



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

**Official visit by a delegation
of the Federal Constitutional Court of Germany**

Welcome address by Mattias Guyomar

Strasbourg, 12 March 2026

*Dear President, Prof. Dr. Harbarth, dear Stephan,
Distinguished members of the Federal Constitutional Court,
Dear Judges of the Court,
Dear Registrars,
Dear Colleagues,*

On behalf of all the judges present, I warmly welcome you to Strasbourg. It is a real pleasure to welcome your distinguished delegation to our Human Rights Building.

Prof. Dr Harbarth, it is such a pleasure to have you with us again. Thank you once more for your presence at the Opening of our Judicial Year, for your inspiring speech and our discussions both formally and informally.

Let me also thank Vice-President Bårdsen, *dear Arnfinn*; Judge Chanturia, President of Section IV, *dear Lado*; Judge Šimáčková, President of Section V, *dear Kateřina*, for taking part and presiding over today's meeting, as well as Judge Seibert-Fohr, *dear Anja*, for having played such an active role in putting together our programme.

We have an interesting and varied programme, with discussions on the right to freedom of religion and the autonomy of religious communities; the treatment of persons with mental health problems; and the freedom of expression in the digital age.

Let me also thank Judges Bormann and Rădulețu, *dear Anne Louise, dear Sebastian*, as well as Justices of the Federal Constitutional Court of Germany: Prof. Dr. Langenfeld, Spinner, Härtel and Dr Frank, for leading in today's discussions.

This year, your court marks its 75th anniversary. You have taken the initiative of school visits to talk to young people about the role of constitutions, courts and the rule of law - while sharing cake.¹ This is inspiring. As you know, we also celebrated the 75 years of the European Convention of Human Rights end of last year, and we tried a similar initiative with the young students from a Strasbourg High School who were invited to the Court to act out one of our old cases on corporal punishment. This

¹ [Bundesverfassungsgericht - Homepage - 'Project Birthday Cake'](#), [Bundesverfassungsgericht - Homepage - Series of school visits on the occasion of the Federal Constitutional Court's 75th anniversary starts in Bremen](#)

year we are pursuing an idea similar to yours by organising an event called “Ask a Judge” to allow young people to put questions to our Judges. And some of our Judges (e.g., *Judge Šimáčková*) have also been doing that kind of outreach work in their own countries.

We need celebrations to give us hope and motivation for our work. On behalf of all the judges of the Court, please accept our best wishes to your court for the years ahead.

As constitutional court judges, you are our privileged interlocutors. Subsidiarity means that domestic courts, including supreme and constitutional courts, have the primary responsibility to interpret, secure and implement the rights and freedoms set out in the European Convention. Subsidiarity means that human rights complaints are most effectively dealt with “at home”. Our Court exercises subsidiary supervision, once the domestic remedies have been exhausted, to protect the core, fundamental standards that apply across all 46 member States. This shared responsibility for applying the Convention is really the driving force of the system. It makes us all ‘judges of the Convention’.

Shared responsibility is grounded in mutual understanding and trust – qualities that are best fostered through constant dialogue.

There is, first and foremost, the vital dialogue of case-law between our Court and the national courts, and primarily superior constitutional courts such as yours: through judgments and our Knowledge Sharing platform.

I wish to also mention here advisory opinions under Protocol No. 16, already adopted by 26 States. Germany has not yet done so, but I hope it will, as our experience has shown this to be a particularly useful way of strengthening our judicial dialogue with superior courts. Only last week, our Grand Chamber issued an Advisory Opinion in response to a question from Ukraine’s Supreme Court about an issue related to a conflict within a religious community. I note that this touches on one of the topics of today’s discussions.

Another prime example of institutional cooperation is the Court’s Superior Courts Network. Of it 112 members, no less than six (6) are from Germany: the Federal Court of Justice; the Federal Administrative, Fiscal, Labour, and Social Courts; and, of course, since 2020 – your court. *Justices Prof. Dr. Langenfeld* and *Prof. Dr. Härtel* are our Focal Points in the Network, and I also wish to greet our regular contact *Ms Nina Prötzel*.

This institutional cooperation works best when it is reinforced by strong personal connections. That is why visits by delegations such as yours are so important to us. Organic ties that bind us together should be constantly nurtured. I am pleased to note that we have had plenty of opportunities to do so recently.

In January, we received the Federal Minister of Justice and a great friend of our Court, Dr Stefanie Hubig, who underlined Germany’s commitment to the Court and the Convention system.

The same month, a delegation from the German Federal Bar (*Bundesrechtsanwaltskammer*), led by its Vice-President, Dr. Christian Lemke, visited the Court.

As I already mentioned, *President Harbarth* honoured us with his keynote speech at our Opening of the Judicial Year.

Finally, last November, accompanied by Judge Seibert-Fohr, I visited Berlin for official meetings and to give a speech at a conference organised by Germany's Ministry of Justice. I emphasised the Convention's character as a "constitutional instrument of European public order".

In September, our German-speaking judges will be in Liechtenstein for another useful forum of exchange with German-speaking superior Court judges.

This brings me from our institutional and inter-personal dialogue to the dialogue of our case-law.

In this regard, and as I explained in Berlin, I wish to emphasise the nature of the Convention system as being decentralised, ground-up.

