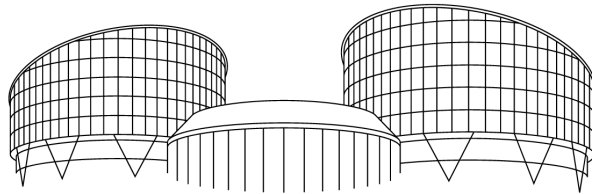


EUROPEAN COURT OF HUMAN RIGHTS :

QUESTIONS AND ANSWERS



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

REGISTRY OF THE COURT

WHAT IS THE EUROPEAN COURT OF HUMAN RIGHTS?

The European Court of Human Rights is an international court based in Strasbourg. It consists of a number of judges equal to the number of member States of the Council of Europe that have ratified the Convention for the Protection of Human Rights and Fundamental Freedoms – currently forty-seven¹. The Court's judges sit in their individual capacity and do not represent any State. In dealing with applications, the Court is assisted by a Registry consisting mainly of lawyers from all the member States (who are also known as legal secretaries). They are entirely independent of their country of origin and do not represent either applicants or States.

WHAT IS THE EUROPEAN CONVENTION ON HUMAN RIGHTS?

The European Convention on Human Rights is an international treaty which only member States of the Council of Europe may sign. The Convention, which establishes the Court and lays down how it is to function, contains a list of the rights and guarantees which the States have undertaken to respect.

WHAT DOES THE EUROPEAN COURT OF HUMAN RIGHTS DO?

The Court applies the European Convention on Human Rights. Its task is to ensure that States respect the rights and guarantees set out in the Convention. It does this by examining complaints (known as “applications”) lodged by individuals or, sometimes, by States. Where it finds that a member State has violated one or more of these rights and guarantees, the Court delivers a judgment. Judgments are binding: the countries concerned are under an obligation to comply with them.

¹ Not all member States have ratified all the Protocols to the Convention (instruments creating additional rights). Information on the subject can be found on our Internet site.

WHEN CAN I APPLY TO THE EUROPEAN COURT OF HUMAN RIGHTS?

You may lodge an application with the Court if you consider that you have personally and directly been the victim of a violation of the rights and guarantees set out in the Convention or its Protocols. The violation must have been committed by one of the States bound by the Convention.

What rights are protected by the Convention and its Protocols?

The following rights, in particular, are protected:

- the right to life;
- the right to a fair hearing in civil and criminal matters;
- the right to respect for private and family life;
- freedom of expression;
- freedom of thought, conscience and religion;
- the right to an effective remedy;
- the right to the peaceful enjoyment of possessions; and
- the right to vote and to stand for election.

What do the Convention and its Protocols prohibit?

The following, in particular, are prohibited:

- torture and inhuman or degrading treatment or punishment;
- arbitrary and unlawful detention;
- discrimination in the enjoyment of the rights and freedoms set out in the Convention;
- the expulsion by a State of its own nationals or its refusing them entry;
- the death penalty; and
- the collective expulsion of aliens.

WHAT CONDITIONS DO I HAVE TO SATISFY TO LODGE AN APPLICATION?

What are the conditions relating to me personally?

- You do not need to be a national of one of States bound by the Convention. The violation you are complaining of must simply have been committed by one of those States within its “jurisdiction”, which usually means within its territory.
- You can be a private individual or a legal entity such as a company or association.
- You must have directly and personally been the victim of the violation you are alleging. You cannot make a general complaint about a law or a measure, for example because it seems unfair; nor can you complain on behalf of other people (unless they are clearly identified and you are their official representative).

Are there any procedures that must be followed beforehand in the national courts?

- Yes. You must have used all the remedies in the State concerned that might have been able to redress the situation you are complaining about (usually, this will mean an application to the appropriate court, followed by an appeal, where applicable, and even a further appeal to a higher court such as the supreme court or constitutional court, if there is one).
- It is not enough merely to make use of these remedies. In so doing, you must also have actually raised your complaints (that is, the substance of the Convention violations you are alleging).
- You have only **six months** from the date of the final decision at domestic level (generally speaking, the judgment of the highest court) to lodge an application. After that period your application **cannot** be accepted by the Court.

Against whom can I lodge an application?

- Against one or more of the States bound by the Convention which, in your opinion, has/have

(through one or more acts or omissions directly affecting you) violated the European Convention on Human Rights.

- The act or omission complained of must have been by one or more public authorities in the State(s) concerned (for example, a court or an administrative authority).
- The Court cannot deal with complaints against individuals or private institutions, such as commercial companies.

What can my application be about?

- Your application must relate to one of the rights set out in the European Convention on Human Rights. Alleged violations may cover a wide range of issues, such as: torture and ill-treatment of prisoners; lawfulness of detention; shortcomings in civil or criminal trials; discrimination in the exercise of a Convention right; parental rights; respect for private life, family life, the home and correspondence; restrictions on expressing an opinion or on imparting or receiving information; freedom to take part in an assembly or demonstration; expulsion and extradition; confiscation of property; and expropriation.
- You cannot complain of a violation of any legal instrument other than the European Convention on Human Rights, such as the Universal Declaration of Human Rights or the Charter of Fundamental Rights.

