



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

Official visit by the Presidents of the Courts of Appeal of Portugal

Opening words by Mattias Guyomar

Strasbourg, 19 March 2026

Dear Presidents,

Distinguished members of the Courts of Appeal of Portugal,

Dear Judges of the Court, dear Registrars, dear Colleagues,

On behalf of the judges of the European Court of Human Rights, I warmly welcome your delegation to Strasbourg and the Human Rights Building.

It is a pleasure to host you today.

We have a rich programme, with discussions on freedom of expression and defamation, and on the Case-law of the ECtHR on the rights of the child.

Let me thank very warmly your 'national judge', Ana Maria Guerra Martins, *dear Ana Maria*, for your commitment and your help in putting together the programme of the visit. Let me also thank Section President Chanturia and Judge Schembri Orland, *dear Lado, dear Lorraine*, as well as the Presidents of the Portuguese Courts of Appeal: *Judge Igreja Matos* and *Judge Pedroso*, for taking the lead in today's thematic discussions.

Allow me to immediately focus on the question of **subsidiarity** and the role of national courts, like the Courts of Appeal in Portugal. Domestic court judges – *you* – are our privileged interlocutors. Subsidiarity means that domestic courts, have the primary responsibility to interpret, secure and implement the rights and freedoms set out in the European Convention. Our Court exercises subsidiary supervision, once the domestic remedies have been exhausted. This shared responsibility is really the driving force of the Convention system. We are all 'Convention judges'.

The practical application of shared responsibility is based on mutual understanding, partnership, and trust. These qualities 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 notably superior courts: through judgments, advisory opinions, and our Knowledge Sharing platform.

In addition to 'dialogue through judgments', the principle of shared responsibility finds its expression in the institutional cooperation between courts. A prime example of such judicial dialogue is our Superior Courts Network, which today has 112 members – including, Portugal's top 3 courts:

the Supreme Court; the Constitutional Court; and most recently the Court of Auditors having joined in 2023.

From the Court's judicial perspective, Portugal is not a country with many cases.

However, challenges in some areas remain and as of today we have more than 1 000 cases pending against Portugal. Many of these, around 944, are cases concerning poor conditions of detentions and overcrowding in prisons. There are two ECtHR Chamber judgments and one decision on this issue:

- the leading case is [Petrescu](#) adopted in 2019 which mainly addresses the issue of the remedy (preventive and compensatory) concluding there is no effective remedy for addressing or repairing the poor conditions of detention of an inmate (see § 84);

- this was followed by [Badulescu](#) which concerns the detention of an inmate in a overcrowded prison (the prison of Porto)- this is thus the case about overcrowding (see §§ 30-32);

and

- [Bokor](#) is a decision which concludes the application is manifestly ill-founded: the applicant had been detained in a cell with more than 4 m² and he had not substantiate his allegations about the severity of his conditions of detention to prove they had reached the severity required to fall within Article 3

A fully effective follow up to these judgments is called for, in order to resolve the issues at the root of the problem, and prevent similar applications coming to this Court.

You are also probably aware that the Court continues to receive a number of applications against Portugal in which a breach of Article 10 concerning **freedom of expression** is alleged; where criminal sanctions have been imposed due to statements deemed defamatory. These type of cases amount to around 27% of those pending in what we call categories IV and V, that is to say that the Court's case law is established in this area but there are nonetheless potentially well-founded cases pending before it.

Indeed, there have been many decisions of the Court in Portuguese cases on this topic over the years, such as *Lopes Gomes da Silva* which dates back in the late 1990s. However, we still see judgments from domestic courts which fail to balance the conflicting rights or adopt decisions with a chilling effect on the freedom of expression.

The programme of the visit also includes a presentation about the rights of the child, this is due to the fact that there are some important judgments on this issue in cases against Portugal: for example [Maire](#), [Soares de Melo](#) and the last one [Neves Caratão](#).

Again, these elements only go to show how useful and pertinent your discussions today will be.

I open the perspective now beyond Portugal, and to the work of the Court more generally.

I want to note that last year, through the collective commitment of our judges and the Registry under Registrar Marialena Tsirli, and Deputy Registrar Abel Campos, our Court also managed to reduce its backlog of pending cases by 11%, down to 53,450, the lowest stock in 20 years.

Backlogs and length of proceedings are, of course, also a major concern for our Court, and this is why I have made efficiency one of the priorities of my Presidency for the coming years.

Justice is also about responsibility. This is to show that we are a Court for everyone, a Court for all.

It is an essential corollary of judicial independence.

To conclude, I wish to share with you that I very much look forward to paying an official visit to Lisboa on the occasion of the 50th anniversary of the ratification of the European Convention on

Human Rights by Portugal. It is emblematic of the “shared responsibility” between national authorities, notably domestic judges and the European Court.

At the end of last year, we marked the 75th anniversary of the European Convention of Human Rights at a solemn ceremony held at the Court.

Today, we are in an entirely different reality. The Convention system, the values that underpin it, and the rights that it protects, are openly called into question. International law is being broken apart before our eyes. A growing narrative challenges the rule of law and pits judges against democracy.

This type of narrative endangers the judicial decision-making process, exposing judges to an increased risk of harm.

That is why we need judicial unity and solidarity. I have made this call for unity the main theme of my speech at the solemn opening of the judicial year on 30 January.

We need judicial unity that translates into protection and mutual assistance.

As members of the judiciary, we should all stand together. For the sake of protecting judges’ integrity and dignity, this goes without saying. 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.

The Portuguese judiciary have a long history of working in support and solidarity with this Court. Today’s event is another excellent example of this dynamic.

I wish you all constructive discussions.