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LODGING THE APPLICATION

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Textbox vi *Contact Details of the European Court of Human Rights*

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Council of Europe
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France**

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4.1 The First Communication to the Court: the Introductory Letter

As pointed out above, if there is a risk that the applicant will not be able to complete the full-blown application form before the end of the six-month period, it is important to note that an application may also be introduced by letter or by fax. There are many reasons why the preparation of a complete application form might take a significant amount of time, including the fact that the necessary documentation (domestic judgments, decisions, medical records, witness statements, etc.) might not be immediately available to the applicant.

If the introductory letter is sent by fax, a signed original must be sent to the Court within 5 days by post. If the applicant is represented by a lawyer, a *Form of Authority* signed by the representative and the applicant must accompany the letter.

Many applications are introduced by means of an introductory letter because such letters represent a very important and relatively easy way for applicants to stop the six-month clock. Nevertheless, as explained below, certain critical formalities must be observed when submitting the introductory letter in order for it to have the desired effect of preserving the applicant's complaints.

Rule 47 § 5 of the Rules of Court provides that

“[t]he date of introduction of the application shall as a general rule be considered to be the date of the first communication from the applicant setting out, even summarily, the object of the application. The Court may for good cause nevertheless decide that a different date shall be considered to be the date of introduction”.

As the rule specifies, such letters will interrupt the running of the six-month period provided that there is no “good cause” to do otherwise. In this connection, several considerations must be observed. The first concerns the substance of introductory letters: the subject matter of the application and a brief summary of the relevant facts and complaints must be set out clearly in the introductory letter. Secondly, the introductory letter should set out the Articles of the Convention which the applicant intends to rely on in the subsequent application. Thirdly, the letter should include information on exhaustion of domestic remedies.

Applicants must exercise care when listing the Convention Articles in the introductory letter. Merely invoking the Convention Articles is not on its own sufficient to make out a complaint. The Court also requires that “some

indication of the nature of the alleged violation under the Convention” is given before a complaint is considered to have been introduced for purposes of interrupting the running of the six-month period.⁴²⁵ For this reason, the applicant will be expected to “link” his or her allegations with the Articles referred to in the letter. Applicants should further note that if they invoke a Convention Article in the application form that was not previously mentioned in the introductory letter, the Court may declare that particular complaint inadmissible for non-respect of the time limit. Also, when a specific Article is mentioned in the introductory letter but not subsequently in the application form, the complaint in the introductory letter relating to that Article will not be examined since the application form constitutes the basis for the Court’s examination of the case.

The importance of the contents of the introductory letter cannot be overemphasised. For example, in *Schälchli v. the Switzerland* the applicant’s introductory letter mentioned only the Articles of the Convention which had allegedly been violated, and provided only skeletal information to the effect that the applicant was serving a prison sentence as a result of a judgment of the Federal Court but without describing the relevant details of the said judgment. The Court held that this was not sufficient to set out, even summarily, the object of the application and therefore did not stop the clock.⁴²⁶

The following example of an Introductory Letter – based on hypothetical facts – may provide guidance as to the form and content of the initial communication to the Court in an Article 3 case.

425 See *Bozinovski v. the former Yugoslav Republic of Macedonia* (dec.), no. 68368/01, 1 February 2005.

426 *Schälchli v. Switzerland* (dec.), no. 54908/00, 25 November 2003.

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Textbox vii Model Introductory Letter

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

1 May 2006

Dear Sir/ Madam,

On behalf of my client [name] I am writing to introduce an application under Article 34 of the European Convention on Human Rights.

On 10 January 2005 my client was arrested in [city] by officers from the Anti-Terrorist Branch on suspicion of involvement in terrorist activities. He was taken to the City Hospital for a medical examination. According to the medical report drawn up at the end of the examination, there were no signs of any injuries on his body. My client was then placed in the detention facility of the police station. During his detention my client was questioned by police officers on three occasions. When he denied the allegations against him, the police officers became agitated and subjected him to serious ill-treatment which included being stripped naked, hosed down with pressurised cold water, suspended from his arms, and being beaten up with a truncheon on his chest. Also, electric shocks were administered to his toes.

