COURT OF JUSTICE OF THE EUROPEAN UNION
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EUROPEAN COURT OF HUMAN RIGHTS

FLASH NEWS

06/26

OVERVIEW FROM 1/10 TO 30/10

RO / PUŞCAŞU AND OTHERS v. ROMANIA

Right to a fair trial – Protection of property – Incomplete enforcement of domestic judgments – Suspension and delay in the payment of allowances to judges for reasons linked to the need to reduce the budget deficit – Powers of the legislative and executive branches of Member States

Inadmissibility of the application on the grounds that it is manifestly unfounded [Article 35 §§ 3(a) and 4 of the ECHR].

The case concerns the failure to fully enforce court judgments ordering the Romanian State to pay the applicants – who are serving and former judges – various sums of money by way of compensation for salaries deemed to be discriminatory in comparison with those of other categories of magistrates and civil servants.

The European Court of Human Rights (ECtHR) points out that it is not the role of the national court to take the place of the competent national authorities in matters of fiscal and economic policy, as the setting of spending priorities and the allocation of public resources fall within the remit of the executive and legislative branches, which enjoy a wide margin of discretion in this regard.

The ECtHR first reaffirms that the State cannot invoke a lack of funds or other resources as a reason for failing to honour a debt arising from a court judgment. However, it considers that this case relates to exceptional circumstances and the economic and budgetary constraints faced by the authorities in a difficult economic climate.

In these circumstances, and having regard also to the applicants' particular situation, the ECtHR cannot conclude, despite the considerable length of time taken in the present cases, that the failure to fully enforce the contested judgments has undermined the very substance of the applicants' right to have court judgments enforced or has imposed an excessive individual burden on them.

See also, in this regard, the judgment of the Court of 5 June 2025, Curtea de Apel București (Abolition of severance payment made to judges upon retirement) (C-762/23, EU:C:2025:400).

Decision notified on 22 October 2026 (application No 2598/24) (FR)
Press release (FR/EN)

HU / RÉKA KISS AND OTHERS v. HUNGARY

Freedom of assembly and association – Measures originally linked to the management of the COVID-19 pandemic – Statutory requirement for a minimum service in the state education sector in the event of a strike – Exceeding the margin of discretion

Infringement of Article 11 (freedom of assembly and association) of the ECHR.

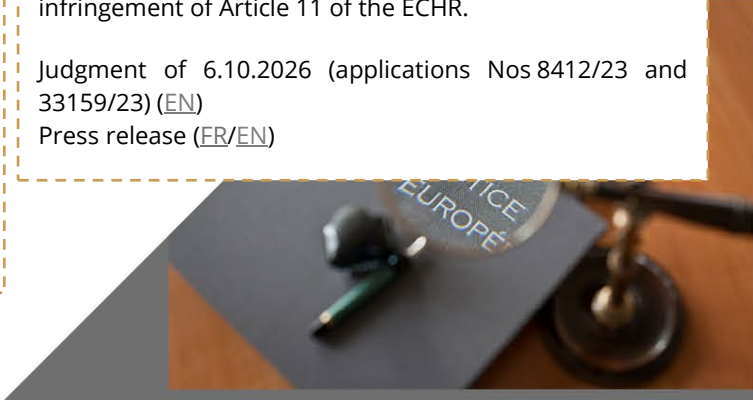
The case concerns the applicants' complaints against a law passed in May 2022, which was originally intended to address the alleged difficulties faced by the state education system as a result of the COVID-19 pandemic, but certain provisions of which, in their view, disproportionately broadened the scope of the minimum service requirement during strikes, thereby making any strike impossible.

The European Court of Human Rights (ECtHR) held that, whilst state education is undoubtedly an important public service in the public interest, the introduction of an obligation to provide a minimum service in the event of a strike in this sector is not, in itself, contrary to the principles of freedom of assembly and association guaranteed by Article 11 of the European Convention on Human Rights.