HOW SHOULD I APPLY TO THE COURT IF I CONSIDER MYSELF TO BE THE VICTIM OF A VIOLATION OF THE CONVENTION?

By sending a letter to the Court giving clear details of your complaint (in which case you will receive an application form which must be filled out) or by filling out an application form² directly. The letter and/or application form should be sent to the following address:

The Registrar
European Court of Human Rights
Council of Europe
F-67075 Strasbourg Cedex

² The application form can be found on our Internet site.

- You may write in one of the Court’s official languages (English and French) or in an official language of one of the States that have ratified the Convention.
- If you lodge your application by fax, you must also send the original by post.
- **Do not come to Strasbourg in person to state your case orally.** Your case will not be examined any more quickly and you will not receive any legal advice.
- The Registry may ask you for additional documents, information or explanations relating to your complaints.
- As soon as you have a copy of the application form, you should fill it out carefully and legibly and return it as quickly as possible. It must contain :
 - a brief summary of the facts and your complaints;
 - an indication of the Convention rights you think have been violated;
 - the remedies you have already used;
 - copies of the decisions given in your case by all the public authorities concerned (**these documents will not be returned to you, so only copies should be sent**); and
 - your signature as the applicant, or your representative’s signature.
- If you do not wish your identity to be disclosed, you must inform the Court immediately, giving reasons. The President will determine whether your request is justified.
- At this stage of the proceedings you do not have to be represented by a lawyer. If, however, you wish to apply to the Court through a representative, you must send with the form your authority for him or her to act on your behalf.

What are the main features of the proceedings?

- Proceedings are conducted in writing. You will be informed in writing of any decision taken by the Court. Public hearings are exceptional.
- Your case will be dealt with free of charge.
- Although you do not need to be represented by a lawyer in the first stages of the proceedings, you will need a lawyer once your application has been notified to the Government. The great majority of applications are, however, declared inadmissible without being notified to the Government.

- You will have to bear only your own costs (such as lawyers’ fees or expenses relating to research and correspondence).
- After your application has been lodged, you may apply for legal aid. Legal aid is not granted automatically, and awards are not made immediately but only at a later stage of the proceedings.

What are the main stages in the process?

- The Court must first examine whether your application is **admissible**. This means that the case must comply with certain requirements set out in the Convention (see “What conditions do I have to satisfy to lodge an application?” on page 3). If the conditions are not satisfied, your application will be rejected. If you have made several complaints, the Court may declare one or more of them admissible and dismiss the others.
- **If your application or one of your complaints is declared inadmissible, that decision is final and cannot be reversed.**
- If your application or one of your complaints is declared admissible, the Court will encourage the parties (you and the State concerned) to reach a friendly settlement. If no settlement is reached, the Court will consider the application “on the merits” – that is, it will determine whether or not there has been a violation of the Convention.

How long shall I have to wait?

- In view of the current backlog of cases, you may have to wait a year before the Court can proceed with its initial examination of your application. Some applications may be treated as urgent and dealt with as a matter of priority, particularly where the applicant is said to be in imminent physical danger.

WHAT CAN I HOPE TO OBTAIN?

If the Court finds that there has been a violation, it may award you “just satisfaction”, a sum of money in compensation for certain forms of damage. The Court may also require the State concerned to refund the expenses you have incurred in presenting your case. If the Court finds that there has been no violation, you will not have to pay any additional costs (such as those incurred by the respondent State).

Please note:

- The Court is not empowered to overrule national decisions or annul national laws.
- The Court is not responsible for the execution of its judgments. As soon as it has given judgment, responsibility passes to the Committee of Ministers³ of the Council of Europe, which has the task of supervising execution and ensuring that any compensation is paid.

WHAT IS THE EUROPEAN COURT OF HUMAN RIGHTS NOT ABLE TO DO FOR ME?

- **The Court does not act as a court of appeal** *vis-à-vis* national courts; it does not rehear cases, it cannot quash, vary or revise their decisions.
- The Court will not intercede directly on your behalf with the authority you are complaining about. In exceptional circumstances the Court may, however, grant interim measures. As a matter of practice it only does so where there is a serious risk of physical harm to the applicant.
- The Court will not help you find or pay a lawyer to draw up your application.
- The Court cannot give you any information on legal provisions in force in the State against which your complaints are directed.

Further information about the European Court of Human Rights can be found on our Internet site: www.echr.coe.int

These questions and answers have been prepared by the Registry of the Court. The document does not bind the Court. It is intended to provide basic general information about the way the Court works. For more detailed information, reference is made to documents issued by the Registry (available on the Court's website (www.echr.coe.int)) and in particular to the Rules of Court.

³ The Committee of Ministers comprise the member States' ministers for foreign affairs or their representatives.