On 14 January 2005 the police officers took him back to the City Hospital where they remained in the room while my client was being examined by a doctor. When the doctor asked my client to remove his clothes, the police officers told him not to do so. As a result, the doctor stated in a medical report that there were no signs of any ill-treatment on the applicant. My client was then brought before the judge where he informed the judge of his ordeal. The judge ordered his release on account of lack of sufficient evidence to charge him.

On his release my client was met outside the court building by his father, who took him to their family doctor. The doctor recorded in his report that there were extensive bruises under his armpits consistent with the client's account that he was suspended by his arms, and the marks on his chest were consistent with having been beaten up with an object. Furthermore, the doctor also observed that the client's toes bore signs of electric burns.

On the same day my client went back to the court building where he submitted a petition to the prosecutor containing the details of the ill-treatment to which he had

been subjected. With his petition he also enclosed copies of the three medical reports. He asked the prosecutor to investigate his allegations and prosecute the police officers involved.

On 1 April 2005 my client received the decision of the prosecutor not to prosecute the police officers. The prosecutor's decision was based on a report prepared by the police chief of the police station where my client had been detained and ill-treated. According to the police chief's report, the police officers involved had been questioned by their commanding officer and had vehemently denied any wrongdoing. The prosecutor's decision also stated that according to the medical report of the City Hospital, there were no signs of any injury on my client's body. As to the medical report obtained from my client's family doctor, the prosecutor decided to exclude it because it was drawn up by a private practitioner, as opposed to a doctor employed by the State. The decision also stated that it would become final if no appeal was lodged against it within the statutory period of two weeks.

On 4 April 2005 my client appealed the prosecutor's decision not to prosecute the police officers. The appeal, which is the final remedy under domestic law, was dismissed on 1 November 2005. The decision was served on my client on 2 November 2005.

My client submits that the ill-treatment to which he was subjected whilst in the custody of the police officers amounted to torture within the meaning of Article 3 of the Convention. He further submits that the investigating authorities failed to carry out an effective investigation into his allegations of ill-treatment in violation of the positive obligation inherent in Article 3 and that they have thus deprived him of an effective remedy in violation of Article 13 of the Convention.

As my client has instructed me only this morning to lodge this application, it has not been possible to prepare a full application form and to compile the relevant supporting documents. I therefore ask the Court to accept this letter, which is being posted within the six-month time limit specified in Article 35 of the Convention, as an introductory letter. A completed application form, together with photocopies of the relevant documents, will be submitted shortly.

Yours faithfully,

Enc: Form of authority signed by my client and myself.

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Following the submission of the introductory letter, it is important to comply strictly with any time limits indicated by the Registry relating to further submissions. When the Registry receives the application, it will be given a number⁴²⁷ and the applicant will be given six weeks to submit the full application form with the supporting documents. If the applicant fails to comply with the six-week time limit, the Court may decide to regard the date of introduction as the date of the submission of the full application form, rather than the date of the introductory letter. This in turn, may result in the application being declared inadmissible for non compliance with the six-month rule. Therefore, applicants are advised to observe the six-week time limit notwithstanding Article 11 of the Practice Direction on the Institution of Proceedings, which provides that “where within a year, an applicant has not returned an application form or has not answered any letter sent to him by the Registry, the file will be destroyed”. Applicants finding the six-week period insufficient to compile the necessary documents and to prepare the application form should inform the Court of the difficulties and request an extension of the time limit. The Court will normally grant the first such request provided that it is duly reasoned.

