



# Portugal

## Ratified the European Convention on Human Rights in 1978

### National Judge: Ana Maria Guerra Martins

[Judges' CVs](#) are available on the ECHR Internet site

Previous Judges: João de Deus Pinheiro Farinha (1977-1991), Manuel António Lopes Rocha (1991-1998), Ireneu Cabral Barreto (1998-2011), Paulo Pinto De Albuquerque (2011-2020)

[List of judges of the Court since 1959](#)

The Court dealt with 133 applications concerning Portugal in 2019, of which 122 were declared inadmissible or struck out. It delivered 9 judgments (concerning 11 applications), 8 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2018	2019	2020*
Applications allocated to a judicial formation	149	188	130
Communicated to the Government	22	51	1
Applications decided:	140	133	80
- Declared inadmissible or struck out (Single Judge)	112	109	54
- Declared inadmissible or struck out (Committee)	18	12	19
- Declared inadmissible or struck out (Chamber)	1	1	1
- Decided by judgment	9	11	6

\* January to July 2020

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#). Statistics on interim measures can be found [here](#).

Applications pending before the court on 03/07/2020	
Total pending Applications*	324
Applications pending before a judicial formation:	263
Single Judge	18
Committee (3 Judges)	214
Chamber (7 Judges)	31
Grand Chamber (17 Judges)	0

\*including applications for which completed application forms have not yet been received

## Portugal and ...

### The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **626** Registry staff members.

## Noteworthy cases, judgments and decisions delivered

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### Grand Chamber

#### Cases regarding the right to life (Article 2)

##### Lopes de Sousa Fernandes v. Portugal

19.12.2017

The case concerned the death of Mr Fernandes, the husband of Ms Lopes de Sousa Fernandes, following a series of medical problems that arose after a routine operation.

No violation of the substantive limb of Article 2

Violation of the procedural limb of Article 2

##### Fernandes de Oliveira v. Portugal

31.01.2019

The case concerned the suicide of the applicant's adult son while he was a voluntary inpatient at a psychiatric hospital and the civil proceedings for damages the applicant, his mother, pursued following his death.

No violation of the substantive limb of Article 2 related to the measures to protect the life of a voluntary psychiatric inpatient who committed suicide

Violation of the procedural limb of Article 2 owing to the length of subsequent domestic compensation proceedings

#### Cases regarding article 6

##### Moreira Ferreira v. Portugal (no. 2)

11.07.2017

The case concerned the rejection by the Supreme Court of a request lodged by the applicant for revision of a criminal judgment following a judgment delivered by the European Court of Human Rights on 5 July 2011.

No violation of Article 6 § 1 (right to a fair trial)

##### Ramos Nunes de Carvalho e Sá v. Portugal

06.11.2018

The case concerned disciplinary proceedings brought against a judge, resulting in the imposition of disciplinary

penalties by the High Council of the Judiciary (CSM), and the review conducted by the Supreme Court on appeal.

No violation of Article 6 § 1 with regard to the complaint alleging a lack of independence and impartiality on the part of the Judicial Division of the Supreme Court

Violation of Article 6 § 1 (right to a fair trial) on account of the shortcomings in the conduct of the proceedings against the applicant

The Court declared that, as the applicant had not complied with the six-month time-limit, the Court was unable to examine on the merits the complaint alleging a lack of independence and impartiality on the part of the CSM.

The Court also declared that the applicant's complaint concerning Article 6 § 3 (a) and (b) (right to be informed in detail of the accusation against her and to have adequate time and facilities for the preparation of her defence) was inadmissible.

#### Protection of property cases (Article 1 of Protocol No. 1)

##### Anheuser-Busch Inc. v. Portugal

11.01.2007

The applicant company, based in the United States, produces Budweiser beer and exports it internationally. It complained that it was unable to market its beer in Portugal, since the designation Budweiser was reserved for a Czech company distributing its own beer under that name.

No violation of Article 1 of Protocol No. 1 (protection of property)

##### Perdigão v. Portugal

16.11.2010

The court fees which the applicants had to pay in expropriation proceedings were higher than the amount of compensation awarded to them.

Violation of Article 1 of Protocol No. 1 (protection of property)

## Noteworthy cases, judgments and decisions delivered

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### Chamber

### Right to life cases (Article 2)

#### [Soares Campos v. Portugal](#)

14.01.2020

The case concerned the death of Mr Soares Campos's son, who was swept out to sea while taking part on a beach in a gathering linked to *Praxe* (a student tradition that includes hazing activities). Mr Soares Campos alleged that his son's death had been caused by the lack of a legal framework regulating hazing activities at Portuguese universities, and complained that the investigation into the circumstances of his son's death had been ineffective.

