



Rwanda deportation flight halted

16 June 2022

On the evening of Tuesday 14 June 2022, an hour before the flight was due to leave, an injunction was secured before the Court of Appeal at an emergency hearing, where the European Court of Human Rights (ECHR) issued an urgent interim measure under Rule 39 to stop the removal of an Iraqi national.

Mr Justice Swift initially refused the injunction attempt on the afternoon of 10 June 2022. The reasoning of Mr Justice Swift was that Rwanda would comply with the Memorandum of Understanding, even though it was not legally binding, but in any event, he considered that the interim period was likely to be short, given that full proceedings are to be heard in July.

An urgent appeal followed. However, the Court of Appeal on Monday 13 June 2022 agreed with Mr Justice Swift's reasoning and refused to halt the flight. On the morning of Tuesday 14 June 2022 the Supreme Court refused permission to appeal.

Rule 39 of the ECHR entitles interim measures to be applied under any State party to the European Convention on Human Rights. Interim measures, in this instance, are urgent measures which apply only where there is an imminent risk of irreparable harm. Given this decision of the ECHR, the Court of Appeal decided the applicant should not be removed until the UK courts have delivered their final decision on the lawfulness of the removals.

The ECHR's reasoning was that (i) there arose a risk of treatment contrary to the applicant's Convention rights; (ii) Rwanda is outside the Convention legal space; and (iii) the distinct absence of any legally enforceable mechanism for the applicant's return to the UK, in the event of a successful merits challenge before the domestic courts.[1]

Despite headlines reinforcing the controversy of this decision many international organisations have reinforced the ECHR's decision. The United Nations High Commissioner for Refugees (UNHCR) released legal analysis of the migration partnership. The partnership allows the UK to transfer asylum seekers to Rwanda, but according to the UNHCR it does not meet the requirements necessary to be considered a lawful bilateral transfer arrangement.

Further, following the news that the flight had been grounded in parliament the prime minister suggested that lawyers bringing legal challenges are "abetting the work of criminal gangs". In response, the Bar Council and Law Society of England and Wales have together called on the prime minister to stop attacks on legal professionals who are "simply doing their jobs". Anyone at risk of a life-changing order has a right to challenge its legality with the assistance of a lawyer, who has a duty to advise their client on their rights.

The government has suggested it will challenge the ruling of the ECHR. The full judicial review hearing regarding the legality of the scheme are set to be heard in July and we await the outcome of that challenge.

If you require any immigration advice please do not hesitate to contact of the Citizenship and Immigration Team.

[1] <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7359967-10054452&filename=Interim%20measure%20granted%20in%20case%20concerning%20asylum-seeker%E2%80%99s%20imminent%20removal%20from%20the%20UK%20to%20Rwanda.pdf>