

Migration and the European Convention on Human Rights

*Frequently Asked Questions*¹

1. Does the European Convention on Human Rights protect migrants?

The European Convention on Human Rights protects the rights and freedoms of everyone within the jurisdiction of a Council of Europe member state, whether they are nationals of that country or not.

The Convention does not contain a right to asylum, and the European Court of Human Rights does not examine asylum applications. However, some articles of the Convention are relevant to migration.

For example, Article 3 means that states cannot remove someone to another country where they face a real risk of torture, inhuman or degrading treatment.

Article 8 of the Convention, covering the right to private and family life, means that close family members can only be separated if there are important reasons for doing so.

However, some rights protected by the Convention do not apply in the context of migration.

For example, states can detain non-nationals for the purpose of immigration control, despite Article 5 of the Convention guaranteeing the right to liberty and security.

Furthermore, Article 6 (right to a fair trial) does not apply to disputes over the entry, residence or removal of non-nationals, or to the granting of asylum or deportation.

2. How often does the European Court of Human Rights rule in favour of migrants?

The Court has processed over 430,000 applications in the past ten years. Less than 2% of those applications (7,387) related to immigration.

Of the 7,387 immigration-related applications, over 92% (6,861) were dismissed by the Court. Only around 450 applications related to immigration – that is, around one in a thousand of the total number of applications dealt with by the Court – led to the Court finding a human rights violation.

Of the 53,194 applications pending before the Court on 1 January 2026, only 870 (around 1.5%) relate to immigration.

¹ This explainer draws on the exhaustive and authoritative case-law Guides produced by the Registry of the European Court of Human Rights ([Guide on Immigration](#), [Guide on Admissibility](#), [Guide on Article 5](#), [Guide on Article 6 \(civil\)](#), [Guide on Article 6 Criminal](#), [Guide on Article 8](#)) and in the recently released thematic factsheet “[Focus on Immigration](#)” and does not bind the Council of Europe or the European Court of Human Rights.

3. Does the Convention stop states from controlling their borders?

One of the guiding principles underlined by the Court is that states have the right to control the entry of non-nationals into their territory, in line with international law.

The Court stresses that the Convention should generally be applied according to national circumstances, which national authorities are best placed to assess and decide upon.

This principle, known as the “margin of appreciation”, was developed by the Court in its judgments and then added to the text of the Convention by Council of Europe governments following a conference in Brighton, in the United Kingdom, in 2012.

This means that the Court will look at national decision-making processes and generally support them, as long as the authorities involved – including courts – have taken into account the different factors or interests involved and taken well-explained decisions.

For example, the Court recently backed a decision by the Spanish authorities to deny a residence permit to a Bolivian man who had fathered a child in Spain but failed to prove that he could support himself.

4. Would leaving the Convention mean states no longer had international legal obligations concerning refugees and asylum seekers?

No. All Council of Europe member states are also bound by other international legal agreements in this area, including the UN refugee convention and the UN convention against torture, both of which prohibit people being returned to a territory where their life, physical integrity or freedom would be threatened.

5. Is it true that the European Court of Human Rights puts the rights of migrants first, to the detriment of local people?

No. The Court has consistently acknowledged the difficulties that states face in combatting crime, including terrorism, underlining that states must be allowed to deport non-nationals they consider to be threats to national security.

The Court has also backed state decisions to deport serious criminals, even when they have stronger ties to their host country than their country of origin – as long as the different interests involved have been properly weighed up by the state concerned.

In a recent case concerning Denmark, for example, the Court found no violation of the European Convention on Human Rights concerning a man convicted of serious drug offences who was subject to expulsion despite having lived in the country for more than 34 years.

The Court considered that the Danish authorities had provided relevant and sufficient reasons for to deportation, despite its impact on the man’s private and family life.

6. Does the European Court of Human Rights regularly stop migrants being deported?

Under its Rule 39, and in exceptional circumstances, the Court can grant “interim measures” indicating that a state should not expel people in order to prevent possible serious and irreversible violations of their human rights.

However, the vast majority of requests for such interim measures are rejected by the Court (see the table on the next page).

Rule 39 requests received by the European Court of Human Rights in 2023-2025

State	Outside the scope	Refused	Granted	Total received	Rejected (OTS+refused)	Rejection rate %
Albania	29	6		35	35	100%
Andorra	2			2	2	100%
Armenia	43	20	4	67	63	94%
Austria	78	28	4	110	106	96%
Azerbaijan	21	34	7	62	55	89%
Belgium	60	41	1546	1647	101	6%
Bosnia and Herzegovina	12	3	3	18	15	83%
Bulgaria	23	23	10	56	46	82%
Croatia	37	9	1	47	46	98%
Cyprus	25	8	2	35	33	94%
Czech Republic	36	8	1	45	44	98%
Denmark	18	7		25	25	100%
Estonia	8	6		14	14	100%
Finland	53	21	1	75	74	99%
France	397	186	49	632	583	92%
Georgia	61	28	6	95	89	94%
Germany	404	37		441	441	100%
Greece	74	27	163	264	101	38%
Hungary	38	8	2	48	46	96%
Iceland	8	4	1	13	12	92%
Ireland	35	3		38	38	100%
Italy	176	61	14	251	237	94%
Latvia	25	9	2	36	34	94%
Liechtenstein	5	1		6	6	100%
Lithuania	33	31	8	72	64	89%
Luxembourg	8	3		11	11	100%
Malta	4	4	3	11	8	73%
Republic of Moldova	77	3		80	80	100%
Monaco	1	1		2	2	100%
Montenegro	14	3		17	17	100%
Netherlands	62	22	2	86	84	98%
North Macedonia	5	1		6	6	100%
Norway	33	10		43	43	100%
Poland	143	97	122	362	240	66%
Portugal	42	7		49	49	100%
Romania	37	8		45	45	100%
Russia	27	11	12	50	38	76%
San Marino				0		
Serbia	35	20	5	60	55	92%
Slovakia	21		1	22	21	95%
Slovenia	16	6	1	23	22	96%
Spain	166	29		195	195	100%
Sweden	186	103	17	306	289	94%
Switzerland	213	81	7	301	294	98%
Türkiye	545	77	11	633	622	98%
Ukraine	121	60	5	186	181	97%
United Kingdom	300	45	1	346	345	98%
Total	3757	1200	2011	6968	4957	71%

* Source https://www.echr.coe.int/documents/d/echr/stats_art_39_02_eng