[Violation of the procedural aspect of Article 2](#)

[No violation of the substantive aspect of Article 2](#)

### Conditions of detention (Article 3)

#### [Petrescu v. Portugal](#)

03.12.2019

Inadequate conditions of detention in Portuguese prisons.

[Several violations of Article 3 on account of the applicant's conditions of detention in two prisons in Portugal between 2012 and 2016](#)

[In the light of the conditions in which Mr Petrescu had been held in the Lisbon police prison and in Pinheiro da Cruz Prison, the Court found that he had been subjected to degrading treatment for 376 non-consecutive days and to inhuman and degrading treatment for several periods, lasting 385, 36 and 18 days.](#)

### Cases dealing with Article 5

#### [Fernandes Pedroso v. Portugal](#)

12.06.2018

The case concerned a criminal investigation into a paedophile ring, and in particular the pre-trial detention of a former Socialist Party MP, Mr Fernandes Pedroso, who had been suspected of having had sexual relations with minors accommodated by the Casa Pia institution, a public institution responsible for running schools, training centres and boarding schools for children and teenagers from deprived backgrounds.

[Violation of Article 5 §§ 1, 4 and 5 \(right to liberty and security of person / procedural](#)

[safeguards on review of the lawfulness of detention / right to compensation\)](#)

### Cases dealing with Article 6

#### [Right to a fair trial](#)

##### [Antunes Rocha v. Portugal](#)

31.05.2005

In 1994 the applicant signed a temporary employment contract with the National Council for Emergency Civil Planning (CNPCE). She complained in particular that she had been investigated without her knowledge or consent.

[Violation of Article 6 § 1 and Article 8 \(right to respect for private and family life\)](#)

##### [Moreira Ferreira v. Portugal](#)

05.07.2011

Relying in particular on Article 6 § 1 (right to a fair trial), Ms Moreira Ferreira complained that she had not been heard by the Oporto Court of Appeal in criminal proceedings brought against her for threats and insults, resulting in a sentence of 265 hours of community service.

[Violation of Article 6 § 1](#)

##### [Ferreira Santos Pardal v. Portugal](#)

30.07.2015

The case concerned the dismissal of an action for civil liability brought by the applicant against the State, a dismissal which was contrary to the Supreme Court's settled case-law in the matter.

[Violation of Article 6 § 1](#)

##### [Ramos Nunes de Carvalho E Sá v. Portugal and Tato Marinho Dos Santos Costa Alves Dos Santos and Figueiredo v. Portugal](#)

21.06.2016

The cases concerned disciplinary proceedings brought against three judges on conclusion of which the High Council of the Judiciary (HCJ) imposed disciplinary penalties, and the review carried out by the Supreme Court of Justice as an appeal body.

[Violation of Article 6 § 1](#)

##### [Correia de Matos v. Portugal](#)

04.04.2018

The case concerned the criminal proceedings against the applicant, a lawyer by training, for insulting a judge, and the fact that he was not permitted to conduct his own defence in those proceedings

because the domestic courts required him to be represented by a lawyer.

No violation of Article 6 §§ 1 and 3 (c)

**Paixão Moreira Sá Fernandes v. Portugal**

25.02.2020

The case concerned the applicant's conviction for recording a conversation with a businessman who was offering him money to ensure that his brother, a Lisbon City Councillor, would withdraw his opposition to a contract that the businessman wished to conclude with the City Council.

Violation of Article 6 § 1

Right to a fair trial/right to examine witnesses

**Pereira Cruz and Others v. Portugal**

26.06.2018

The case concerned the existence of a paedophile ring at the Casa Pia, a public institution responsible for the education of children from deprived backgrounds.

With regard to Mr Carlos Pereira Cruz and Mr João Alberto Ferreira Diniz, no violation of Article 6 §§ 1 and 3 (d) on account of the inability to cross-examine the victims on the content of their statements during the investigation

With regard to Mr João Alberto Ferreira Diniz, Mr Jorge Marques Leitão Ritto and Mr Manuel José Abrantes, no violation of Article 6 §§ 1 and 3 (a) and (b) on account of amendments to the facts alleged against them

With regard to Mr Carlos Pereira Cruz, violation of Article 6 §§ 1 and 3 (d) owing to the refusal by the Lisbon Court of Appeal to admit evidence in his favour in the appeal proceedings

Right to a fair hearing within a reasonable time

**Flores Cardoso v. Portugal**

29.05.2012

The case concerned repayment by the State of a sum of money which the applicants had deposited with the Portuguese consulate in Mozambique when leaving the former Portuguese colony following the outbreak of civil war in 1976. The situation apparently concerns some 3,000 people. Mr Flores Cardoso complained that no account was taken of the depreciation in currency or of inflation when the money was repaid to him.

Violation of Article 6 § 1

No violation of Article 1 of Protocol No. 1 (protection of property).

