



The admissibility of an application¹

1. Application form and Rule 47 of the Rules of Court	1
2. Exhaustion of domestic remedies and six-month time-limit (Article 35 § 1 of the Convention).....	2
3. Abuse of the right of application (Article 35 § 3 of the Convention)	3
4. Application already submitted to the Court or another international body (Article 35 § 2 of the Convention)	3
5. Victim status (Article 34 of the Convention).....	3
6. State's liability (<i>Ratione personae</i>) (Article 35 § 3 of the Convention).....	4
7. Territorial jurisdiction (<i>Ratione loci</i>) (Article 35 § 3 of the Convention).....	4
8. Temporal jurisdiction (<i>Ratione temporis</i>) (Article 35 § 3 of the Convention).....	4
9. Subject-matter of the case (<i>Ratione materiae</i>) (Article 35 § 3 of the Convention).....	4
10. No significant disadvantage (Article 35 § 3 (b) of the Convention)	5
11. Manifestly ill-founded (Article 35 § 3 de la Convention)	5
12. Final remarks	6

The European Court of Human Rights rejects around 90% of all applications received as inadmissible. It is clear from both this statistic as well as from our practice that most individual applicants and many of the legal advisers need a better knowledge of the admissibility requirements.

1. Application form and Rule 47 of the Rules of Court

For your application to be declared admissible by the Court, you need to first of all provide all the information which is requested in the application form. You need to include, for example, a summary of your case, and to fill in the statement of violations and the original signature at the end of the form. You must also enclose all relevant supporting documents, such as judgments from the national courts.

Your application must not be anonymous.

You must provide your name so you can be identifiable.

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The contents of this text do not bind the Court.

If you do not wish to disclose your identity to the public, you may make such a request either in the application form or as soon as possible afterwards. You must state the reasons for your request and explain how disclosure of your identity could affect you. Only the Court may take this decision. If you are granted anonymity, you should be referred to by your initials or simply by a letter. If not, your name will appear in all documents which the Court publishes on-line on its HUDOC database.

Please remember that all documents concerning Rule 47 of the Court may be found on the Court's website under the heading "Applicants"².

2. Exhaustion of domestic remedies and six-month time-limit (Article 35 § 1 of the Convention)

You must submit a completed application form before the end of the mandatory six-month time-limit. Only submission of the completed application form interrupts the running of this six-month time-limit.

You should send your application form by post as soon as possible within this six-month period. The six months start to run from the date of the final domestic decision which shows you have exhausted all domestic remedies. If the date of the final domestic decision is the 20th of January, you must send your application form no later than midnight on the 20th of July. The fact that the last day of the six-month time-limit falls on a Saturday, a Sunday or a public holiday does not alter this time limit.

And please note that once Protocol No. 15 enters into force, the six-month time-limit will be reduced to four months.

As far as exhaustion of domestic remedies is concerned, you must use all remedies in your State which provide redress for the situation you are complaining about. This usually consists of a claim brought before a relevant civil, criminal or administrative court, followed by an appeal where applicable, and even a further appeal to a higher court such as a Supreme Court or Constitutional court, if one exists.

In addition, you must comply with the applicable rules and procedures of national law. If your complaint could not have been decided by the national courts because you failed to lodge it within the time-limit prescribed by national law, then your complaint before the Strasbourg Court may be declared inadmissible.

And finally, when complaining before national courts, you must raise at least the substance of the Convention violation you are alleging before us.

² <http://www.echr.coe.int/Pages/home.aspx?p=applicants&c=>

3. Abuse of the right of application (Article 35 § 3 of the Convention)

Your application may be declared inadmissible for abuse of the right of application.

This is the case if you mislead the Court by submitting an application under a false name or by falsifying certain documents; or if you fail to inform the court of an important development in your case which is essential for the examination of your case, or of a new development which may have occurred during the course of proceedings before the Strasbourg Court, such as a judgment in your favour.

Your application may be declared inadmissible if you use abusive language, such as insult, or if you breach the duty of confidentiality in friendly settlement negotiations.

4. Application already submitted to the Court or another international body (Article 35 § 2 of the Convention)

Your application may be declared inadmissible if the Strasbourg Court has already examined an application previously brought by you relating to the same facts and the same complaints.

The same applies to an application which is essentially the same as a case that you have brought before another international body, such as the UN Human Rights Committee.

5. Victim status (Article 34 of the Convention)

You can only invoke a violation if you are the victim of that violation.

You may be a direct victim. For example if you are a victim of ill-treatment in prison which the domestic court hasn't recognised or condemned or for which you have not received sufficient redress.

You may be an indirect victim. This is the case, for example, if the direct victim dies before lodging an application before the Strasbourg Court and you have a legal interest as next of kin to complain, for example, of the death or disappearance of your relative. However, if your complaint is not closely enough linked to death or disappearance, your victim status may be denied.

You may be a potential victim if you are an alien whose removal has been ordered, but not yet enforced, and where enforcement could risk inhuman or degrading treatment, or torture, in the receiving state.

And finally, where a victim dies during the course of the proceedings before the Strasbourg Court, if you are an heir or a close relative, you may pursue his or her application if you can show a legitimate interest in doing so.

