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

Press Unit
Unité de la Presse

October 2026
This factsheet does not bind the Court and is not exhaustive

# 75 years of the European Convention on Human rights

## **Focus On**: Immigration

*This factsheet provides a brief focus on a thematic topic. For more detail on the Court's caselaw see the Knowledge Sharing website of the Court and the factsheets on: Accompanied migrant minors in detention, Collective expulsions of aliens, "Dublin" cases, Interim measures, Unaccompanied migrant minors in detention.*

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## *Introduction*

The Contracting States to the European Convention on Human Rights have undertaken to secure to "everyone" within their jurisdiction the rights and freedoms listed in the Convention and its additional Protocols. The term "Everyone" can include non-nationals, notably migrants, asylum-seekers and refugees. Therefore, individuals who consider that their human rights have been infringed by actions attributable to a State may make a complaint under the Convention, including where those actions are related to immigration activities.

Even so, as the Court has recalled many times, in accordance with established principles of international law, and subject to their treaty obligations, including those arising from the Convention, Contracting States have the right to control the entry, residence and removal of aliens[1].

Furthermore, matters of immigration and asylum are regulated by various agreements for example the 1951 Convention relating to the Status of Refugees. Other international laws may also be relevant such as the International Convention for the Safety of Life at Sea of 1974[2]. The Common European Asylum System applies in the European Union[3]. The right to asylum is not contained in either the European Convention on Human Rights or its Protocols and the Court does not itself examine the actual asylum application or verify how the States honour their obligations under the 1951 Geneva Convention or European Union law[4]. Even though the Court does not have the authority to ensure compliance with other international treaties or with international obligations deriving from sources other than the Convention[5], it may take them into account when interpreting the Convention in order to ensure a harmonious interpretation of international law.[6]

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[1] See *Mansouri v. Italy* (dec.) [GC], no. 63386/16, § 113, 29 April 2025, with further references. The Court has also recalled the right of States to establish their own immigration policies, potentially in the context of bilateral cooperation or in accordance with their obligations stemming from membership of the European Union (see *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, § 167, 13 February 2020).

[2] See, for example, *S.S. and Others v. Italy* (dec.), no. 21660/18, § 22, 20 May 2025.

[3] And in the European Free Trade Area and Switzerland.

[4] *F.G. v. Sweden* [GC], no. 43611/11, § 117, 23 March 2016, and *H.A. v. the United Kingdom*, no. 30919/20, § 41, 5 December 2023.

[5] *S.S. and Others v. Italy*, cited above, § 113.

[6] The Court has made it clear on many occasions that the Convention must be interpreted in harmony with the other rules of international law of which it forms part (see for example, *Ukraine and the Netherlands v. Russia* (dec.) [GC], nos. 8019/16 and 2 others, § 719, 30 November 2022). For the application of this principle in the immigration context see *N.D. and N.T. v. Spain*, cited above, §§ 172-191.

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## *Relevant Articles of the Convention*

The European Convention on Human Rights contains one article relating to immigration, that is Article 4 of Protocol 4, which prohibits 'collective expulsion'. This article was added by the States in 1963, and the explanatory report reveals that the purpose was to prohibit "collective expulsions of aliens of the kind which was a matter of recent history".

In general, individuals can complain to the Court when they consider that a State has not respected their human rights. Such a complaint may relate to immigration matters. The possibility to complain does not mean that the application will be admissible, or succeed (see the statistics below). Individuals have complained to the Court about situations relating to their immigration status including extradition or expulsion, summary returns at borders, immigration detention, reception conditions of asylum-seekers, family reunification, and alleged lack of an effective remedy. These varied factual circumstances may concern different rights under the Convention.