The Court is eager to eliminate unnecessary delays in the processing of complaints. Consequently, it has stated that “delays in the pursuit of an application are acceptable only in so far as they are explained by duly justified reasons connected to the subject matter of the application or the applicant personally”.⁴²⁸ In the case of *Nee v. Ireland*,⁴²⁹ the final domestic court decision had been adopted in January 1998, and the applicant’s lawyer informed the Commission in an introductory letter on 17 July 1998 that her client wished to introduce an application. The lawyer was urged by the Commission to send the full application form as soon as possible.⁴³⁰ The lawyer, who acknowledged receipt of the Commission’s letter in September 1998 and indicated to the Commission that the application form would be submitted within six weeks, did not submit it until 22 September 1999. In its decision – adopted more than three years after receipt of the application form – the Court considered 22 September 1999 to be the date of introduction of the application and declared it inadmissible for failure to comply with the six-month rule. Given the lack of any contact with the Commission or the Court for a period of more than one year, the Court was not convinced by the lawyer’s explanations for the delay, which included her lack of familiarity with the Convention system, the complexity of the domestic proceedings and the difficulties she experienced in contacting her client who lived in England.

427 The application number must be mentioned in all subsequent correspondence.

428 *Quaresma Afonso Palma v. Portugal* (dec.), no. 72496/01, 13 February 2003.

429 *Nee v. Ireland* (dec.), no. 52787/99, 30 January 2003.

430 The practice of the Commission to ask applicants to submit their applications forms “as soon as possible” led to a number of difficulties and is now replaced by the Court’s practice of requiring the full application form “within six weeks”.

Textbox viii **Registry's response to Introductory Letter requesting that applicant submit completed application form**⁴³¹

ECHR-PE0

DATE

Our Ref.

v.

Your Ref.

*The Registry of the European Court of Human Rights has received your communication of [DATE], from which it appears that you intend to lodge an application with the Court on behalf of your client. **It has been given the above file-number, to which you must refer in any further correspondence relating to this case.***

You will find enclosed a copy of the Convention and its Protocols, the text of Rules 45 and 47 of the Rules of Court, a notice for prospective applicants and the official application form, with an explanatory note.

*If, after a careful study of the foregoing documents you are satisfied that your case meets all the appropriate criteria, you should fill in the application form carefully, legibly and completely as it will provide the basis for the Court's examination. It should be accompanied by **copies of all relevant documents**, in particular any decisions of national courts or authorities which you wish to challenge before the Court. **Please do not send originals as they will not be returned to you by the Court.***

*You must return the application form and any necessary supplementary documents to the Court **without undue delay, and at the latest within six weeks after receipt of the present letter.** Otherwise you run the risk that the Court will not accept the date of your first letter as the date on which the application was lodged and may consequently conclude that the six-month time limit for the submission of applications under Article 35 § 1 of the Convention has not been complied with.*

IMPORTANT

If the Registry receives no response from you, your complaints will be taken to have been withdrawn and the file opened in respect of the application will be destroyed – **without further warning** – one year after dispatch of this letter.

Encs: Convention and Protocols
Notice to applicants
Application form and explanatory note
Authority form (for legal representation)

431 Source: Council of Europe

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4.2 The Application Form

Rule 47 of the Rules of Court requires that all applications be made using the standard application form provided by the Registry unless the President of the Section concerned decides otherwise.⁴³² When completing the application form, applicants should also have regard to the “Notes for the guidance of persons wishing to apply to the ECHR” and the “Explanatory note for persons completing the Application Form” which are prepared by the Registry and figure in Appendices Nos. 17 and 4, respectively. Further reference must be made to the “Practice Direction on the Institution of Proceedings” in Appendix No. 3. Using the standard application form and completing it in compliance with the instructions in these documents will help the Court to examine the application and will ensure that all relevant information and documents required by Rule 47 of the Rules of Court are included in the application. The applicant may also find it useful to look at the Model Article 3 Application in Appendix No. 6, prepared on the basis of hypothetical facts.

The application form may be completed in one of the official languages of the Contracting Parties.⁴³³ The form must be completed legibly, preferably typed. Applicants may also consider appending a short cover letter to their application form along the following lines:

Please find enclosed my [client's] application form and supporting documents. The application concerns the ill-treatment to which I [my client] was subjected while in the custody of the police, as well as the authorities' failure to investigate the circumstances of the ill-treatment and to punish those responsible....

Such a cover letter is helpful to the Registry in the attribution of cases to lawyers and may speed up the processing of the application.

