



## Information to applicants: Procedure following communication of an application - non-contentious phase

### Notification of an application to the respondent Government

Following a preliminary examination of the admissibility of your application, the Court has decided, under Rule 54 § 2 (b) of its Rules, that the Government should be given notice of the application and that they should be invited to submit written observations on the admissibility and merits of the whole case or of one or more of the complaints you have raised. If a partial decision has been adopted declaring the remainder of the application inadmissible, the examination of this/these complaint(s) is thereby terminated and you should not file any further submissions on this part of the application.

### 1. Non-contentious phase

#### a. Legal representation and legal aid

According to Rule 36 §§ 2 and 4, an applicant needs to be represented by an “advocate” before the Court at this stage of the proceedings, unless the Court decides otherwise. If you have any difficulties in finding an advocate, your local or national bar association may be able to assist you. If you have insufficient means to pay for legal representation, it is open to you to apply for legal aid under the Court’s legal-aid scheme (Rules 105 et seq.). Legal aid is, however, usually only granted in cases involving complex issues of fact and law and not in cases of a repetitive nature. Moreover, payments made under the Court’s legal-aid scheme consist of a lump sum which is to be regarded as a contribution towards the costs of legal representation. Lastly, the fact that legal aid is granted does not mean that the Court will designate a representative for the applicant. Finding and choosing a representative is the applicant’s responsibility.

During the non-contentious phase you may request self-representation. Any such request will be submitted to the President for consideration (Rule 36 § 2 *in fine*).

#### b. Friendly settlements

##### - If a declaration has been sent to you

In the light of the case-law and practice of the Court, it appears that this case could be settled if the parties accepted the terms of the enclosed declaration and, in particular, if the Government made a payment to the applicant(s) to cover any damage, together with any costs and expenses incurred.

You are invited to inform the Registry of the Court within twelve weeks whether you accept this proposal. If so, you are invited to return the enclosed declaration, duly dated and signed. A letter in the same terms has been sent to the Government and you will find enclosed a copy of the draft declaration sent to them.

##### - If no declaration has been sent to you

Both parties have been requested to indicate within twelve weeks their position regarding a friendly settlement of your case and to submit any proposals they may wish to make in this regard (Rule 62). If the parties are interested in reaching a settlement, the Registry would be prepared to make a suggestion for the terms of the settlement. Should the Government submit any such proposals, you will have the possibility to comment on them. There is a requirement of strict confidentiality in respect

of friendly-settlement negotiations under Rule 62 § 2, and any proposals or submissions in this regard should be set out in a separate document, the content of which must not be referred to in any submissions made in the context of the main proceedings.

**c. Unilateral declaration**

In principle, should the negotiations with a view to a friendly settlement prove unsuccessful, the Government have the option of submitting a unilateral declaration. Where the Government submit a unilateral declaration the Court will decide, in accordance with Article 37 § 1 (c) of the Convention, whether it is justified to continue the examination of the application. If the applicant agrees to the terms of the unilateral declaration the Court will examine the case under the friendly-settlement procedure.

**2. Contentious phase**

If the parties do not settle the case by the above date, the contentious phase will start, in which case the applicant will be required to be represented by an “advocate” before the Court, in accordance with Rule 36 §§ 2 and 4. As in the non-contentious phase, self-representation can be explicitly requested also at this stage of the proceedings. Any such request will be submitted to the President for consideration.