The Strasbourg Court acts as a **constitutional court of human rights** in charge of protecting the **European public order**.

At the same time, the European public order **embraces national constitutional identities**. The Convention, as its Preamble reminds us, draws its substance and inspiration from the political and legal traditions of the member States.

National courts, such as your court, adjudicate disputes by reflecting the specific historical, social, and legal context of their respective countries while remaining faithful to the Convention's principles. The Court, meanwhile, intervenes only once it is its turn to do so, and grounds its work in **judicial pragmatism**, that is: the ability to interpret the Convention in context. It deliberately incorporates national legal traditions and the case-law of national constitutional courts into its own decisions, avoiding divergent approaches to the greatest extent possible.

This is also a reflection of the Court's margin of appreciation doctrine. As *President Harbarth* mentioned himself during the Opening of our Judicial Year "*The margin of appreciation doctrine (...) can and should allow for a temporal and context-dependent variation of the level of scrutiny through which difficulties for the abilities of states to act can also be taken into account.*".

There is, after all, no single, uniform way of protecting human rights. Many different but equally legitimate solutions may be compatible with the Convention².

Concretely, this pragmatic approach of our Court can be seen, for example, in the case of *Savickis and Others v. Latvia* (GC, 2022)³, which concerned the issue of pensions in respect of employment completed in Soviet times. Finding no violation of the Convention, the Court relied on the Latvian Constitutional Court's reasoning grounded in the protection of Latvia's constitutional principles and historical context⁴.

Similarly, our Court has acknowledged the review done by your court in its Grand Chamber case *Von Maltzan and others* [GC, dec.] (71916/01 71917/01 10260/02, 2 March 2005), which concerned land claims arising after German reunification. The Court held that when a State seeks to redress the consequences of acts that are "incompatible with the principles of a democratic regime

² Declaration of the High-Level Conference meeting in Copenhagen at the initiative of the Danish Chairmanship of the Committee of Ministers of the Council of Europe, 12-13 April 2018, §28(c).

³ *Savickis and Others v. Latvia* [GC], n.º 49270/11, 9 June 2022.

⁴ *Ibid*, §198.

(...), it has a wide margin of appreciation”, recognising in this way that the consequences of Germany’s reunification called for a context-sensitive assessment.

Respect for constitutional identities was also clearly visible in the French case *S.A.S v. France* (GC, 2014)⁵, concerning a ban on wearing full-face veil coverings in public. In this case, the Court emphasised that respect for the French concept of “*living together*”⁶ was a legitimate aim for the measure at issue. It also emphasised the State’s role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs, issues that will be among the topics which you will be discussing today.

In that case, the Court acknowledged that “*national authorities have direct democratic legitimation and are, in principle, better placed than an international court to evaluate local needs and conditions*”⁷. This recognition is particularly important in cases raising complex moral, ethical, and societal questions where there is no clear European consensus.

Recently, a similar approach could be seen in our judgment of *Humpert and Others v. Germany* (GC, 2023)⁸ which concerned teachers sanctioned for having gone on strike. Here, the Grand Chamber found no violation of Article 11, taking into consideration the solid and convincing justifications for the restrictions as presented by the national authorities and reflected in the extensive assessment of the case, carried out previously by your court.

All this leads me to conclude that the level of protection of human rights offered by the Strasbourg Court and by the German Federal Constitutional Court are largely equivalent. This is because, thanks to the member States’ common heritage and shared commitment to peace and justice, constitutional identities are already incorporated in the Convention. To quote a 2021 order of your court, “[t]he fundamental rights of the Basic Law [and] the guarantees of the European Convention on Human Rights (...) are **rooted** primarily in **common constitutional traditions** of the Member States and are thus a manifestation of **common** European and universal values.”⁵ (Second Senate, 2 BvR 206/14).

Before I conclude, I would like to say a word on a matter that concerns me greatly.

Today, more than ever, we need to stand together. In this time of rising attacks on multilateralism and international law, and challenges to the rule of law and judicial independence, we need **judicial unity and solidarity**.

Both President Harbarth and I have spoken about this in our speeches at the Opening of the Court’s Judicial Year and I was glad to see that our messages were very much aligned.

⁵ *S.A.S. v. France* [GC], n.º 4385/11, 1 July 2014.

⁶ *Ibid.*, §153.

⁷ *S.A.S. v. France* [GC], *supra* n.º 38, §129.

⁸ *Humpert and Others v. Germany* [GC], n.º 59433/18 and 3 others, 14 December 2023.

We need unity that translates into **protection and mutual assistance**. Not just to protect our physical integrity and dignity, but also to protect judicial independence, both institutional and individual, as an essential guarantee of the rule of law. Because without judges, there is no rule of law.

This is why, for example, a week ago, a group of judges from our Court were in The Hague to meet and show solidarity with the judges of the International Criminal Court, subject to international sanctions.

Finally, we need judicial solidarity and unity because they are prerequisites for the integrity of our judicial mission, for the benefit of all people.

Dear Guests,

Dear Colleagues,

Once again, I would like to thank you for coming to the Court and giving us the opportunity to meet you, to talk, and to build and strengthen our dialogue and trust.

In-person meetings like the one today bring us closer together.

Let me now hand over to President Prof. Dr. Harbarth.