



Refusal by national authorities to execute immediately enforceable court order

In today's **Chamber** judgment¹ in the case of [Camara v. Belgium](#) (application no. 49255/22) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 6 (right to a fair hearing) of the European Convention on Human Rights

The case concerned an applicant for international protection who complained that he had been left without accommodation in Belgium, between July and November 2022, despite the decision by which the Brussels French-Language Employment Tribunal had ordered the Belgian State to grant him material assistance and provide him with accommodation. The Tribunal's order was delivered on 22 July 2022, became final on 29 August 2022 and was ultimately enforced on 4 November 2022.

The Court noted that the order's enforceability had required that the State execute it on its own initiative pursuant to domestic law. It had not, however, been executed spontaneously but only following an [interim measure](#) granted by the Court on 31 October 2022.

The Court could not fail to be aware that the circumstances of the present case were not isolated incidents and that they revealed a systemic failure on the part of the Belgian authorities to enforce final judicial decisions concerning the reception of applicants for international protection. While it was aware of the difficult situation the Belgian State was facing, it could not accept that the time taken by the Belgian authorities in the present case to enforce a court order aimed at protecting human dignity had been reasonable. In the Court's view, this systemic failure had over-burdened the operation of a national court and that of the Court itself. It found that there had not been a "mere" delay on the part of the Belgian authorities, but rather a clear refusal to comply with the orders issued by the domestic court, thereby impairing the very essence of the right protected by Article 6 of the Convention.

The Court decided to lift the interim measure granted in the present case on 31 October 2022 since the applicant's situation had changed as a result of his having been granted accommodation as of 4 November 2022.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Abdoulaye Camara, is a Guinean national who was born in 2001. He arrived in Belgium on 12 July 2022, where he lodged an application for international protection.

On 15 July 2022 the applicant went to the Federal Agency for the reception of asylum-seekers ("Fedasil") with a view to obtaining a place in the reception network but was informed that he could not be accommodated as the network was saturated.

On 20 July 2022 the applicant lodged a complaint with the Brussels French-Language Employment Tribunal alleging the imminent risk of serious and irreversible harm to his human dignity on account

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

of the fact that he had no accommodation. He asked that Fedasil be ordered to fulfil its obligations pursuant to the Reception Act (Law of 12 January 2007).

On 22 July 2022 the Tribunal ordered Fedasil to secure accommodation for the applicant on pain of a fine. That decision became final on 29 August 2022.

On 20 October 2022 the applicant applied to the Court for an interim measure (Rule 39 of the Rules of Court) ordering the Belgian Government to provide him urgently with housing and support to meet his basic needs, and thus to execute the order issued by the Employment Tribunal. On 31 October 2022 the Court granted the measure sought for the duration of the proceedings before it.

On 4 November 2022 the Evere Red Cross centre was designated as a reception facility for the applicant and he took up residence there that same day. He was subsequently transferred to another reception facility, where he currently resides.

Complaints, procedure and composition of the Court

Relying in particular on Article 6 (right to a fair hearing), the applicant complained of the failure to enforce the decision delivered by the Brussels French-Language Employment Tribunal on 22 July 2022 ordering that Fedasil provide him with assistance.

Relying on Articles 3 (prohibition of inhuman or degrading treatment), 8 (right to respect for private and family life) and 13 (right to an effective remedy), the applicant complained that he had been forced to live in the street for several months and that he had not had an effective remedy by which to have his complaints examined.

The application was lodged with the European Court of Human Rights on 20 October 2022.

Judgment was given by a Chamber of seven judges, composed as follows:

Arnfinn **Bårdsen** (Norway), *President*,
Jovan **Ilievski** (North Macedonia),
Pauliine **Koskelo** (Finland),
Saadet **Yüksel** (Türkiye),
Lorraine **Schembri Orland** (Malta),
Frédéric **Krenc** (Belgium),
Davor **Derenčinović** (Croatia),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

Article 6

The Court noted that the order issued by the Brussels Employment Tribunal – enjoining the Belgian State to grant the applicant accommodation and material support – had become final on 29 August 2022. It was executed on 4 November 2022 when the applicant was assigned to a reception facility.

