



Frau

[REDACTED]
Deserteurs- und Flüchtlingsberatung
Schottengasse 3a/1/59
1010 WIEN
AUSTRIA

ECHR-LE2.2bR
VKO/KWE/jl

2 August 2021

BY POST AND FAX (0043 15327416)

Total no. of pages: 2

Application no. 38335/21
R.A. v. Austria

Dear Madam,

I acknowledge receipt of your correspondence of 1 August 2021 requesting the European Court of Human Rights under Rule 39 of the Rules of Court to prevent the applicant's removal to Afghanistan.

Decision on interim measure

On 2 August 2021, the Court (the duty judge) decided, in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Government of Austria, under Rule 39, that the applicant should not be removed from Austria until **31 August 2021**.

The parties' attention is drawn to the fact that failure of a Contracting State to comply with a measure indicated under Rule 39 may entail a breach of Article 34 of the Convention. In this connection, reference is made to paragraphs 128 and 129 of the Grand Chamber judgment of 4 February 2005 in the case of *Mamatkulov and Askarov v. Turkey* (applications nos. 46827/99 and 46951/99) as well as point 5 of the operative part.

Anonymity and confidentiality

The Court has decided, under Rule 47 § 4, not to disclose the applicant's identity to the public. In all public documents of the Court the applicant will accordingly be referred to by the letters of the alphabet used in the reference at the head of this letter.

In accordance with the above decision, any documents deposited with the Registry in which the said applicant's name appears or which could otherwise easily lead to his identification should not be made accessible to the public (Rule 33 § 1 of the Rules of Court) and shall remain confidential.

Priority

The Court further decided to give priority to the application under Rule 41.

Information requested

The applicant is requested to respond to the following question by **24 August 2021**:

Has the applicant exhausted all remedies/appeals available to him in which the domestic courts were/are able to consider these recent changes to the security situation in Afghanistan and their impact on the applicant's Convention rights prior to his removal to Afghanistan?

You are requested to submit all documents relevant to your replies as well as copies of other documents relevant to the domestic proceedings.

Furthermore, the Government have been invited, within the same time-limit, to respond to the following questions:

1. In light of the reported decision of the Afghan Ministry of Refugees and Repatriation, as notified to EU Governments, to stop accepting deportations to Afghanistan from 8 July until 8 October 2021, how is your Government planning to execute the removal of the applicant currently envisaged for 3 August 2021?

2. In light of the recent developments in relation to the security situation in Afghanistan which, since the beginning of July 2021 (and apparently not considered by the Federal Office for Migration and Asylum or the Federal Administrative Court in their most recent decision), have led the Afghan Ministry of Refugees and Repatriation to stop accepting enforced returns to Afghanistan and, according to reports, have caused the authorities in Finland, Sweden and Norway to suspend all removals to Afghanistan until further notice, is there a real risk of irreparable harm to the applicant's rights under Article 3 if, as currently envisaged, he is removed to Afghanistan on 3 August 2021?

3. Has the applicant exhausted all remedies/appeals available to him in which the domestic courts were/are able to consider these recent changes to the security situation in Afghanistan and their impact on the applicant's Convention rights prior to his removal to Afghanistan?

The Government have been requested to submit all documents relevant to their replies as well as copies of other documents relevant to the domestic proceedings.

The information submitted by one party will be sent to the other for information or comments.

Application form

In order to complete the file, you must send to the Court by **30 August 2021** the original of the enclosed application form duly completed together with copies of all relevant documents. **Please note that if you send original documents, they will not be returned to you by the Court.** If no such information is received by the above date, the application may be struck out of the list of cases without further notice.

Yours faithfully,

p.p.



K. Ryngielewicz
Head of the Filtering Section

Enc.: Application pack

Please note that the documents appended to this letter will be sent to you by post only;