**Valada Matos Das Neves v. Portugal**

29.10.2015

Excessive length of domestic proceedings brought by the applicant to challenge the termination of his contract of employment, and the lack of an effective remedy to provide redress on that account.

Violation of Article 6 § 1

Violation of Article 13 (right to an effective remedy)

Right of access to a court

**Lacerda Gouveia and Others v. Portugal**

01.03.2011

"Camarate case" - concerning death of then Prime Minister and Minister of Defence in a plane crash.

No violation of Article 6 § 1 (the Portuguese courts were not negligent)

**Dos Santos Calado and Others v. Portugal**

31.03.2020

The cases concerned Portuguese nationals who complained about their appeals to the Constitutional Court being declared inadmissible. Applications nos. 55997/14 and 68143/16 also concerned the alleged lack of impartiality of the three-judge committee of the Constitutional Court.

Violation of Article 6 § 1 with regard to applications nos. 55997/14 and 68143/16

No violation of Article 6 § 1 with regard to application no. 78841/16

Presumption of innocence

**Melo Tadeu v. Portugal**

23.10.2014

Violation of Article 6 § 2

Violation of Article 1 of Protocol No. 1 (protection of property)

**Cases dealing with private and/or family life (Article 8)**

**Dore v. Portugal and Karoussiotis v. Portugal**

01.02.2011

Proceedings concerning international child abduction ineffective.

Violation of Article 8 in each case

**Santos Nunes v. Portugal**

22.05.2012

The case concerned the enforcement of a decision granting Mr Santos Nunes custody of his child, whom the mother had placed in the care of another couple.

[Violation of Article 8](#)

**Sérvulo & Associados - Sociedade de Advogados, RI v. Portugal**

03.09.2015

The case concerned the search of a law firm's offices and the seizure of computer files and email messages, during an investigation into suspected corruption, acquisition of prohibited interests and money laundering in connection with the purchase by the Portuguese Government of two submarines from a German consortium.

[No violation of Article 8](#)

**Brito Ferrinho Bexiga Villa-Nova v. Portugal**

01.12.2015

The case concerned access to the bank accounts of a lawyer charged with tax fraud.

[Violation of Article 8](#)

**Soares de Melo v. Portugal**

16.02.2016

The case concerned an order for seven of Ms Soares de Melo's children to be taken into care with a view to their adoption, and its enforcement in respect of six of them.

[Violation of Article 8](#)

**Freedom of expression cases  
(Article 10)**

**Lopes Gomes da Silva v. Portugal**

28.09.2000

Conviction of the manager of the daily newspaper *Público* for libel.

[Violation of Article 10](#)

**Colaço Mestre and SIC – Sociedade Independente de Comunicação S.A. v. Portugal**

26.04.2007

A journalist and a television channel were convicted of libel following a criminal complaint by the President of the Portuguese Professional Football League and chairman of FC Porto football club.

[Violation of Article 10](#)

**Women on Waves and Others v. Portugal**

03.02.2009

The applicants are associations which had chartered a ship for the purpose of holding information meetings on matters including abortion. The ship was banned from entering Portuguese territorial waters by a ministerial order and its entry was blocked by a Portuguese warship.

[Violation of Article 10](#)

**Campos Dâmaso v. Portugal and Laranjeira Marques da Silva v. Portugal**

24.04.2008 and 19.01.2010

Journalists convicted of offences including breaching the secrecy of judicial investigations (*segredo de justiça*).

[Violation of Article 10 in each case.](#)

**Público - Comunicação Social, S.A. and Others v. Portugal**

07.12.2010

Award of damages against Público newspaper for harming the reputation of "Sporting Clube de Portugal".

[Violation of Article 10](#)

**Barata Monteiro da Costa Noqueira and Patrício Pereira v. Portugal**

11.01.2011

Conviction of politicians who publicly accused an opponent of serious criminal conduct.

[No violation of Article 10](#)

**Conceição Letria v. Portugal**

12.04.2011

Conviction of journalist Joaquim Letria for defamation of a politician.

[Violation of Article 10](#)

**Pinto Coelho v. Portugal**

28.06.2011

Automatic application of publication ban.

[Violation of Article 10](#)

**Almeida Leitão Bento Fernandes v. Portugal**

12.03.2015

The case concerned the criminal conviction of Ms Fernandes for libelling a number of her in-laws, following publication of a novel relating family dramas in the context of the Portuguese diaspora in the United States and the colonial war.

[No violation of Article 10](#)

**Pinto Coelho v. Portugal**

22.03.2016

The case concerned the criminal-law fine imposed on Ms Pinto Coelho, a journalist,



for having broadcast in a news report excerpts which included sound recordings from a court hearing, obtained without permission from the judge.

[Violation of Article 10](#)

#### [Pais Pires de Lima v. Portugal](#)

12.02.2019

The case concerned a complaint alleging a breach of freedom of expression following a civil judgment ordering a lawyer to pay damages to a judge whose personal and professional honour and reputation he had attacked.