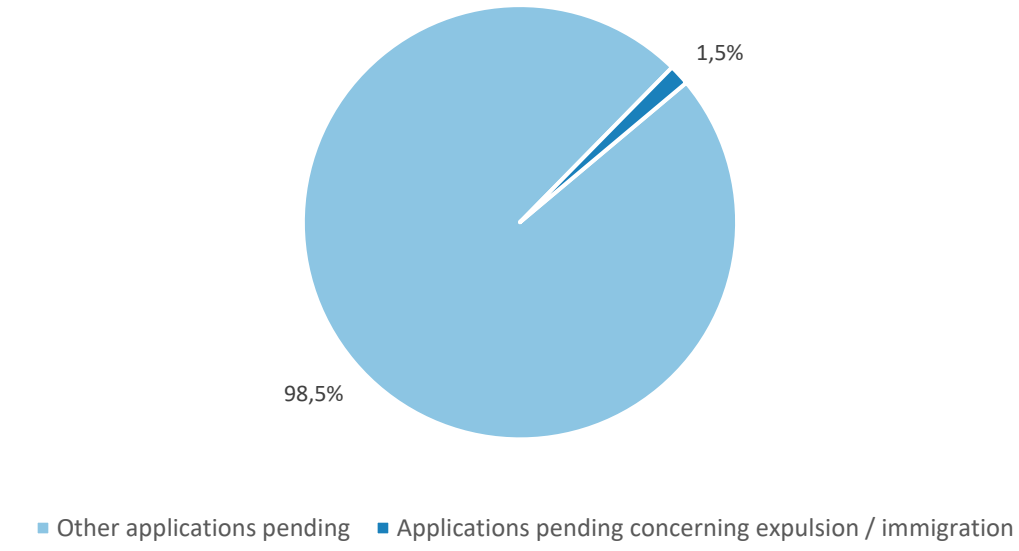
The provisions under the Convention and the Rules of Court which are most often cited by applicants in such cases are:

Article 2 (right to life), Article 3 (prohibition of torture and inhuman and degrading treatment), Article 5 (right to liberty and security), Article 8 (right to respect for private life and family life), Article 13 (right to an effective remedy), Article 4 of Protocol No. 4 (prohibition of collective expulsion), Article 34 of the Convention, and Rule 39 of the Rules of Court (interim measures).

## *Statistics*

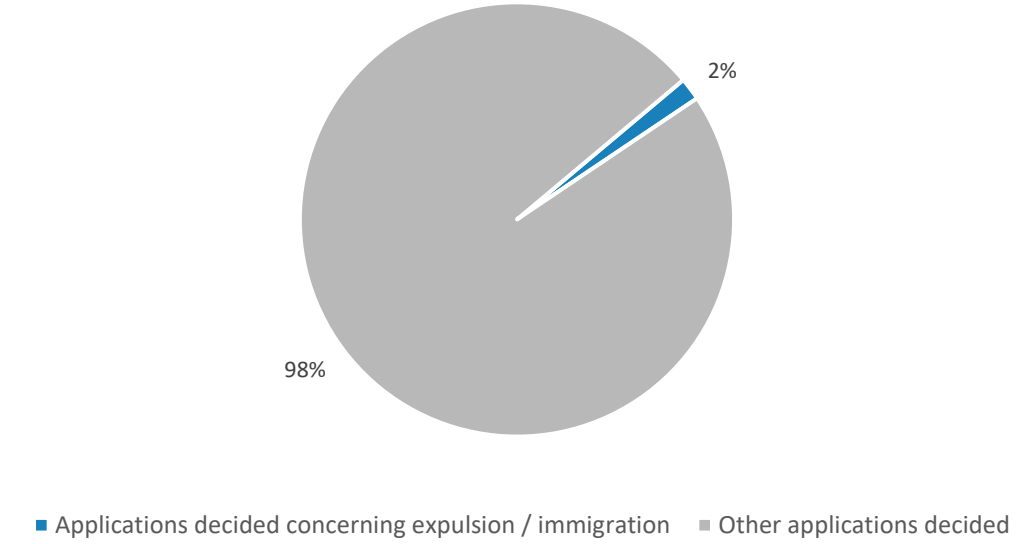
The proportion of applications submitted to the Court which concern immigration matters is low.