It is imperative that the facts, complaints, and steps taken when exhausting domestic remedies are set out clearly and concisely and, as far as possible, in chronological order. If the space reserved in the application form is not sufficient, applicants may continue on separate sheets. Where the length of the application (excluding annexes) exceeds 10 pages, a short summary should also be enclosed with the application form, for example in the cover letter.

When completing Part III of the application form, which is entitled “Statement of Alleged Violation(s) of the Convention and/or Protocols and of Relevant Arguments”, the Convention and the relevant Protocols should be

⁴³² Application forms exist in the official languages of all of the Contracting Parties and can be accessed at <http://www.echr.coe.int/ECHR/EN/Header/Applicants/Information+for+applicants/Application+form/>.

⁴³³ See Rule 34; see also Section 1.10 above

consulted and their terminology must be observed. If the applicant wishes to invoke a provision of a Protocol to the Convention, the document setting out the “Dates of ratification of the European Convention on Human Rights and Additional Protocols”⁴³⁴ should be consulted to ensure that the respondent Contracting Party has ratified the relevant Protocol and that it was in force at the relevant point in time. See *Textbox i, Dates of Entry into Force of Convention and Protocols*.

In Part V of the application form, applicants are required to set out briefly what they want to achieve through their application. It is common practice for applicants to set out their claims under Article 41 of the Convention for just satisfaction and costs and expenses in this part of the application form. However, this is not strictly necessary since – as described in Section 7 on “Just Satisfaction” – the Court does not require claims for just satisfaction at this early stage.

As noted above in Section 1.15 on the effects of the Court’s judgments, the Court has recently begun to provide certain guidelines to respondent States on how the consequences of a particular violation of the Convention may be remedied. For example, an applicant who has been convicted on the basis of a confession extracted under ill-treatment may argue in this part of the application form that the most appropriate form of relief would be to grant him or her a retrial. An applicant whose allegations of ill-treatment have not been adequately examined at the national level may claim that the most appropriate form of redress would be the re-opening of the investigation into his or her allegations. Similarly, an applicant who is complaining about the lawfulness of his or her detention may argue that the most appropriate form of relief would be to release him or her from detention. An applicant in an expulsion case may claim, for example, that the most appropriate form of relief would be not to expel him or her.

In Part VII of the application form, applicants are required to list supporting documents, e.g. the applicants’ complaints to domestic authorities, decisions of the domestic courts, and other documentary evidence such as medical records, witness statements, etc. Only copies – not originals – of these documents should be submitted to the Court. For practical reasons, it is advisable to number each document so that easy reference can be made to them in the application form and in subsequent submissions.

Finally, applicants must ensure that they date and sign the application form.

434 For an updated list of ratifications, the following website should be consulted:
<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/Dates+of+ratification+of+the+European+Convention+on+Human+Rights+and+Additional+Protocols/>

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If an applicant is represented by a lawyer or other representative, the signature of the representative is required and not that of the applicant.⁴³⁵ In such cases the applicant must complete and sign the form of authority authorising the representative to represent him or her in the proceedings before the Court.⁴³⁶ The form of authority should also be signed by the representative to indicate his or her acceptance.

4.3 The Court's Processing of the New Application

Upon receipt by the Court, the completed application form and the supporting documents will be forwarded to the relevant legal division of the Registry. The application will be given a number and assigned to one of the Registry's lawyers who will work as the case lawyer for that application. The Applicant will receive a letter from the Registry, confirming that the application has been registered and indicating a case number to which the applicant must refer in all future correspondence with the Court. The standard Registration Letter is reproduced in *Textbox ix* below.

The case lawyer will carry out an examination of the file and at this stage he or she may ask the applicant to submit further documents, information, or clarifications. Any time limits indicated by the Registry for submission of additional information must be complied with and if there are difficulties in obtaining the requested information, the Registry should be informed and an extension of the time limit should be sought.