[Violation of Article 10](#)

#### [Antunes Emídio v. Portugal and Soares Gomes da Cruz v. Portugal](#)

24.09.2019

The case concerned two men, a journalist and a doctor, who were convicted of defaming politicians, fined and ordered to pay compensation.

[Violation of Article 10](#)

#### [L.P. and Carvalho v. Portugal](#) (nos. 24845/13 and 49103/15)

08.10.2019

The case concerned findings of liability against two lawyers for defamation (L.P.) and for attacking a person's honour (Mr Carvalho) in respect of two judges, on account of documents drawn up by the lawyers in their capacity as representatives.

[Violation de l'article 10](#)

#### **Case concerning discrimination (Article 14)**

#### [Carvalho Pinto de Sousa Morais v. Portugal](#)

25.07.2017

The case concerned a decision of the Supreme Administrative Court to reduce the amount of compensation awarded to the applicant, a 50-year-old woman suffering from gynaecological complications, as a result of a medical error.

[Violation of Article 14 read together with Article 8 \(right to respect for private and family life\)](#)

#### **Cases dealing with property issues (Article 1 of Protocol No. 1)**

#### [Almeida Garrett, Mascarenhas Falcão and Others v. Portugal](#)

11.01.2000

The case concerned the expropriation and nationalisation of land as part of the agrarian reform implemented in Portugal after the 1974 revolution. The applicants received interim compensation in the form of Government bonds, but had yet to receive final compensation by the time of the Court's judgment.

[Violation of Article 1 of Protocol No. 1](#)

#### **Noteworthy cases, decisions delivered**

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#### [P. v. Portugal](#) (no. 56027/09)

06.09.2011

At birth, the applicant was registered as male. On reaching adulthood, she underwent gender reassignment treatment followed by surgery. She complained of the lack of legal recognition of her situation, coupled with the alleged absence of any legislation on the matter. **First case of its kind concerning Portugal.** Her request for legal recognition to the domestic courts was successful.

[Application struck out of the Court's list of cases.](#)

#### [Da Conceição Mateus v. Portugal and Santos Januário v. Portugal](#)

08.10.2013

The cases concerned the payment of the applicants' public sector pensions, which were reduced in 2012 as a result of cuts to Portuguese government spending. The Court examined the compatibility of the reductions of the applicants' pension payments with Article 1 of Protocol No.1 (protection of property).

[Applications declared inadmissible as manifestly ill-founded.](#)

#### [da Silva Carvalho Rico v. Portugal](#)

24.09.2015

The case concerned the reduction of retirement pensions following austerity measures taken in Portugal, in particular the extraordinary solidarity contribution ("CES").

[Application declared inadmissible as manifestly ill-founded.](#)

## Noteworthy pending cases

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### Chamber

#### **Brandão Freitas Lobato v. Portugal (no. 14296/14)**

Case [communicated](#) to the Government on 23 June 2015

The case concerns the former head of the Ministry of Justice and her detention in East Timor following criminal proceedings brought against her in 2008 on charges of corruption, wrongful management, abuse of power and forgeries, and forgery of two public contracts.

The applicant relies on Article 5 (right to liberty and security), 6 (right to a fair trial within a reasonable time), 7 (no punishment without law) and 8 (right to private life) of the Convention.

#### **Conditions of detention**

Pending applications: Turturica v. Portugal (no. 32561/17) and 23 other applications

#### **Freedom of expression cases (Article 10)**

#### **Patrício Monteiro Telo de Abreu v. Portugal (no. 42713/15)**

Case [communicated](#) to the Government on 1 December 2017

The case concerns the applicant's criminal conviction for defamation subsequent to a publication in his blog.

#### **Freitas Rangel v. Portugal (no. 78873/13)**

Case [communicated](#) to the Government on 29 November 2017

The case concerns the applicant's criminal conviction for offending a legal person on account of statements made by him about the Trade Union Association of Judges and the Trade Union of Public Prosecutors during a session of Parliament's Ethics, Society and Culture Committee in which he gave his views on the topic of freedom of expression in Portugal in view of his experience as a journalist.

#### **Nóbrega v. Portugal (no. 24955/15)**

Case [communicated](#) to the Government on 29 November 2017

The case concerns disciplinary proceedings against the applicant, who was a trade unionist, following statements he made to the media about other disciplinary proceedings lodged against him.

Other pending applications on Article 10: SIC - Sociedade Independente de Comunicação v. Portugal (no. 29856/13), Marques dos Reis v. Portugal (no. 61177/14), and Welsh and Silva Canha v. Portugal (no. 2) (no. 58106/15)

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**ECHR Press Unit Contact:  
+33 (0)3 90 21 42 08**