However, it found that the statutory restrictions on teachers' right to strike – applicable for an indefinite period and in the absence of grounds justifying the relevance and necessity of these rules, in particular the obligation to maintain a high standard of minimum services – constituted a disproportionate infringement of that freedom.

The ECtHR also noted that the severity of the disciplinary sanctions that could be imposed was such as to deter trade unions, their members and any other person from taking part in collective action, and therefore found an infringement of Article 11 of the ECHR.

Judgment of 6.10.2026 (applications Nos 8412/23 and 33159/23) (EN)
Press release (FR/EN)



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

Advisory opinion – Right to a fair trial – Obligation of lawyers to appear in person before disciplinary bodies – Inability to be represented in the event of failure to appear – Consequences

On 20 October 2026, the European Court of Human Rights (ECtHR) issued its response to the request for an advisory opinion (P16-2026-002) which the Constitutional Court of the Grand Duchy of Luxembourg had submitted to it pursuant to Protocol No 16 to the European Convention on Human Rights.

The request concerns the compatibility with Article 6 (right to a fair trial) of the ECHR of the obligation on a lawyer facing disciplinary proceedings to appear in person at the hearing before the disciplinary body and, failing that, the inability to be represented and to challenge a conviction handed down in absentia (Article 26 of the Act of 10 August 1991).

It was put forward in the context of proceedings in which a former member of the Luxembourg Bar was banned for life from practising as a lawyer by the Luxembourg disciplinary authorities.

The ECtHR states that the right to a fair trial does not, in principle, preclude national legislation from requiring a lawyer facing disciplinary proceedings to appear in person before the competent disciplinary body.

However, where the person concerned does not appear in person, the disciplinary body may not, as a matter of principle, refuse to hear the authorised representative's explanations regarding the reasons for the person concerned's absence, in order to be able to assess whether that absence is such as to constitute an unequivocal waiver of the right to defend oneself or an attempt to evade disciplinary proceedings.

Where domestic law combines, on the one hand, the impossibility of being represented before the disciplinary appeal body and, on the other hand, the absence of a procedure for challenging the decision that would allow for an adversarial review of the case – without it having been established that the person facing disciplinary proceedings has unequivocally waived their right to defend themselves or that they have sought to evade disciplinary justice – the combination of these restrictions is likely to upset the fair balance between the legitimate aims pursued by the legislature and the requirements of the right to a fair trial.

Opinion of 20.10.2026 (request No P16-2026-002) (FR/EN)
Press release (FR/EN)

REQUEST FOR AN ADVISORY OPINION UNDER PROTOCOL No 16 TO THE ECHR

Request for an advisory opinion – Review in defavorem – Mechanism for reviewing a final acquittal in a murder case – DNA analysis results obtained using techniques that did not exist at the time of the trial

On 15 October 2026, the European Court of Human Rights (ECtHR) accepted a request for an advisory opinion (No P16-2026-004) which the Supreme Court of the Netherlands had submitted to it on 3 September 2026 pursuant to Protocol No 16 to the European Convention on Human Rights. This request concerns legislation that came into force in the Netherlands in 2013, which allows for a review to be sought, to the detriment of a defendant who has been acquitted, of their acquittal once it has become final (review *in defavorem*).

In 2025, the Dutch Board of Public Prosecutors requested a review of the acquittal of a person who had been charged with murder, on the basis of the results of a DNA analysis carried out using techniques that did not exist at the time of the trial. The purpose of this request for review is the retroactive application of the relevant provisions of the Code of Criminal Procedure, which were amended and came into force after the person concerned was acquitted in 2012.

In its request, the Supreme Court of the Netherlands asks the ECtHR for its opinion on whether Article 6 (right to a fair trial) and/or Article 7 (no punishment without law) of the ECHR permit the retroactive application of a statutory scheme providing for the possibility of reopening criminal proceedings against a defendant who has been definitively acquitted, to the detriment of that defendant.

Press release (FR/EN)