Among the cases pending before the Court, approx. **1.5%** relate to immigration[7].

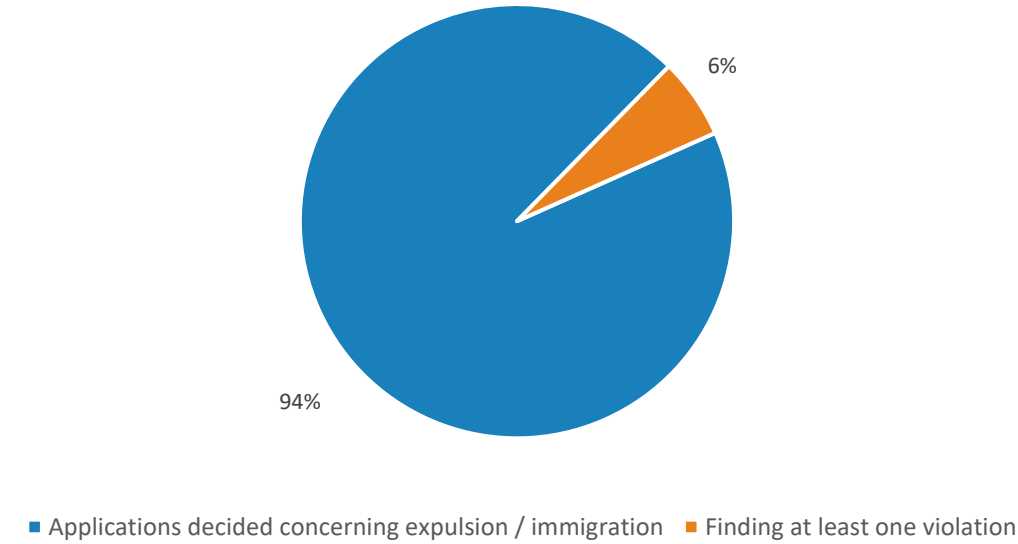



[7] 808 applications of 59,233 overall (as of 1 October 2026).

Over the last ten years, the Court processed more than 460,500 applications, of which around **2%** concerned immigration.




Of those, most were found to be inadmissible, a minority ended in a judgment of the Court. Over the last ten years, the Court has found violations in approx. 315 cases concerning immigration issues, that is in around **6%** of the applications made to it concerning immigration cases[8].




[8] Between 1 January 2016 and 30 September 2026, the Court processed a total of 460,510 applications. Of these, 8,167 related to immigration matters. Out of the immigration-related applications, 7,614 were declared inadmissible or were struck out of the list. The remaining 553 applications led to 412 judgments. In 315 of those judgments which concerned around 490 applications, the Court found at least one violation of a Convention Article.

## *The Court's case-law*

The Court examines each application brought before it on a case-by-case basis. It may find a violation of the Convention when a State, through its actions or omissions, has infringed the rights and freedoms guaranteed by the Convention in respect of individuals within its jurisdiction.

Each year, the Court receives a large number of applications, most of which are rejected as they concern clearly inadmissible complaints. Admissible applications may result in a judgment, not all judgments delivered by the Court result in a finding of a violation.

**The Court's jurisdiction is limited.** The Court may examine a complaint only where the applicant falls within the jurisdiction of the respondent State, has been directly affected by a measure attributable to that State, and where the complaints submitted to it have first been raised before domestic courts. For example, in an inadmissibility decision concerning a request for an entry visa from outside a member State, the Court found there was no connecting tie to establish that State's, or the Court's jurisdiction to that situation[9]. In another recent inadmissibility decision concerning efforts to rescue migrants in distress at sea, the Court concluded that the State's actions were outside its jurisdiction[10].