When the file is complete, the application will be assigned to a decision body in one of the five Sections. In cases where the material submitted by the applicant on its own is sufficient to disclose that the application is inadmissible or should be struck out of the list,⁴³⁸ and also where such action can be taken "without further examination",⁴³⁹ it will be assigned to a Committee. Otherwise the application will be assigned to a Chamber and a judge rapporteur will be appointed. The classification of the application as a Committee or as a Chamber case is confidential and is not disclosed to applicants at this stage of the proceedings. The Registry will inform the applicant that it is his

435 See also Section 1.8 above.

436 Form of authority is included in *Textbox iii*. It may be downloaded at:
<http://www.echr.coe.int/NR/rdonlyres/001F1ADA-0F5A-4975-8B10-25D0C239865B/0/English.pdf>

438 Rule 49 § 1 of the Rules of Court.

439 Article 28 of the Convention.

Textbox ix Registration Letter⁴³⁷

FIRST/SECOND/THIRD/FOURTH/FIFTH SECTION

ECHR-LE1.1R DATE

Application no.

v.

Dear Sir,

I acknowledge receipt of your letter of [DATE], with enclosures, including a completed application form.

The Court will deal with the case as soon as practicable. It will do so on the basis of the information and documents submitted by you. The proceedings are primarily in writing and you will only be required to appear in person if the Court invites you to do so. You will be informed of any decision taken by the Court.

You should inform me of any change in your address or that of your client. Furthermore, you should, of your own motion, inform the Court about any major developments regarding the above case, and submit any further relevant decisions of the domestic authorities.

Please note that no acknowledgment will be made as to the receipt of subsequent correspondence. No telephone enquiries either please. If you wish to be assured that your letter is actually received by the Court then you should send it by recorded delivery with a prepaid acknowledgment of receipt form.

Yours faithfully,

For the Registrar

xxx

Legal Secretary

437 Source: Council of Europe

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or her duty to inform the Court of any subsequent developments relating to the case.⁴⁴⁰

4.4 Inadmissibility Decided by Committees

An application assigned to a Committee will generally be concluded within 12 months of its introduction but it may take shorter or longer depending on the case load of the legal division involved. Decisions of inadmissibility are final.⁴⁴¹ The majority of applications routed to Committees are declared inadmissible. However, Committee decisions need to be unanimous. If there is no unanimity amongst the 3 judges of the Committee, then the application will be referred to a Chamber of 7 judges.

If the application is declared inadmissible by a Committee, the applicant will be informed of the decision by means of a form letter which contains only the briefest of indications of the reasons for the decision.⁴⁴² As mentioned above, these decisions are nevertheless final, and there will be no further opportunity for the applicant to enquire into the specific reasons for the decision. By contrast, Chamber decisions on admissibility contain an individualised analysis of the case and reasons for the decision as described in Section 5 below.

440 See *Textbox ix*.

441 A total of 26,360 applications had been declared inadmissible by Committees of three judges in 2005; this figure represents almost 94% of the cases which were disposed of judicially – as opposed to administratively – by the Court in 2005.

442 See *Textbox x* for a sample letter.

Textbox x **Letter Informing the Applicant of the Decision of the Committee**⁴⁴³

FIRST/SECOND/THIRD/FOURTH/FIFTH SECTION

ECHR-LE11.0R(CD1)

Application no.

v.

Dear Sir,

I write to inform you that on [DATE] the European Court of Human Rights, sitting as a Committee of three judges (xxx, President, xxx and xxx) pursuant to Article 27 of the Convention, decided under Article 28 of the Convention to declare the above application inadmissible because it did not comply with the requirements set out in Articles 34 and 35 of the Convention.

In the light of all the material in its possession, and in so far as the matters complained of were within its competence, the Court found that they did not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

This decision is final and not subject to any appeal to either the Court, including its Grand Chamber, or any other body. You will therefore appreciate that the Registry will be unable to provide any further details about the Committee's deliberations or to conduct further correspondence relating to its decision in this case. You will receive no further documents from the Court concerning this case and, in accordance with the Court's instructions, the file will be destroyed one year after the date of the decision.

The present communication is made pursuant to Rule 53 § 2 of the Rules of Court.

Yours faithfully,

For the Committee
xxx
Section Registrar

443 Source: Council of Europe