

# BÜLTEN/BULLETIN

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## European Court of Human Rights Individual Application Process

Turkey ratified the European Convention on Human Rights on May 14, 1954, and on January 28, 1987, it provided the opportunity to apply to the European Court of Human Rights in cases of violations of rights and freedoms arising from the Convention and its additional protocols. The individual application procedure enables individuals to have their fundamental rights and freedoms judicially protected.

Anyone who believes that their rights, as set out in the European Convention on Human Rights ("ECHR") and its Additional Protocols, have been violated by one of the countries that have signed the Convention, can submit an application to the European Court of Human Rights.

### Scope of Individual Application to the European Court of Human Rights

Individuals, both natural and legal persons, who believe that their fundamental rights and freedoms arising from the ECHR and its Additional Protocols have been violated, are granted the right to apply to the European Court of Human Rights (ECtHR). It is not a requirement for the individual making the application to be a citizen of the state against which the complaint is lodged. It is sufficient for the state in question to be a party to the ECHR. The condition of the applicant being a citizen of a state party to the ECHR is not stipulated. Furthermore, non-governmental organizations and groups of individuals such as religious communities, trade unions, and political parties also have the right to apply to the ECtHR.

The rights protected by the European Convention on Human Rights (ECHR) and its Additional Protocols are listed below. The rights established in the Additional Protocols can only be invoked against the states that have signed and ratified those protocols.

### Rights Protected by the European Convention on Human Rights

- Obligation to respect human rights,
- Right to live,
- Prohibition of torture and ill-treatment
- Prohibition of slavery and forced labor
- Right to personal security and liberty
- Right to a fair trial
- Principle of no punishment without law
- Right to respect for private and family life
- Freedom of thought, conscience, and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry
- Right to an effective legal remedy
- Prohibition of discrimination.

### Rights Protected by Protocol No.1

- Right to the protection of property
- Right to education
- Right to free elections.

### Rights Protected by Protocol No.4

- Right to freedom from imprisonment for debt
- Right to freedom of movement
- Prohibition of deportation of nationals
- Prohibition of Collective Expulsion of Aliens.

### Rights Protected by Protocol No.6

- Abolition of the Death Penalty

### Rights Protected by Protocol No.7

- Procedural safeguards relating to the expulsion of aliens
- Right to a two-tiered trial in criminal matters
- Right to compensation in case of judicial errors
- Right not to be tried or punished twice for the same offense
- Equality between spouses

### Rights Protected by Protocol No.12

- Prohibition of Discrimination in General

## Application Procedure to the European Court of Human Rights

According to Article 35 of the ECHR, the applicant is required to exhaust domestic remedies and submit an application to the ECtHR within 4 months following the date of the final decision. The 4-month period starts from the date of the final decision in the domestic remedies. Additionally, unsigned applications and applications that concern the same facts as a case already decided by a court or another international judicial body, without presenting new and distinct circumstances, are rejected.

The application should be made in accordance with the procedural rules and general principles set out in the ECHR and its Additional Protocols. While the official languages of the ECtHR are English and French, everyone has the right to make their application in their own language. However, after the application stage, the Court conducts correspondence in one of its official languages, as selected by the parties involved.

In order to make an application to the European Court of Human Rights (ECtHR), the application form must be completed and signed, and if the application is made through a representative, the power of attorney document, prepared in the format determined by the court, must be signed by the applicant and the representative. The application form should include the attached documents and court decisions in chronological order, with each document numbered accordingly. The individual application form and its accompanying documents should be placed in an envelope without being stapled or punched, and sent to the following address of the European Court of Human Rights by registered mail with acknowledgment of receipt:



**Address: "Cour Européenne des Droits de L'Homme, Conseil de L'Europe, F-67075 Strasbourg-Cedex/France, Telephone: +33(0)3 88 41 20 18, Fax: +33 (0)3 88 41 27 30"**

According to Article 47 of the Rules of Procedure of the European Court of Human Rights, the application should include the following information:

- Name, date of birth, nationality, gender, profession, and address of the applicant.
- Name, profession, and address of the representative, if applicable.
- The contracting Party or Parties against whom the applicant has lodged the application.
- A summary description of the facts.
- A brief explanation of the alleged violations of the Convention and relevant evidence.
- A brief explanation that the applicant has complied with the admissibility conditions set forth in Article 35(1) of the Convention.
- The applicant's just satisfaction claims in accordance with Article 41 of the Convention, outlining the subject matter and main points of the case.
- All relevant documents, especially judicial decisions and other relevant examples of decisions related to the case.

### **Decision to be Rendered by the European Court of Human Rights**

Decisions rendered by the European Court of Human Rights do not have the nature of an appellate review and do not provide for the annulment or alteration of national court decisions. The judgments delivered by the ECtHR concern the determination of whether there has been a violation of the ECHR. In case of finding a violation, the State Parties are required to take necessary measures to implement the court's judgments. Within the scope of the State Party's responsibility under international law, three obligations arise. These are the obligation to cease the wrongful act, the obligation to provide compensation, and the obligation to prevent similar violations.

Based on its examination, the European Court of Human Rights can render the following decisions:

- Decision of No Violation of Rights,
- Decision of Violation of Rights,
- Decision of Compensation.

If the European Court of Human Rights concludes that the member state has violated the fundamental rights and freedoms of the applicant, it will render a compensation decision aimed at satisfying the applicant. The determined compensations in the ECHR's decision will be requested through a petition sent to the Human Rights Department under the Ministry of Justice, after the decision becomes final. If requested, the awarded compensations will be deposited into the bank account specified by the applicant in their petition within three months.

## CONCLUSION

The European Court of Human Rights is an international institution established in 1959 for the purpose of protecting fundamental rights and freedoms at the international level. It possesses a significant scope of protection in terms of human rights violations committed by the countries that are parties to the European Convention on Human Rights and its Additional Protocols.

Due to the importance of procedural requirements as much as the substance of the applications, the application procedures must be carried out in accordance with the relevant provisions of the Convention. Even if the arguments are substantively acceptable, they can be rejected if they do not meet the formal requirements and criteria required by the legislation. Therefore, it is essential to meticulously follow and comply with the formal requirements of the applications.