What is more, **the Court cannot**, within its jurisdiction, **decide a case unless the case has been previously examined by the domestic courts.** 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 it will usually be for those courts to assess the evidence before them. In a recent Grand Chamber inadmissibility decision where the applicant was confined on a ship and returned to his country of origin after being refused an entry visa, the Court underlined that, it is especially important to give the national courts an opportunity to interpret domestic law and prevent or put right Convention violations through their own legal system[11].

The **scope of the protection of the rights under the Convention** sets the framework for the Court's examination. Some rights such as the right to life, or not to be subjected to torture are absolute. That means if the Court finds they have been breached, it must find a violation of the Convention. Other rights are 'qualified'. If the Court finds a State has breached a right, then it must examine whether that breach was justified.

The Court has also consistently affirmed that, where there is an arguable claim that a measure threatens to interfere with an alien's right to respect for his or her private or family life, States must provide the individual concerned with an effective opportunity to challenge the measure and to have the relevant issues examined with sufficient procedural safeguards and thoroughness by an appropriate domestic forum offering adequate guarantees of independence and impartiality.[12]

The Court has given a number of judgments and decisions related to immigration, including in relation to alleged summary returns from Greece to Türkiye (*G.R.J. v. Greece* (dec.)), interception at sea and summary returns of individuals wishing to seek asylum (*M.A. and Z.R. v. Cyprus*), assessment of risk of torture on removal (*A.B. and Y.W. v Malta*), age-assessment procedures for migrants (*Darboe and Camara v. Italy*, *A.C. v. France*, *F.B. v. Belgium*) and the enforcement of domestic decisions for the provision of accommodation for asylum-seekers (*M.K. and Others v. France*, *Camara v. Belgium*).

Some applications concern **Articles 2 and/or 3** which are *absolute* under the Convention. That means it is not possible for a State to justify a violation of those rights.

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[9] *M.N. and Others v. Belgium* (dec.) [GC], no. 3599/18, §§ 123-126, 5 May 2020
[10] *S.S. and Others v. Italy*, cited above.
[11] *Mansouri*, cited above, § 113
[12] *Mirzoyan v. the Czech Republic*, nos. 15117/21 and 15689/21, § 81, 16 May 2024

Article 2 protects the right to life. Examples of cases concerning Article 2 in the context of immigration or extradition include those where an applicant has demonstrated that there would be a substantial risk to their life because it is intended to return them to a State which may apply the death penalty in their case[13].

Article 3 prohibits torture and inhuman or degrading treatment or punishment. Examples of cases concerning Article 3 in the context of immigration or extradition include those where an applicant has demonstrated they will face a real risk of torture and inhuman and degrading treatment because it is intended to return them to a state where they may be subjected to such treatment[14]. Specifically, in cases concerning the expulsion of asylum-seekers the Court does not itself examine the actual asylum applications but verifies whether effective guarantees exist that protect the applicant against arbitrary refoulement, be it direct or indirect, to the country from which he or she has fled.[15]

Some applications concern **Article 8** of the Convention which protects the right to private and family life. Article 8 is a *qualified* right. That means in some circumstances States can justify actions which would otherwise violate that right. An action may be justified if it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

In some of those cases before the Court, especially where a State has allowed a migrant to live in a country and become settled there, applicants have argued that they should not be returned to another State because it would break up their private or family life. In recent cases concerning expulsions in such situations, the Court emphasised that, where the domestic courts have carefully examined the facts, applying the Convention case-law, and adequately balanced the applicant's personal interests against the more general public interest in the case, it is not for the Court to substitute its own assessment of the merits for that of the competent national authorities, except where there are strong reasons for doing so.[16]

On the other hand, where the domestic courts do not adequately reason their decisions and examine the proportionality of the expulsion order in a superficial manner, preventing the Court from exercising its subsidiary role, an expulsion based on such decision would breach Article 8 of the Convention.[17]

## *Interim measures*

Similar to other national and international courts, the European Court can ask a State to take urgent steps to be taken to protect the possibility for an applicant to make their complaint to the Court under **Article 34** of the Convention along with Rule 39 of the Rules of Court. Interim measures are exceptional and may be indicated where there is an *imminent risk of irreparable harm* to a Convention right. 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, securing to the applicant the practical and effective benefit of the Convention rights asserted.

