

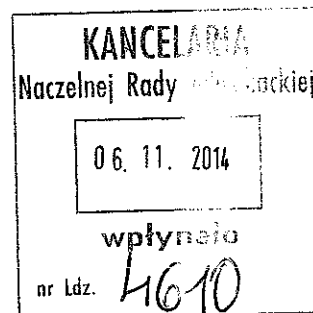


Rzeczpospolita Polska
Ministerstwo
Spraw Zagranicznych

Pełnomocnik Ministra Spraw Zagranicznych
do spraw postępowań przed Europejskim
Trybunałem Praw Człowieka

DPOPC.433.51.2013 / 4

Warszawa, dnia 31 października 2014 r.



Pan Mieczysław Andrzej Zwara
Prezes Naczelnej Rady Adwokackiej

Szanowny Panie Prezesie,

Uprzejmie informuję, że w dniu 29 września 2014 r. Prezes Europejskiego Trybunału Praw Człowieka wydał nowe wytyczne dotyczące praktyki (*Practice Direction*) w odniesieniu do składania skarg w drodze elektronicznej, a także zmienioną wersję wytycznych dotyczących praktyki w odniesieniu do pism procesowych. Nowe wytyczne mają na celu umożliwienie skarżącym, a także ich przedstawicielom, składanie pism procesowych w drodze elektronicznej w trakcie postępowania toczącego się po zakomunikowaniu skargi. System komunikacji elektronicznej, który to umożliwi, będzie testowany na początku 2015 r. Po fazie testowej załączone wytyczne wejdą w życie – w terminie, który zostanie określony przez Trybunał i ogłoszony na stronie internetowej Trybunału.

Nowe wytyczne, a także nowa wersja dotychczasowych wytycznych są dostępne na stronie:

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

Przesyłam je również w załączeniu.

Będę wdzięczna za podjęcie stosownych działań w celu upowszechnienia tej informacji wśród adwokatów.

Z wyrazami szacunku,

Justyna Chrzanowska

Pełnomocnik

2 Załączniki: jw.

Electronic filing by applicants¹

I. Scope of application

1. After the communication of a case, applicants who have opted to file pleadings electronically shall send all written communications with the Court by using the Court's Electronic Communications Service (ECS) and shall accept written communications sent to them by the Registry of the Court by means of ECS, with the following exceptions:

(a) all written communications in relation to a request for interim measures under Rule 39 of the Rules of Court shall be sent only by fax or post;

(b) attachments, such as plans, manuals, etc., that may not be comprehensively viewed in an electronic format may be filed by post;

(c) the Court's Registry may request that a paper document or attachment be submitted by post.

2. If an applicant has filed a document by post or fax, he or she shall, as soon as possible, file electronically a notice of filing by post or fax, describing the document sent, stating the date of dispatch and setting forth the reasons why electronic filing was not possible.

II. Technical requirements

3. Applicants shall possess the necessary technical equipment and follow the user manual sent to them by the Court's Registry.

III. Format and naming convention

4. A document filed electronically shall be in PDF format, preferably in searchable PDF.

5. Unsigned letters and written pleadings shall not be accepted. Signed documents to be filed electronically shall be generated by scanning the original paper copy. Applicants shall keep the original paper copy in their files.

6. The name of a document filed electronically shall be prefixed by the application number, followed by the name of the applicant as spelled in Latin script by the Registry of the Court, and contain an indication of the contents of the document².

IV. Relevant date with regard to time limits

7. The date on which an applicant has successfully filed the document electronically with the Court shall be considered as the date, based on Strasbourg time, of dispatch within the meaning of Rule 38 § 2 or the date of filing for the purposes of Rule 73 § 1.

8. To facilitate keeping track of the correspondence exchanged and to ensure compliance with the time limits set by the Court, the applicant should regularly check his or her e-mail account and ECS account.

V. Different versions of one and the same document

9. The ECS shall not permit the modification, replacement or deletion of a filed document. If the need arises for the applicant to modify a document he or she has filed, they shall create a new document named differently (for example, by adding the word "modified" in the document name).

1. Issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 29 September 2014. This practice direction will become operational in 2015 on a date to be decided following a test phase.

2. The following is an example: 65051/01 Karagoyozov Observ Adm Merits.

This opportunity should only be used where genuinely necessary and should not be used to correct minor errors.

10. Where an applicant has filed more than one version of the same document, only the document filed in time shall be taken into consideration. Where more than one version has been filed in time, the latest version shall be taken into consideration, unless the President of the Chamber decides otherwise.

Written pleadings¹

I. Filing of pleadings

General

1. A pleading must be filed with the Registry within the time-limit fixed in accordance with Rule 38 of the Rules of Court and in the manner described in paragraph 2 of that Rule.
2. The date on which a pleading or other document is received at the Court's Registry will be recorded on that document by a receipt stamp.
3. With the exception of pleadings and documents for which a system of electronic filing has been set up (see the relevant practice directions), all other pleadings, as well as all documents annexed thereto, should be submitted to the Court's Registry in three copies sent by post or in one copy by fax², followed by three copies sent by post.
4. Pleadings or other documents submitted by electronic mail shall not be accepted.
5. Secret documents should be filed by registered post.
6. Unsolicited pleadings shall not be admitted to the case file unless the President of the Chamber decides otherwise (see Rule 38 § 1).

