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EUROPEAN COURT OF HUMAN RIGHTS

FLASH NEWS

05/26

OVERVIEW FROM 16/7 TO 30/9

TR / KAVALA v. TÜRKİYE (No 2) [GC]

Right to a fair trial – Deprivation of liberty – Failure to exhaust domestic remedies – Criminal conviction with no prospect of release or review of sentence – Persistent failure to comply with binding judgments of the European Court of Human Rights – Admissibility

Infringements of Articles 10 (freedom of expression) and 11 (freedom of assembly and association), Article 6 § 1 (right to a fair trial) in respect of the complaints concerning the independence and impartiality of the court, the fairness of the proceedings and restrictions on the rights of defence, and Article 5 § 1 (right to liberty and security), Article 18 (limitations on the use of restrictions on rights) read in conjunction with Articles 5 § 1, 6 § 1, 10 and 11 of the ECHR, as well as Article 3 (prohibition of inhuman and degrading treatment) of the ECHR in respect of the complaint concerning the absence of a mechanism for reviewing the sentence of aggravated life imprisonment.

The judgement concerns the continuous deprivation of liberty of the applicant, Mr Kavala, who was suspected of attempting to overthrow the government and the constitutional order.

The European Court of Human Rights (ECtHR) has ruled that the respondent State must, as a matter of urgency, ensure the applicant's release and that it is incumbent upon it to remedy the consequences of the measures taken against him. His criminal conviction must be regarded as null and void under the law of the Convention.

Having, in particular, noted the existence of a flagrant denial of justice in respect of Mr Kavala and found that the measures at issue were intended, in an undisclosed manner, to silence him, the ECtHR emphasised that this case illustrates a systemic problem, which forms part of a broader context characterised by the prosecution and detention of human rights defenders, political opponents and journalists on the basis of criminal offences whose scope is interpreted broadly. The infringements identified also highlight structural shortcomings affecting the guarantees of the judiciary's independence and impartiality, which may facilitate the exercise of direct or indirect influence by the executive over certain judicial decisions, particularly in cases with a sensitive political dimension.

Judgment of 25.8.2026 (application No 2170/24) (FR/EN)
Press release (FR/EN)
Legal summary (FR/EN)

NL / KUIJT v. NETHERLANDS [GC]

Right to a fair trial – Measures to ensure consistency in case-law – Participation of additional judges who are not members of the adjudicating panel – Failure to exhaust domestic remedies – Inadmissibility

Inadmissibility on the grounds of failure to exhaust domestic remedies and manifest lack of merit [Article 35(1) and (3)(a) of the ECHR].

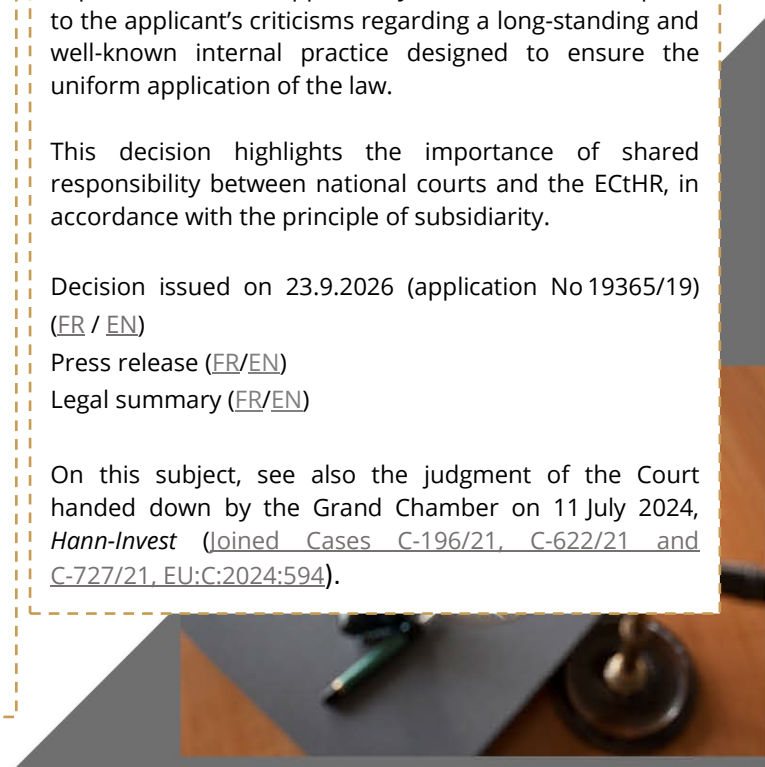
The case concerns a practice of the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) which allows judges from the criminal division who are not members of the adjudicating panel to which the case has been assigned to take part in the deliberations, without taking part in the vote. The aim of this practice is to ensure consistency in the interpretation and application of the law (*rechtseenheid*). The judges in question are known as *reservisten*. The applicant, Ms Kuijt, argued that this practice was incompatible with Article 6 (right to a fair trial) of the ECHR.

