

# CCBE proposals for the upcoming online ECtHR application form

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The Council of Bars and Law Societies of Europe (CCBE) represents the Bars and Law societies of 46 countries and, through them, more than 1 million European lawyers.

On 1 December 2023, the CCBE and various national Bars met with the European Court of Human Rights. Participants at this meeting took note that the Court is developing an electronic application form. Following discussions in the CCBE Permanent Delegation to the European Court of Human Rights (PD STRAS), the following practical points were identified arising from the use of the Court's current Application Form. These are submitted in the hope that they may assist the Court in addressing some of the practical difficulties which have arisen with the current application form.

**1. Pages 1 to 4 in the application form (the Applicant, Organisation, State(s) against which the application is directed, Representative(s) of the individual applicant and Representative(s) of the applicant organisation, Authority):**

There should be a possibility in the application form to add the required information on pages 1 to 4 for several applicants if their cases arise from the same facts and the same national proceedings.

- 2. Page 1:** Insert a new box to specify the activity or profession of the individual applicant (mirroring box 13 for a legal entity).
- 3. Pages 3 and 4:** Delete boxes 24, 31, 44 and 51 concerning faxes, as this communication tool is obsolete.
- 4. The power of attorney** should be separated from the application form (as mentioned by a member of the Registry at the meeting with the Court on 1 December 2023, this is something that has already been envisaged by the Court).

**5. Pages 5 to 7 in the application form (Subject matter of the application, statement of the facts):**

Especially in complicated cases 3 pages in the application form to present the statement facts seem to be insufficient: we would suggest 4 pages.

The form should also permit the use of heads and to indent paragraphs and to use italic and bold for a clearer picture of the text.

**6. Pages 8 to 9 in the application form (Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments):**

Especially for the increasing number of complex cases, it would be desirable to add another page to the current 2 pages for the statement of alleged violations of the Convention.

**7. Page 12 in the application form (list of the accompanying documents):**

Add guidance that, where there are more than 25 accompanying documents arising from the domestic proceedings, continuation page(s) numbered in the sequence following the first 25 may be added to the application form, extending the list on page 12.

**8. There are a number of issues which can currently only be covered in Box 71: Any other comments. The space in this box should be enlarged, or alternatively separate sections should be added to the form for the following points a. to h.:**

- a. An initial indication of the claims of just satisfaction under Art. 41 ECHR (material damage / moral damage / costs and expenses) or of any other measures sought in order to remedy the situation on individual level of the applicant (reopening of the proceedings; release from detention; enforcement of the final decision etc.);
- b. Applicant's position regarding friendly settlement: possibility of friendly settlement yes/no (this could be indicative for the Court whether at all it is worth initiating the non-contentious phase of the proceedings) and if yes, under which circumstances/terms (this could allow the Government to accept reasonable proposals for a friendly settlement without having to get too much into details of the case);
- c. identification of an underlying structural/systemic problem on national level if any;
- d. identification of relevant existing WECL cases, which underline the opportunity for a friendly settlement;
- e. Requests of any individual measure (release from detention etc.);
- f. To add information on the prioritisation of the application and insert a new heading where the applicant could specify the degree of urgency of their application and whether it is an "impact" case;
- g. In addition, this is the only appropriate place, but provides insufficient space to explain, practical issues such as:
  - i. The fact that there is more than one legal representative and or more than one applicant, requiring additional pages 1-4;
  - ii. The fact that additional pages are submitted with the Application Form, developing the arguments made in the Form itself, or the exceptional reasons why the number of additional pages exceeds 20;
  - iii. Particular difficulties in obtaining the signature of the applicant on the application form as required by Box 33;
  - iv. The nature of the documentary evidence that the person named in Box 38 has appropriate authority to bind and represent the Applicant;
  - v. The fact that the number of accompanying Documents in Box 70 exceeds 25, necessitating one or more continuation sheet(s); and
  - vi. Any necessary qualification which the representative may need to make to the declaration in Box 71
- h. The possible 20 additional pages which may exceptionally accompany the Form.

**9. The note explaining how to complete the application form should include specific information on what is permitted to be included in this additional material:**

The current description is not quite clear. Applicants (and their lawyers) feel exposed that the material which they want to include may jeopardise the application. The current notes for filling in the application form says that "extra information or explanations" can be added to supplement the arguments made in the Application Form. Could greater clarity be provided? For example, is a more detailed development of the facts, with quotations from national decisions, permissible?