It observed that the order's enforceability had required that the State execute it on its own initiative pursuant to domestic law. It had not, however, been executed spontaneously but only following an [interim measure](#) granted by the Court.

The Government submitted that there had been an overload of the reception network managed by Fedasil since the summer of 2021. They explained that the network's accommodation capacity had proven insufficient to cope with the increase in the number of applicants for international protection.

The Court noted that there had been a significant increase in the number of applications for international protection in Belgium in 2022. That number was 36,871, an increase of more than 42% compared with 2021. In addition, Belgium had taken in 65,000 Ukrainian nationals between 10 March 2022 and 31 December 2022.

Those numbers bore witness to the scale of the challenge the Belgian State had had to confront. Moreover, the Court considered that it could hardly criticise the Belgian authorities' decision to focus the network's accommodation capacity on the most vulnerable individuals, thereby delaying the accommodation of applicants for international protection with the same profile as the applicant's. That was a prioritisation decision that had made it possible to provide accommodation and assistance to the vast majority of families with children, unaccompanied minors and persons suffering from specific health conditions throughout the period required for the examination of their asylum requests. The Court further noted the substantial efforts deployed by the Belgian authorities to contribute to the financing of associative schemes, create additional accommodation, recruit staff and shorten processing times for asylum applications.

However, it deemed it necessary to reiterate that the right protected by Article 6 of the Convention had to be interpreted in the light of the Preamble to the Convention, which declared the rule of law to be part of the common heritage of the Contracting States. One of the fundamental aspects of the rule of law was the principle of legal certainty, which required, in particular, that where the courts had finally determined an issue, their ruling should not be called into question.

The Court was mindful that the circumstances of the present case were not unusual and that they revealed a systemic failure on the part of the Belgian authorities to enforce final judicial decisions concerning the reception of applicants for international protection. While it was aware of the difficult situation the Belgian State was facing, it could not accept that the time taken by the Belgian authorities in the present case to enforce a court order aimed at protecting human dignity had been reasonable. It added that this systemic failure had heavily over-burdened the operation of a national court and that of the Court itself. Accordingly, it found that there had not been a "mere" delay on the part of the Belgian authorities, but rather a clear refusal to comply with the orders issued by the domestic court, thereby impairing the very essence of the right protected by Article 6 of the Convention, which had been breached.

Other Articles

As to the complaint under Article 3 of the Convention, the Court noted that the applicant had the option of bringing a claim for damages against the State before the Belgian courts in order to seek compensation in respect of the damage he alleged he had sustained on account of the time he had spent without accommodation (between July and November 2022). It therefore found that the applicant should have availed himself of that remedy and it dismissed (by a majority), for failure to exhaust domestic remedies, the complaint under Article 3 of the Convention. It emphasised in that connection the principle of subsidiarity as stated in the Preamble to the Convention.

As to the complaint under Article 8 of the Convention, the Court observed that the applicant had failed to raise that complaint before the domestic courts and declared it inadmissible for failure to exhaust domestic remedies.

As to the complaint under Article 13 of the Convention, the Court specified that, in the absence of an arguable claim under Article 8 of the Convention, the corresponding complaint under Article 13 of the Convention was manifestly ill-founded.

Interim measure

The Court took the view that the applicant's situation had changed since the interim measure had been granted on 31 October 2022 and decided to lift that measure.

Just satisfaction (Article 41)

The Court held that the finding of a violation constituted in itself sufficient just satisfaction.

Separate opinion

Judge Krenc has expressed a partly concurring, partly dissenting opinion, joined by judge Derenčinović. This opinion is annexed to the judgment.

Other information

There are currently 358 similar applications pending before the Court in which interim measures have been granted.

The judgment is available only in French.

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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.