In its decision, the European Court of Human Rights (ECtHR), by a majority, declared the application inadmissible. It concluded that Ms Kuijt had a legal remedy available to her at national level which she could have used to pursue her claim, but which she did not do. It considers that it would have been important to give the Supreme Court the opportunity to examine and respond to the applicant's criticisms regarding a long-standing and well-known internal practice designed to ensure the uniform application of the law.

This decision highlights the importance of shared responsibility between national courts and the ECtHR, in accordance with the principle of subsidiarity.

Decision issued on 23.9.2026 (application No 19365/19) (FR / EN)
Press release (FR/EN)
Legal summary (FR/EN)

On this subject, see also the judgment of the Court handed down by the Grand Chamber on 11 July 2024, *Hann-Invest* (Joined Cases C-196/21, C-622/21 and C-727/21, EU:C:2024:594).



ADVISORY OPINION UNDER PROTOCOL No 16 TO THE ECHR [GC]

Advisory opinion – Proportionality of a fixed-rate tax penalty – Possibility of imposing a less severe penalty – Absence of an exhaustive list of criteria to be taken into account for the purposes of the proportionality analysis that could be applied in all circumstances – Prevention of disproportionate outcomes in the cases in question

On 29 September 2026, the European Court of Human Rights (ECtHR) issued its response to the request for an advisory opinion (No P16-2026-001) which the Supreme Court of Ukraine had submitted to it pursuant to Protocol No 16 to the European Convention on Human Rights.

The Ukrainian Supreme Court had asked the ECtHR to give an advisory opinion on how to apply the ECHR in the context of a company's challenge to a tax fine amounting to three times the value of its assets. It sought guidance on the criteria to be applied for the purposes of the proportionality test it was required to carry out in the case before it. It also asked whether a national court could decide not to impose a statutory fine for a breach of tax law – if that fine were disproportionate – and instead impose a lesser fine not provided for by law.

The opinion concerns Article 1 of Protocol No 1 to the ECHR, which protects the right to property. The ECtHR reiterated that this article requires any interference with the right to property to be lawful and to pursue a legitimate aim, and that States must ensure that their legal systems provide safeguards against any disproportionate regulation of the use of property in individual cases. Among the criteria that may be taken into account when assessing proportionality in a particular case are the choice of the means employed to achieve the intended objective and their suitability for that purpose, the impact of those means on the company concerned, and the company's conduct.

The ECtHR added that it is the legal framework as a whole that must provide the necessary safeguards to ensure proportionality, and that the specific arrangements are a matter for the State to decide. The ECHR does not prohibit automatic sanctions where they are proportionate; nor does it confer on domestic courts the power to adjust the amount of fines, nor does it require them to have such a power. Whether such a power exists is a matter for domestic law.

Opinion of 29.9.2026 (request No P16-2026-001) (FR/EN)
Press release (FR/EN)

NL / A.A. v. NETHERLANDS

Right to respect for private and family life – Family reunification – Refusal to grant residence permits to children born of polygamous marriages – Member States' margin of discretion

Non-infringement of Article 8 (right to respect for private and family life) of the ECHR.

The case concerns the Dutch authorities' rejection of the application for family reunification submitted by A.A. on behalf of his children, born to his second and third wives in Yemen, on the specific grounds that polygamy is prohibited in the Netherlands.

A.A. had chosen to have his first marriage recognised under Dutch law, and the application for family reunification with his first wife and their eight children was granted, but rejected in the case of the five children from his marriages to his other wives.

Had he divorced his second and third wives, he would have found himself in a different position under Dutch law as regards his right to respect for his family life with his five children from those marriages. The decision to maintain the three marriages was taken by A.A. and his family, on the understanding that his children from his second and third marriages would face difficulties with regard to immigration.

The European Court of Human Rights (ECtHR) states that the fact that polygamy is prohibited in all Member States of the Council of Europe reflects a strong European consensus on this issue. In these circumstances, the ECtHR considers that Member States have considerable discretion in deciding whether or not to grant the right to family reunification to fathers and their children from polygamous marriages.

The ECtHR ruled, in particular, that the Dutch authorities' assessment had struck a fair balance between the applicant's interests and those of the State.

It emphasised the close link between immigration policy and public-order considerations, and pointed out that, when formulating an immigration policy that takes family ties into account, the State cannot be required to recognise polygamous marriages that conflict with its own legal system.

Judgment of 8.9.2026 (application No 7481/23) (EN)
Press release (FR/EN)