

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (94) 8

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING THE PRACTICAL APPLICATION OF THE EUROPEAN AGREEMENT ON THE TRANSMISSION OF APPLICATIONS FOR LEGAL AID

*(Adopted by the Committee of Ministers on 8 September 1994
at the 516th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to the European Agreement on the Transmission of Applications for Legal Aid, done at Strasbourg on 27 January 1977 (hereinafter referred to as "the Agreement");

Considering that it is desirable to remove existing obstacles to civil proceedings abroad and to permit persons in an economically weak position more easily to exercise their rights in member states;

Believing that a large number of ratifications to the Agreement would contribute to the attainment of this aim;

Having regard to the problems caused in the practical application of the Agreement by the use of different forms of applications for legal aid in the member states;

Considering that further measures may be taken by governments to ensure that applicants are given real access to justice,

Recommends that governments of member states:

- a. sign and ratify the Agreement as soon as possible, if they have not already done so;
- b. use the form contained in Appendix I to this recommendation when transmitting an application for legal aid to a Party to the Agreement and, wherever possible, accept the form when it receives it from another Party;
- c. ensure that central authorities assist applicants to complete the application form contained in Appendix I and any legal aid form required by the country concerned, if necessary;
- d. complete and send the form contained in Appendix II to the transmitting authority immediately upon acknowledgement of receipt of an application;
- e. if requested by the transmitting authority, report on the progress of the application;
- f. if appropriate, inform the court or the authority concerned of all matters relating to applications for legal aid;
- g. if appropriate, provide information to enable the applicant to contact a lawyer;
- h. translate the form contained in Appendix I and send a copy of the translation to the Secretary General of the Council of Europe who will ensure that a copy is sent to all central authorities designated under the Agreement;
- i. provide, whenever possible, a lawyer who speaks a language which the applicant understands;

- j. where necessary, consider introducing procedures whereby applications for legal aid may be dealt with rapidly in urgent matters;
- k. in urgent matters, accept applications by using modern means of telecommunications such as telefax and informing, by using any appropriate means, the court or authority concerned with the proceedings that an application for legal aid will be made.

Appendix I to Recommendation No. R (94) 8

*Application form for legal aid abroad
for use when making an application under the European Agreement
on Transmission of Applications for Legal Aid (European Treaty Series No. 92)*

Questions 1 to 5 of this form should be completed and returned to¹

.....
.....

(the transmitting authority). When this form has been completed, it will be sent by the transmitting authority to the country where you are seeking legal aid.

1. Information relating to the applicant:

a. Surname/identity or corporate name (if a legal person)

b. Forenames

c. Address (if not your habitual residence, please also give the address of your habitual residence).....

.....
.....

d. Occupation

e. Nationality/seat (if a legal person)

.....
.....

f. Civil status (married, divorced, single, cohabitation)

.....
.....

g. Dependants (children or other persons supported by you).....

.....
.....

h. Languages understood by you

2. Information relating to the other party (if you have this information):

a. Surname/identity or corporate name (if a legal person)

b. Forenames

c. Address

.....
.....

1. Before giving this form to applicants the transmitting authority should insert its name and address here.

- d. Occupation
- e. Nationality/seat (if a legal person)
3. Information relating to the proceedings abroad:
- a. Is the case pending before a court abroad?
- If so, give, if known:
- i. the reference number of the case
- ii. the dates of the hearing
- iii. the name and address of this court
-
-
- b. Who instituted the legal proceedings?
- c. Have you already instructed a lawyer in this country or abroad? (if so indicate his/her name, address and telephone and fax numbers)
-
-
-
- d. If you have not instructed a lawyer abroad do you wish, in those countries where this is possible,¹ to appoint your own lawyer or to receive assistance from the legal aid office or the court abroad to help you to make such an appointment?
- e. If the proceedings concern a decision which has already been given by a judicial authority (for example appeal, opposition, enforcement of a decision) specify:
- i. the name and place of the judicial authority
-
-
- ii. the date of the decision
- iii. the date you received the decision
- Please attach a copy of the decision to this application form**
- f. Give the background details to the case, and explain briefly why you are bringing or defending the claim. What are the other party's reasons for bringing or defending the claim? Please make a summary of the facts, if necessary in a separate document. **Please submit copies of any documents relevant to the legal proceedings**
-
-
-
-
-
- g. Give brief information concerning the nature of the proceedings (for example the amount claimed by you or the other party, divorce or administrative proceedings, etc.)
-
-

1. In some countries legally aided persons must be assisted by a lawyer chosen by the appropriate body.

4. Financial situation of the applicant:

N.B. If the country to which you are applying for legal aid requires you, in addition to this application form, to complete its own application form for legal aid and advice please do not complete part 4 of this form.

When part 4 is completed, it is essential that documentary evidence be annexed to this application (statement of income, debts, tax return, etc.)

A. Income of applicant and spouse/partner (indicate whether monthly or yearly amounts are given)

- i. salary
- ii. unemployment and social security benefits
- iii. pensions
- iv. maintenance rights (from whom, what amount?)
- v. other income from whatever source (for example from other work, unearned income such as rent, income from capital, etc.)

B. a. Expenses of applicant and spouse/partner (indicate whether monthly or yearly amounts are given)

- i. for home (for example rent, mortgage or repayment of credit, etc.)
- ii. other expenses (for example dependants, maintenance payments, etc.)
- iii. debts (kind of debt, instalments, amount)

b. Are any of these expenses deductible for tax purposes? Which ones?

C. Capital of applicant and spouse/partner

- i. immovable property (for example house or flat)
- ii. other property (for example bank account, shares, etc.)

D. Do you have any other possible alternative funding, including insurance cover, which might cover the expenses, or part of them, relating to the proceedings? If so, please give details and attach copies of any relevant documentation.

5. Declaration:

I certify that the information contained in this form is true and accurate¹

- a. date
- b. place
- c. signature of the applicant

6. Information to be given by the transmitting authority:

- a. registration number of applicant
- b. person dealing with application in the transmitting authority (name, address and telephone and fax numbers)

¹ Please note that false or incomplete statements may lead to disadvantages for the applicant (for example loss of legal aid, penalties, civil liability, criminal sanctions).

Appendix II to Recommendation No. R (94) 8

*Form for acknowledgement of receipt of an application
under the European Agreement on the Transmission of Applications for Legal Aids (ETS No. 92)
(to be returned by the central receiving authority)*

From the central receiving authority of (insert the name of your country)

To the transmitting authority of (insert the name of the transmitting authority)

I acknowledge receipt of your application, reference no., dated
This application is being considered here under reference no.

For further information regarding this application please contact (name, address, telephone, fax and telex
numbers)
.....

(If appropriate) The file has been/will be sent to (for example the Legal Aid Office) (name, address, telephone,
fax and telex numbers)
.....

Date

Place

Signature and/or stamp of the requested authority
.....