

## Practice Direction

### Requests for interim measures<sup>1</sup>

(Rule 39 of the Rules of Court)

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#### I. Introduction

1. Under the Convention system, interim measures may, in exceptional circumstances, whether at the request of a party or of any other person concerned, or of the Court's own motion, be indicated under Rule 39 of the Rules of Court, where there is an imminent risk of irreparable harm. They play a vital role in avoiding irreversible situations that would prevent national courts and/or the Court from properly examining Convention complaints and, where appropriate, in securing to the applicant the practical and effective benefit of the Convention rights asserted.

2. A failure by a respondent Contracting Party to comply with interim measures undermines the effectiveness of the right of individual application guaranteed by Article 34 of the European Convention on Human Rights and the State's formal undertaking in Article 1 to protect the rights and freedoms set forth in the Convention. When issuing interim measures, the Court exercises its jurisdiction to ensure observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, in accordance with Article 19, which jurisdiction extends to all matters concerning their interpretation and application, as provided in Article 32 of the Convention (see, *inter alia*, *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, §§ 128-29, 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). Interim measures are thus binding.

3. The text of Rule 39 was amended on 23 February 2024 with a view to further clarifying the circumstances in which interim measures may be indicated and the threshold to be reached in relation to their request and application. The amendment also sought to align the text of the Rule with the Court's well-established case-law and practice in relation to interim measures.

4. The purpose of this revised Practice Direction is to provide detailed guidance as to the substantive and procedural aspects of the Court's interim-measure procedure under Rule 39 of the Rules of Court with a view to bringing greater clarity and transparency to the conduct of proceedings relating to interim measures, the exceptional circumstances in which such measures may be granted and when they may be reconsidered. It is addressed to (potential) applicants, their representatives, Contracting Parties and interested stakeholders generally.

#### II. Scope and functioning of the interim-measure procedure

##### A. The scope of Rule 39 of the Rules of Court

5. When the Court indicates an interim measure, which it does in exceptional circumstances, it seeks to provide protection against an imminent risk of irreparable harm. The Court therefore directs parties to the proceedings to apply such a measure only if, having reviewed all the available information, it considers that the measure is necessary in the interests of the parties or 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 measures.

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<sup>1</sup> 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.

6. The newly codified version of Rule 39 refers to the fact that interim measures are applicable in cases of “imminent risk of irreparable harm to a Convention right”. 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. In this connection, 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. As regards the exhaustion of domestic remedies, see part III.C below.

7. The Court thus indicates interim measures, as a matter of principle, only in exceptional cases and on the basis of a rigorous examination of all the relevant circumstances. In most of those cases, the evidence available points to a clearly arguable case of a genuine threat to life and limb, with the ensuing real risk of grave harm in breach of the core provisions of the Convention.

## **B. Decision-making bodies in the Rule 39 procedure**

8. 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).

9. Duty judges are the judges elected as Vice-Presidents of the five Sections pursuant to Rule 8 §§ 1 and 2. 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.

10. 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.

11. 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.

12. 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.

### C. Decision-making process regarding requests for interim measures

13. Following the review of the Rule 39 decision-making process undertaken by the plenary Court in 2023, irrespective of the nature of the decision adopted (for example, granting of interim measures, rejection of requests, adjournment of the examination of requests, lifting of existing interim measures), all rulings 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Both parties have a duty to cooperate fully in the conduct of proceedings and, in particular, to take such action within their power as the Court considers necessary for the proper administration of justice (see Rule 44A). As regards applicants, this means a duty to ensure that requests for interim measures are lodged in a timely manner and contain all the necessary information and documents (see paragraphs 32-37 below). It is crucial that applicants do not delay lodging their request in order to create a greater degree of urgency. Such delays may adversely affect the rights and interests of applicants and the ability of the Court to deal effectively with requests for interim measures.

As regards Contracting Parties, in many cases, although not in all, control of the degree of urgency may lie within their province. The Court emphasises that it is always open to Contracting Parties to signal to the Court in advance when they consider a Rule 39 request may be imminent, providing any relevant information when they do so.

24. As explained in paragraph 13 above, the Court's rulings on requests for interim measures are notified to the parties in the form of a decision, signed by the judicial body that adopted it. Further reasoning pertaining to the ruling may be provided subject to the discretion of that judicial body.