Filing by fax

7. A party may file pleadings or other documents with the Court by sending them by fax.
8. The name of the person signing a pleading must also be printed on it so that he or she can be identified.

Electronic filing

9. The Court may authorise the Government of a Contracting Party or, after the communication of an application, an applicant to file pleadings and other documents electronically. In such cases, the practice direction on written pleadings shall apply in conjunction with the practice directions on electronic filing.

II. Form and contents

Form

10. A pleading should include:
 - (a) the application number and the name of the case;
 - (b) a title indicating the nature of the content (e.g., observations on admissibility [and the merits]; reply to the Government's/the applicant's observations on admissibility [and the merits]; observations on the merits; additional observations on admissibility [and the merits]; memorial etc.).
11. In addition, a pleading should normally:
 - (a) be in an A4 page format having a margin of not less than 3.5 cm wide;

1. Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 1 November 2003 and amended on 22 September 2008 and 29 September 2014.

2. Fax no. +33 (0)3 88 41 27 30; other fax numbers can be found on the Court's website (www.echr.coe.int).

- (b) be typed and wholly legible, the text appearing in at least 12 pt in the body and 10 pt in the footnotes, with one-and-a-half line spacing;
- (c) have all numbers expressed as figures;
- (d) have pages numbered consecutively;
- (e) be divided into numbered paragraphs;
- (f) be divided into chapters and/or headings corresponding to the form and style of the Court's decisions and judgments ("Facts"/"Domestic law [and practice]"/"Complaints"/"Law"; the latter chapter should be followed by headings entitled "Preliminary objection on ...", "Alleged violation of Article ...", as the case may be);
- (g) place any answer to a question by the Court or to the other party's arguments under a separate heading;
- (h) give a reference to every document or piece of evidence mentioned in the pleading and annexed thereto;
- (i) if sent by post, have its text printed on one side of the page only and pages and attachments placed together in such a way as to enable them to be easily separated (they must not be glued or stapled).

12. If a pleading exceptionally exceeds thirty pages, a short summary should also be filed with it.

13. Where a party produces documents and/or other exhibits together with a pleading, every piece of evidence should be listed in a separate annex.

Contents

14. The parties' pleadings following communication of the application should include:

- (a) any comments they wish to make on the facts of the case; however,
 - (i) if a party does not contest the facts as set out in the statement of facts prepared by the Registry, it should limit its observations to a brief statement to that effect;
 - (ii) if a party contests only part of the facts as set out by the Registry, or wishes to supplement them, it should limit its observations to those specific points;
 - (iii) if a party objects to the facts or part of the facts as presented by the other party, it should state clearly which facts are uncontested and limit its observations to the points in dispute;
- (b) legal arguments relating firstly to admissibility and, secondly, to the merits of the case; however,
 - (i) if specific questions on a factual or legal point were put to a party, it should, without prejudice to Rule 55, limit its arguments to such questions;
 - (ii) if a pleading replies to arguments of the other party, submissions should refer to the specific arguments in the order prescribed above.

15. (a) The parties' pleadings following the admission of the application should include:

- (i) a short statement confirming a party's position on the facts of the case as established in the decision on admissibility;
 - (ii) legal arguments relating to the merits of the case;
 - (iii) a reply to any specific questions on a factual or legal point put by the Court.
- (b) An applicant party submitting claims for just satisfaction at the same time should do so in the manner described in the practice direction on filing just satisfaction claims.

16. In view of the confidentiality of friendly-settlement proceedings (see Article 39 § 2 of the Convention and Rule 62 § 2), all submissions and documents filed as part of the attempt to secure a friendly settlement should be submitted separately from the written pleadings.

17. No reference to offers, concessions or other statements submitted in connection with the friendly settlement may be made in the pleadings filed in the contentious proceedings.

III. Time-limits

General

18. It is the responsibility of each party to ensure that pleadings and any accompanying documents or evidence are delivered to the Court's Registry in time.

Extension of time-limits

19. A time-limit set under Rule 38 may be extended on request from a party.

20. A party seeking an extension of the time allowed for submission of a pleading must make a request as soon as it has become aware of the circumstances justifying such an extension and, in any event, before the expiry of the time-limit. It should state the reason for the delay.

21. If an extension is granted, it shall apply to all parties for which the relevant time-limit is running, including those which have not asked for it.

IV. Failure to comply with requirements for pleadings

22. Where a pleading has not been filed in accordance with the requirements set out in paragraphs 8 to 15 of this practice direction, the President of the Chamber may request the party concerned to resubmit the pleading in compliance with those requirements.

23. A failure to satisfy the conditions listed above may result in the pleading being considered not to have been properly lodged (see Rule 38 § 1).

