

STATEMENT

Issued by the President of the European Court of Human Rights concerning

REQUESTS FOR INTERIM MEASURES (Rule 39 of the Rules of Court)

Faced with an alarming rise in the number of requests for interim measures and its implications for an already overburdened Court the President of the Court, Jean-Paul Costa, issues the following statement reminding both Governments and applicants of the Court's proper but limited role in immigration and asylum matters and emphasising their respective responsibilities to co-operate fully with the Court.

Between 2006 and 2010 the Court saw an increase of over 4,000 % in the number of requests it received for interim measures under Rule 39 of the Rules of Court. In 2006 the Court received 112 requests. This figure had increased to 4,786 for 2010.¹

In particular, between October 2010 and January 2011, the Court received around 2,500 requests for interim measures concerning return to one particular State, including 1,930 such requests against Sweden. The vast majority of these applications were incomplete, with insufficient information and documentation to permit the Court to make any proper assessment as to the risks attendant on return. In addition, in 2010 more than 2000 requests were made in respect of the United Kingdom, 400 against the Netherlands and more than 300 against France.

When there is such a large in-flow of applications, it is often not possible for the Court to contact applicants individually to ask for missing documents. Because of a lack of information about proposed dates of return, it is difficult for the Court to make a proper assessment of which applications should be given priority.

More importantly there is a risk that the small minority of applicants who do face a genuine threat to life and limb in the country of destination will not have their cases examined in time to prevent removal.

Moreover, because of the need to process these applications as a matter of urgency, and given the limited human resources available, the Court and its Registry may be hindered in the performance of their case-processing duties under the Convention.

It must be underlined that, according to its case-law and practice, the Court will only request a Member State not to deport, extradite or expel a person where, having reviewed all the relevant information, it considers that he or she faces a real risk of serious, irreversible harm if removed. An interim measure requested in this way has binding legal effect on the State concerned.

¹ These are global statistics that relate to Rule 39 requests in the area of immigration only.

However, the Court is **not** an appeal tribunal from the asylum and immigration tribunals of Europe, any more than it is a court of criminal appeal in respect of criminal convictions. Where national immigration and asylum procedures carry out their own proper assessment of risk and are seen to operate fairly and with respect for human rights, the Court should only be required to intervene in truly exceptional cases.

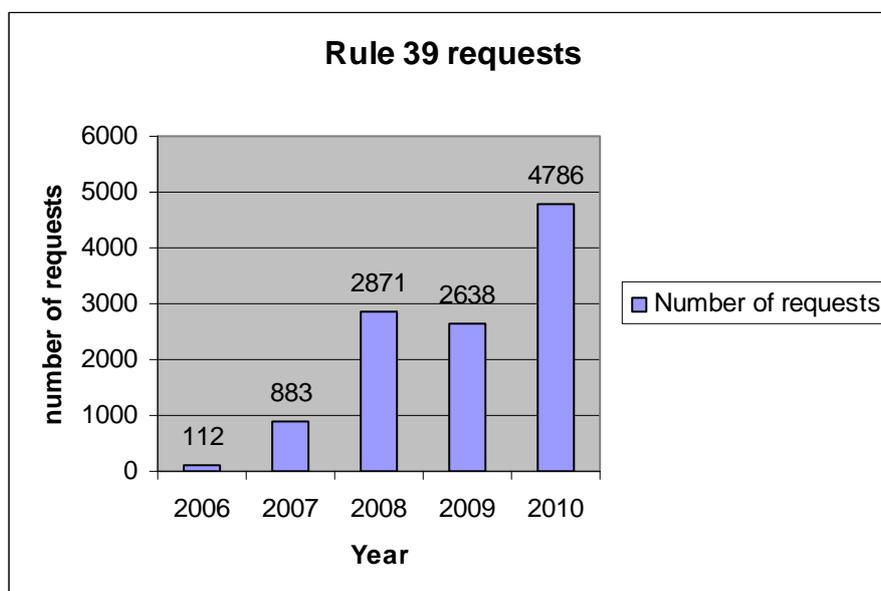
For the Court to be able effectively to perform its proper role in this area both Governments and applicants must co-operate fully with the Court. In particular it is **essential** that:

- **applicants and their representatives** respect the Practice Direction on Requests for Interim Measures (annexed Appendix II). In particular, 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. The widespread distribution of application forms to potential applicants is not and should not be seen as a substitute for proper legal representation in compliance with these conditions.

It must be emphasised 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.

- **Member States** provide national remedies with suspensive effect which operate effectively and fairly, in accordance with the Court's case-law and provide a proper and timely examination of the issue of risk. Where a lead case concerning the safety of return to a particular country of origin is pending before the national courts or the Court of Human Rights, removals to that country should be suspended. Where the Court requests a stay on removal under Rule 39, that request must be complied with.

APPENDIX I



APPENDIX II
PRACTICE DIRECTION²
REQUESTS FOR INTERIM MEASURES

(Rule 39 of the Rules of Court)

Applicants or their legal representatives³ who make a request for an interim measure pursuant to Rule 39 of the Rules of Court should comply with the requirements set out below.

Failure to do so may mean that the Court will not be in a position to examine such requests properly and in good time.

I. Accompanying information

Any request lodged with the Court must state reasons. The applicant must in particular specify in detail the grounds on which his or her particular fears are based and the nature of the alleged risks.

It is essential that requests be accompanied by all necessary supporting documents, in particular relevant domestic court, tribunal or other decisions, together with any other material which is considered to substantiate the applicant's allegations.

Where the case is already pending before the Court, reference should be made to the application number allocated to it.

The applicant and/or his or her representative must indicate in their request a telephone number at which they can be contacted.

In cases concerning extradition or deportation, details should be provided of the expected date and time of the removal, the applicant's address or place of detention and his or her official case-reference number. The Court must be notified of any change to those details (date and time of removal, address etc.) as soon as possible.

II. Requests to be made by facsimile or letter⁴

Requests for interim measures under Rule 39 should be sent by facsimile or by post. The request should, where possible, be in one of the official languages of the Contracting Parties. All requests should be marked as follows in bold on the face of the request:

***“Rule 39 – Urgent
Person to contact (name and contact details): ...***

² Issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 16 October 2009.

³ Full contact details should be provided.

⁴ According to the degree of urgency and bearing in mind that requests by letter must not be sent by standard post.

[In deportation or extradition cases]
Date and time of removal and destination: ...

These requests should be sent during the Court Registry's working hours⁵ unless this is absolutely impossible.

III. Making requests in good time

Requests for interim measures should normally be received 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.

Applicants and their representatives should be aware, however, that the Court cannot always examine in a timely and proper manner requests which are sent at the last moment, particularly when they are supported by a large number of documents. For that reason, where the final domestic decision is imminent and there is a risk of immediate enforcement, especially in extradition or deportation 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.

⁵ Information is available on the Court's Internet site: <http://www.echr.coe.int/echr>