25. No appeal lies against any decision in relation to requests for interim measures.

26. A respondent Contracting Party may, however, request the Court to reconsider its decision to indicate interim measures if they consider that the measures are no longer necessary or where they possess information which was not available at the relevant time or not made available to the Court in a timely fashion. There is no set time-limit for lodging such requests. When a request for reconsideration is received, comments may be sought from the other party, to be received within a specified period of time. The Court then examines the parties' submissions and delivers its decision on the request for reconsideration based on any updated and relevant factual and legal information.

27. In the event of a change in circumstances, applicants may lodge a fresh request for interim measures where the initial request has not been granted.

28. A measure under Rule 39 may be lifted at any time by a decision of the Court. In particular, as an order under Rule 39 is linked to the proceedings before the Court, the measure will be lifted if the application is not pursued.

29. Where warranted, the Court may decide to declare an application inadmissible at the same time as rejecting a request for interim measures.

30. In accordance with the Court's priority policy, applications in which interim measures have been indicated fall within the category of "Urgent applications" (category I). They therefore take precedence over applications in other categories and are processed and adjudicated as soon as possible (see further [The Court's Priority Policy](#)).

### III. Practical information regarding interim measures

31. Requests for interim measures are examined on an individual basis in a written procedure. They are dealt with as a matter of priority. In accordance with the Court's practice, requests that clearly fall outside the scope of Rule 39, premature requests, and incomplete or unsubstantiated requests are not normally submitted to a judge for a decision and are rejected. Applicants or their representatives<sup>2</sup> who make a request for an interim measure under Rule 39 of the Rules of Court should comply with the requirements set out below.

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<sup>2</sup> It is essential that full contact details be provided.

## A. Requested information and documents

32. Requests should, where possible, be in one of the official languages of the Contracting Parties and 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.

33. They should contain the following information

- Applicant First name(s)
- Applicant Last name(s)
- Current Address of the Applicant or place of detention
- Date of birth
- Nationality(ies)
- 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

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

A. 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.).

B. 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 cases of removal/expulsion/extradition:
  - a. Information about asylum proceedings, if any;
  - b. Information about removal proceedings;
  - c. A copy of all related documents.

C. Convention Articles referred to.

D. 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.

E. A reference number from the Court if you already have one relating to the present request.

F. All other information and documents that you consider necessary.

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

36. 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.

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

### **B. Timely submission of requests**

38. Requests for interim measures should normally be sent as soon as possible after the final domestic decision has been taken, in order to enable the Court and its Registry to have sufficient time to examine the matter. The Court may not be able to deal with requests in expulsion or extradition cases received less than a working day before the scheduled time of removal<sup>3</sup>.

39. Where the final domestic decision is imminent and there is a risk of immediate enforcement, especially in expulsion or extradition cases, applicants and their representatives should submit the request for interim measures without waiting for that decision, indicating clearly the date on which it will be taken and that the request is subject to the final domestic decision being negative.

### **C. Domestic remedies with suspensive effect**

40. The Court does not hear appeals against decisions of domestic courts, and 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.

### **D. Removal of a person to a Contracting Party**

41. 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.

### **E. Following up requests**

42. Once a request for interim measures has been submitted, the applicant or their representative is required to follow it up and to reply to correspondence from the Court's Registry.

43. An applicant should be diligent in corresponding with the Court's Registry. It is essential that the Court is immediately informed of any change in the applicant's administrative status or other circumstances (for example, if the applicant is granted a residence permit, returns to their country of origin or otherwise changes address, if there is a change in the date and time of removal, or if there is a new judicial decision or other development pertaining to the applicant's request).

44. Where a measure has been applied, the applicant or their representative must keep the Court regularly and promptly informed about the state of any pending domestic proceedings. Failure to do so may lead to the case being struck out of the Court's list of cases.

45. Where a measure has been refused, the applicant or their representative should inform the Court whether they wish to pursue the application. The applicant's representative must also inform the Court promptly on their own initiative of any potential loss of contact with the applicant.

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<sup>3</sup> 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](http://www.echr.coe.int/contact).

46. Where the request was lodged via the ECHR Rule 39 Site and then closed on the site after a decision was notified to the applicant or their representative, further correspondence to the Court should be sent by fax or by post. Correspondence addressed directly to a judge, President of a Section, the President of the Court or a Registry staff member via email will not be considered.