



The Court has applied an interim measure concerning 148 homeless asylum-seekers in Belgium

On 15 November 2022, the European Court of Human Rights (Chamber of seven judges) decided to indicate an interim measure (Rules 39 of the Rules of the Court) in the case of **Msallem and 147 Others v. Belgium** (application no. 48987/22 and 147 others).

The case concerns the applicants (adult males), who have applied to the Belgian authorities for international protection and have not been assigned accommodation on account of the alleged saturation of the network for receiving asylum-seekers in Belgium. The applicants have all obtained a final domestic decision from the Brussels Labour Court ordering the Federal Agency for the Reception of Asylum-Seekers (Fedasil) to provide them with accommodation and material assistance in accordance with the Law of 12 January 2007.

The Court decided to enjoin the Belgian State to comply with the orders made by the Brussels Labour Court in respect of each of the applicants and to provide them with accommodation and material assistance to meet their basic needs for the duration of the proceedings before the Court.

The Court would point out that, on 31 October 2022, it applied a measure in a similar case, **Camara v. Belgium** (application no. 49255/22): [link](#) to the press release.

Facts

The applicants are 148 asylum-seekers of various nationalities. They are living in Belgium without accommodation.

On various dates they lodged unilateral applications with the Brussels Labour Court, alleging a risk of serious and irreversible damage to human dignity and requesting that Fedasil be ordered to comply with its legal obligations under the Law of 12 January 2007 (the Law).

In each of these cases the court ordered Fedasil to house the applicants in a reception centre, or else in a hotel or any other suitable facility should no places be available, and to ensure their reception as defined in section 6 of the Law, subject to penalties for non-compliance. Those orders were duly served and have become final but have not been enforced to date.

Interim measure request and complaints

On various dates between 18 October 2022 and 3 November 2022 the applicants applied to the Court for an interim measure under Rule 39.

They relied on various Articles of the Convention including Article 3 (prohibition of inhuman or degrading treatment).

Decision of the Court

On 15 November 2022 the Court decided to indicate an interim measure and to enjoin the Belgian State to comply with the orders made by the Brussels Labour Court in respect of each applicant and to provide them with accommodation and material assistance to meet their basic needs for the duration of the proceedings before the Court. The decision was given by the Chamber (seven judges) to which the applications had been allocated.

The Court drew the parties' attention to the principle that failure by a Contracting State to comply with a Rule 39 measure could entail 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).

The Court would also point out that measures under Rule 39 of the [Rules of Court](#) are decided in connection with proceedings before it, 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](#).

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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.