6. State's liability (*Ratione personae*) (Article 35 § 3 of the Convention)

The violation which you complain about must have been committed by the Respondent State in question or in some way attributable to it.

Your application may be declared inadmissible because of the respondent concerned:

- if it is brought against an individual;
- if it is brought against a state that has not ratified the Convention or its Protocols;
- or if it is brought directly against an international organisation, such as one of the European Union institutions, which has not yet acceded to the Convention. However, if your complaint is against an EU Member State in relation to its implementation of EU law, your application may be declared admissible.

You may bring an application if you are an individual, or if you are a non-governmental organisation such as an association or private company. You may bring an application regardless of your nationality, your immigration status or your legal capacity.

7. Territorial jurisdiction (*Ratione loci*) (Article 35 § 3 of the Convention)

The violation which you complain about must have occurred within the territorial jurisdiction of the Member State concerned or in a territory effectively controlled by it.

So, for example, a respondent State may be responsible for the acts of its diplomatic and consular staff abroad in the context of a diplomatic mission, where they exert authority and control over individuals outside the territory of the State.

8. Temporal jurisdiction (*Ratione temporis*) (Article 35 § 3 of the Convention)

The acts or facts complained of must have occurred after the date of entry into force of the Convention in the respondent State in question.

However, your application may be declared admissible if the State caused the continuous situation which began prior to ratification and persisted after that date. For example, the Court has held that it had jurisdiction to decide on disappearances which occurred some thirteen years prior to the respondent State's having recognised the right of individual petition. Indeed, a disappearance is not an "instantaneous" act or event. And therefore, the procedural duty to investigate potentially continues as long as the fate of the disappeared person has not been established, even if his death may be presumed.

9. Subject-matter of the case (*Ratione materiae*) (Article 35 § 3 of the Convention)

You must invoke a right which is protected under the Convention and its Protocols, such as the right to life or the right to an effective remedy. Your application may be dismissed as incompatible on the grounds of the subject matter if, for example, you claim a right to be issued with a driving licence, or the right to enter or reside in a contracting State if you are not a national there.

Your complaint must fall within the scope of application of the right which you invoke, such as the right to a fair trial, the right to private and family life, or the right to protection of property. So, for example, the fair trial guarantees within Article 6 of the Convention do not apply to asylum or deportation proceedings, or most taxation proceedings.

10. No significant disadvantage (Article 35 § 3 (b) of the Convention)

Your application may be declared inadmissible if you have suffered no significant disadvantage.

This may be because of the insignificant financial element to your claim if, for example, you complain about non-enforcement of a judgment for EUR 34 or salary arrears for EUR 200. Violation of the right must attain a minimum level of severity to warrant consideration by an international court.

However, there are two ‘safeguard’ clauses within this criterion: the first applies where respect for human rights requires an examination on the merits. Thus, in one case where the amount at stake was only EUR 17, the Court held that a judgment of principle was needed because this was the first case after a change in a national law.

The second safeguard clause requires that your case has been duly considered by a domestic tribunal. So, in one case the Court declared an application in respect of EUR 70 admissible because domestic law did not provide for an effective remedy.

Please note that once Protocol No. 15 enters into force, this second safeguard clause will be removed.

11. Manifestly ill-founded (Article 35 § 3 de la Convention)

Your application may be declared manifestly ill-founded even where all the formal admissibility criteria which have been mentioned so far have been fulfilled. This is the case if your application discloses no appearance of a violation or if there is settled or abundant case-law in similar or identical situations also finding no violation.

Your application may be manifestly ill-founded if you have failed to provide sufficient evidence to support the facts and the legal arguments which you raise. For example if you fail to explain why the Convention article you rely on has been breached.

Your application may be declared inadmissible if it is so confused that it is objectively impossible for the Court to make sense of the complaints you make. The same applies to far-fetched complaints and to those that have clearly been invented or that are manifestly contrary to common sense.

And finally, the Strasbourg Court is not a court of “fourth instance”, it is not a court of appeal, or a court of revision or of cassation. It cannot question the domestic courts’ establishment of the facts in your case, nor their assessment or application of domestic law, nor your guilt or innocence in a criminal case.

12. Final remarks

And finally, proceedings before the Strasbourg Court are free. You do not need to be represented by a lawyer at least during the initial stages, and you may submit your application in any of the languages of the Member States.

Please note that there is no appeal procedure against a decision which finds your application inadmissible. If your case is clearly inadmissible, the Court will write to you in due course. If, however, your application is admissible, the Court will go on to decide whether or not your Convention rights have been breached.

Most decisions and judgments of the Court are published on its HUDOC database³.

To have the best chances of having your application declared admissible by the Court, please bear in mind all of the admissibility criteria which have been mentioned. Do not hesitate to consult the Court's HUDOC database, as well as its website. And take note of the other publications which are published by the Court, such as the Guide on the Admissibility Criteria⁴, which you can find on the Court's website.

³ <http://hudoc.echr.coe.int/>

⁴ http://www.echr.coe.int/Documents/Admissibility_guide_ENG.pdf