



Report on the implementation of the revised rule on the lodging of new applications

I. Background

At the end of 2013, with a view to continuing its efforts to make its working methods more efficient, the Court amended the rules on the lodging of applications. The aim was to facilitate filtering by defining clearly what should be in a valid application. This would in turn facilitate processing of cases for decision by Judges, thereby saving time for Judges and Registry staff so that resources could be switched to tasks with higher priorities.

To that end, on 1 January 2014, a revised version of Rule 47 of the Rules of Court came into force. Under the amended Rule applicants must comply with strict requirements for their application before the Court to be valid. In brief, they must use the Court's new application form, take care to fill in all fields and append all necessary supporting documents. They also have to make sure that they provide a signed authority if they are represented and that the application form is duly signed by them. If an applicant fails to comply with Rule 47, the application will not be allocated to a Court formation for decision (although there are some limited exceptions; see below).

The Court has made every effort to ensure that this new approach is communicated to, and understood by, applicants and their lawyers. The change in the Rule and its application was announced on the Court's website, with accompanying explanations and a demonstration video in most of the languages of the Contracting States. An information pack was sent to the authorities, courts and bar associations in the Contracting States also.

Importantly, non-compliance does not necessarily mean a final rejection as applicants may re-apply successfully if they are still within the six-month time-limit (Article 35 § 1 of the Convention).

II. Implementation in practice

A. Rate and grounds of rejection

During 2014, 52,758 applications arrived. Out of these, 12,191 (23%) failed to comply with the revised Rule. This figure, which may appear high, reflects the percentage of application forms which do not comply; the overall number of new letters or communications is no longer taken into account in this context as they are not considered as applications. It shows that a large amount of Registry time had previously been taken up in putting together and processing incomplete submissions.

The most common grounds of rejection have been: failure to submit complaints on the application form; failure to provide documents concerning the decisions or measures which the applicant is complaining of; failure to provide a statement of violations; lack of any statement of compliance with the admissibility criteria; and failure to provide documents showing that the applicant has complied with the obligation to exhaust available domestic remedies.

B. Exceptions under Article 47 § 5

Applications which fail to comply with Rule 47 may still be allocated for decision by a judge in certain cases. Principally this applies to

- **requests for interim measures.** Applicants are not required to fill in a complete application form with all supporting documents when making a request for urgent intervention. However, they are expected to submit a full and completed application form shortly afterwards;
- **applicants who provide an adequate explanation for not complying with the Rule.** For example, exceptions have been made under Rule 47 § 5(1)a where prisoners or persons in detention have not had access to particular documents, where an alien in detention has difficulty understanding what is required; in respect of applications coming out of the region of Ukraine where there is an ongoing conflict with destruction of property and disruption of public services which affects availability of documents and information;
- **very exceptional cases** where an application raises important issues of interpretation of the Court's case-law or of the Convention which are of a significance for the effective functioning of the Convention mechanism beyond the individual circumstances of the case.

The examination whether an application complies with Rule 47 is conducted according to guidelines approved by the Plenary Court and under the supervision of the President of the Court who is consulted in all cases which raise new aspects of application of the procedure or which are borderline or sensitive in some way.

C. Six-month time-limit

Another important change came into effect on 1 January 2014. Under Article 35 § 1 of the Convention applicants have six months within which to lodge their application following the final national decision. In the past it was sufficient to send a letter setting out the substance of the complaint to interrupt that six-month period. However, as of the beginning of the year it is the date of dispatch of the full and complete application which is decisive for compliance with the six-month time-limit. In the early part of 2014 a number of lawyers and applicants lodged their applications at the very end of the six-month period and thus, on receipt of the letter informing them that their application was incomplete under Rule 47, were unable to re-submit their application or to complete it in good time. On 9 September 2014, in *Malysh and Ivanin v. Ukraine* (nos. 40139/14 and 41418/14), a Chamber rejected two cases as out of time where the applicants failed to re-submit a full and complete application form within the six-month time-limit. It is therefore now established in the Court's case-law that the introduction date is that of the dispatch of the completed application form and that earlier incomplete submissions are not taken into account.

However, the overall number of cases rejected in the single judge procedure as out of time has not increased. In fact the figures are lower. Only 8% of cases were rejected in whole or in part as out of time in 2014, in contrast to figures of 9-12% over previous years. It cannot therefore be concluded that there has been an increase of rejections because of the change in calculation of the six-month time-limit. It is apparent that domestic lawyers learned very quickly from the first rejections under Rule 47 and their compliance rate improved markedly.

D. Impact on the Court's workload

A review of internal impact of the new Rule shows that the procedure has lightened the workload and facilitated the speedy processing of applications. In particular:

- the case-processing divisions have less correspondence to deal with;
- incoming applications are now better organised;
- properly completed application forms make it easier to analyse and process incoming cases;
- there is a significant gain of time enabling the Registry to deal with other meritorious cases.

III. Conclusions

The changes in the Rule appear to have achieved their aims. The new Rule defines for applicants what is a valid application, the majority of applicants being able to comply without difficulty; it facilitates the efficient sifting of incoming applications; and it saves the time of the Court and Registry so that resources can be redeployed. This has contributed to the Court's success in diminishing the overall backlog of cases and dealing with cases more speedily.

Most domestic lawyers seem to have learned the new requirements quickly and avoided repeating mistakes. It is not uncommon that applicants who have initially failed to submit a complete application form re-submit their application in a complete manner and within the six-month time-limit. The Registry has found that the standard of presentation of applications is much higher and this also facilitates the task of preparing meritorious cases for communication or decision.

Nonetheless, a number of applicants and domestic lawyers still appear to overlook or misunderstand the requirements of Rule 47. The Court intends to take further measures to provide explanations and guidance to applicants and domestic lawyers and thus to improve transparency and access to information about its procedures. Warnings and explanations on common sources of misunderstanding will be added to the Application Form and Notes for Filing in the Application Form, and a separate document "Common Mistakes in Presenting an Application and How to Avoid Them" will be made available shortly.

In sum, the amended Rule has proved itself a useful tool for the Court in managing the influx of incoming complaints and strengthened the Court's capacity to deal with its caseload. The Court will continue to monitor the impact of the Rule and make adjustments as appropriate.