm;
3. A copy of all related documents (recent medical reports, photographs, documents demonstrating the applicant's vulnerability, press articles or reports concerning the applicant's situation etc.);
4. In cases of removal/expulsion/extradition:
 - a. Detailed reasons for leaving the country of origin/destination country;
 - b. Reasons for fearing to return to the country of origin/destination country;
 - c. Information regarding the date and circumstances of arrival in the Contracting Party;
 - d. Country of destination;
 - e. Date of expected removal/expulsion/extradition;
 - f. A copy of all related documents (search warrants, arrest warrants, criminal convictions, press articles or reports concerning the applicant, country reports etc.).

☐ Information regarding domestic proceedings in the Contracting Party:

1. Information regarding domestic proceedings, including date and content of the judicial decisions and appeals;
2. All other relevant information concerning proceedings before domestic authorities;
3. A copy of all related documents (copies of national authorities' decisions, judicial decisions, petitions submitted to the national authorities and courts etc.);
4. In case of removal/expulsion/extradition:
 - a. Information about asylum proceedings if any;
 - b. Information about removal proceedings;
 - c. A copy of all related documents.

- ☐ Convention Articles referred to.
- ☐ A duly completed authority form if the request is made by a representative. The form can be sent shortly after the lodging of the request. Requests for interim measures require applicants' consent.
- ☐ A reference number from the Court if you already have one relating to the present request.
- ☐ All other information and documents that you consider necessary.

Failure to submit the aforementioned information and documents may lead to the assessment that the request for interim measures is unsubstantiated or incomplete.

A mere reference to arguments set out in other documents or to domestic proceedings is not sufficient. The information and documents mentioned above must be attached to any request.

The Court will not necessarily contact applicants whose request for interim measures is incomplete.

Requests should be lodged via the ECHR Rule 39 Site, or by fax or by post. The Court will not deal with requests sent by email.

If the request is submitted via fax or post, please ensure that "RULE 39 — URGENT" is written at the top of the request.

Court's contact details:

Fax No: (+33) (0)3 88 41 39 00
 Telephone No: (+33) (0)3 88 41 20 18
 Address: The Registrar, European Court of
 Human Rights Council of Europe
 67075 Strasbourg Cedex, France

12. Key ECtHR Rule 39 documents

- [Court's Press Unit "Factsheet Interim measures – updated March 2024"](#)
- [Court's "General presentation of interim measures"](#)
- [Document "Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and revised on 16 October 2009, 7 July 2011, 3 May 2022 and 28 March 2024"](#)
- [Document "Interim measures by State and key theme 2024"](#)
- [Document "Rule 39 requests listed by respondent state, granted and refused by the Court in 2021, 2022 and 2023"](#)

Please note that all these documents are constantly updated by the Court. They are attached to the present toolkit in the version available in December 2024. To retrieve the most recent version of each document, please refer to the Court's website ([page dedicated to Applicants](#)).



November 2021: UNHCR, the International Organization for Migration (IOM) and the Belarus Red Cross have been providing emergency assistance to people stranded at the border between Belarus and Poland. This includes blankets, warm clothing, gloves, hats and boots. © UNHCR/Katsiaryna Golubeva





UNHCR
The UN Refugee Agency