

ECtHR: New rule on Highly Sensitive Documents

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News

On 30 October 2023, a new version of the Rules of Court, introducing [Rule 44F on treatment of highly sensitive documents](#), entered into force. Rule 33 § 1 on public character of documents was amended accordingly. The purpose of the new rule is to establish a specific regime for the handling of highly sensitive documents, which require special treatment: either because the State party considers it necessary for reasons of national security or because an applicant does for other equally compelling reasons.

On the one hand, the new rule should alleviate concerns that might prevent a party from submitting such documents to the ECtHR; on the other, it should enable the Court to find appropriate counterbalancing measures or to draw adverse inferences if such documents cannot be disclosed to another party or the public, should the information be necessary in order to conclude a given case.

[Rule 44F](#) sets out how the Court should treat such specific requests, in particular by having them examined by a Committee of three judges who are not part of the Chamber dealing with the admissibility and/or merits of the case. The aim is to resolve the matter by cooperative means in a most pragmatic way, in order to provide the Chamber with essential information to decide on the admissibility and/or merits of a case while ensuring respect for the adversarial principle.

Rule 33 § 1, which covers the public character of documents, was amended to reflect the new Rule 44F.

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