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[13] *Al Nashiri v. Poland*, no. 28761/11, § 576, 24 July 2014.

[14] For example, subjected to female genital mutilation *R.B.A.B. and Others v. the Netherlands*, no. 7211/06, § 54, 7 June 2016. Or be held indefinitely on 'death row' *Soering v. the United Kingdom*, 7 July 1989, § 111, Series A no. 161.

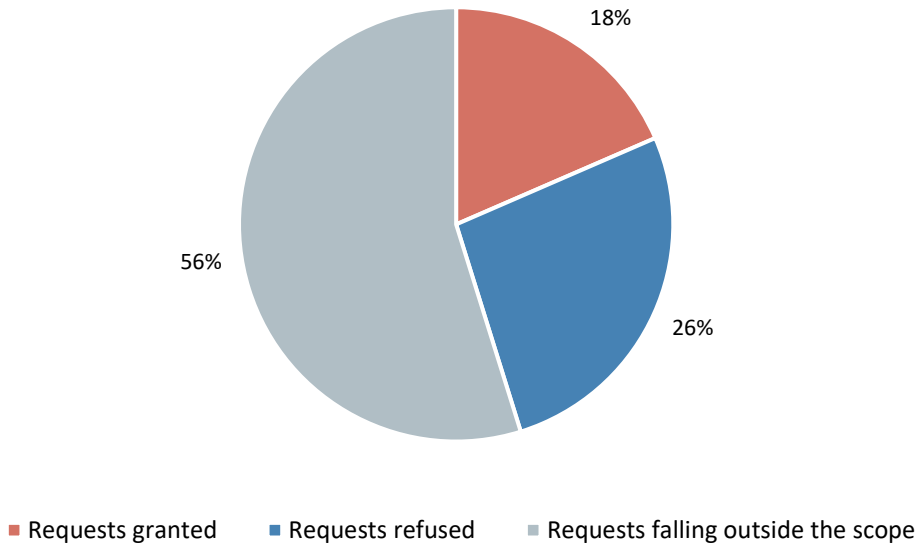
[15] See, for example, *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 286, ECHR 2011.

[16] *Savran v. Denmark* [GC], no. 57467/15, § 189, 7 December 2021.

[17] *I.M. v. Switzerland*, no. 23887/16, § 72, 9 April 2019. See also *M.M. v. Switzerland*, no. 59006/18, 8 December 2020) where the Court concluded that the domestic courts had conducted a thorough examination of the applicant's personal situation and of the various interests at stake and that therefore the interference was justified.

Requests for interim measures are examined on an individual basis in a written procedure. They are dealt with as a matter of priority. 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.

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. Around 80% of the requests for interim measures submitted to the Court each year are outside the scope of Rule 39, or refused by a judicial formation[18].




## *Enforcement of Judgments*

Most applications do not result in a judgment, nor in a violation of the Convention. However, for those that do, the Court's judgments are binding and essentially declaratory in nature. In general, the choice of the measures to be taken to enforce the Court's judgment remains with the States, subject to supervision by the Committee of Ministers, and provided that such means are compatible with the conclusions set out in the Court's judgments[19].

For example, in cases where the Court has found that an applicant's return to another state may risk the death penalty, or face torture and ill-treatment, respondent States have taken measures to remove that risk. This is sometimes done by obtaining assurances from the receiving State that the treatment posing a risk to the applicant's life or physical integrity will not occur[20].

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[18] From 01.01.2016 to 30.09.2026, 24,028 interim measures requests were processed by the Court. 13,539 fell outside the scope of Rule 39, 6,294 were refused, and 4,195 were granted.
[19] For more information see the Department for the Execution of Judgments of the ECHR
[20] Resolution 54 Soering v United Kingdom, and Resolution CM/ResDH(2018)460 Trabelsi v Belgium.