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

FOURTH SECTION

DECISION

Application no. 30596/22
Alexander Carlos ROCHA CARMELINO
against Portugal

The European Court of Human Rights (Fourth Section), sitting on 17 March 2026 as a Committee composed of:

Anja Seibert-Fohr*, President*,
Ana Maria Guerra Martins,
András Jakab*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 30596/22) against the Portuguese Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 17 June 2022 by a Portuguese national, Mr Alexander Carlos Rocha Carmelino ("the applicant"), who was born in 1993, lives in Sheffield, the United Kingdom, and was represented by Ms V. Costa Ramos, a lawyer practising in Lisbon;

the decision to give notice of the application to the Portuguese Government ("the Government"), represented by their Agents, Mr M. Aires Magriço, Public Prosecutor, and Ms H. de Carvalho Martins Leitão, Deputy Attorney General;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns criminal proceedings in which the applicant was tried and convicted *in absentia* for aggravated robbery. Relying on Article 6 §§ 1 and 3 (c) of the Convention, the applicant complained of the unfairness of the proceedings.

2. In August 2013 the applicant was questioned by the police and an investigating judge on the suspicion that he had committed several offences,

including an aggravated robbery. His house was searched and he was ordered to report at the relevant police station every two weeks, which he complied with until February 2014 (the measure was lifted in May 2014). He and M., a legal aid lawyer who was officially appointed to represent him, were informed that all notifications regarding the proceedings would be sent to his mother's address which he provided for that purpose by standard post with proof of delivery (*via postal simples com prova de depósito*), in accordance with the Code of Criminal Procedure. He was also instructed to inform the authorities of any change of address and notified that in case of non-compliance, his trial would be held *in absentia*.

3. All subsequent notifications in the proceedings regarding developments in the trial (bill of indictment, notification of the trial, the dates and place of the trial hearings and the date of the delivery of the judgment), together with a legal instruction on his procedural rights, were sent to the address he had provided. The Sintra Criminal Court (the trial court) received proof that all the letters had been deposited in the relevant mailbox and that M. had been notified of the same developments by registered post.

4. Following a trial which was held in the applicant's absence, but in the presence of M., on 22 September 2015 the trial court convicted the applicant of aggravated robbery and acquitted him of the remaining charges. He was sentenced to four years and six months' imprisonment. Subsequently, the domestic authorities established that the applicant had left for the United Kingdom in 2014 and that his address was unknown. As such, the trial court issued national, European and international arrest warrants in respect of the applicant.

5. On 23 February 2018 the applicant was arrested by the British authorities and detained for around two weeks. In 2021 he was notified by the British authorities, by means of a letter of request, of the trial court's judgment. Subsequently, the applicant, represented by lawyers of his own choosing, lodged an appeal seeking to submit evidence and to be heard; he claimed, *inter alia*, that his right to be present at the trial had been violated since he had never received the relevant notifications, and that the address included in the case file was not accurate.

6. In judgments of 26 October 2021 and 15 February 2022 the Lisbon Court of Appeal held that the applicant had been notified of the trial hearings in accordance with law and confirmed the assessment made by the trial court. A subsequent constitutional appeal lodged by the applicant was rejected.

7. Relying on Article 6 §§ 1 and 3 of the Convention, the applicant asserted that, by trying and convicting him *in absentia* without informing him in due time of the date and place of the trial, and by not granting him the right to a retrial or an appeal where he could be heard and submit evidence, the domestic courts had infringed his right to a fair trial. He further argued that he had not been properly notified of the hearings by the domestic courts as no efforts had been made to ensure that he was aware of the content of the

letters sent to him. The applicant also complained of the Court of Appeal's refusal to take into account his current conditions when reviewing his sentence.

THE COURT'S ASSESSMENT

8. The Court refers to the general principles with regard to trials *in absentia* and their relationship with the right to a fair trial, which have been summarised in *Sejdovic v. Italy* ([GC], no. 56581/00, §§ 81-95, ECHR 2006-II). It recalls that the States have wide discretion regarding the choice of means to ensure compliance with the requirements of Article 6 of the Convention. The Court's task is, therefore, to determine whether the result called for by the Convention has been achieved (ibid., § 83). Furthermore, what constitutes a fair trial depends on the circumstances of the particular case (see *O'Halloran and Francis v. the United Kingdom* [GC], nos. 15809/02 and 25624/02, § 53, ECHR 2007-III).

9. In the present case, the Court observes that the applicant was aware of the existence of criminal proceedings against him as he had been subject to a house search, arrested, questioned by the police and by an investigating judge, and subject to reporting obligations (see paragraph 2 above; compare *Vasile Rusu v. Romania*, no. 53021/20, § 64, 4 November 2025, and contrast *Sejdovic*, cited above, § 96). He was, moreover, informed of his procedural rights and duties and, specifically, of the possibility of being tried *in absentia* (see paragraph 2 above).

10. The Court notes that the Convention does not guarantee a right to a specific form of service of court documents (see *Vasile Rusu*, cited above, § 62). In this regard, the Court observes that letters notifying the applicant of developments in the case were repeatedly sent to the address he had provided to the authorities for that purpose (see paragraphs 2 and 3 above). Moreover, the domestic court received proof that all the letters sent to the applicant had been delivered (see paragraph 3 above).

11. The Court further notes that the applicant was subject to reporting obligations and to the duty to remain available to the authorities and to keep them informed of his address (see paragraph 2 above), but that he did not comply with those duties and obligations (see paragraphs 2 and 4 above).

It is thus apparent from the facts that the applicant was adequately informed of the obligations imposed on him within the criminal proceedings but did not make any effort to remain available to the authorities or to put himself in a position that would enable them to notify him at an address different from the one he had provided. The Court considers that the applicant, who knew that the proceedings against him were pending, could have expected that his failure to attend hearings would result in his being tried and convicted in his absence.

12. Furthermore, the Court observes that the applicant was represented by the same State-appointed lawyer during the entirety of the criminal proceedings. That lawyer was informed of all the developments in the proceedings and was present at the trial (see paragraphs 2, 3 and 4). There is no indication that the applicant was unable to contact the lawyer to obtain information, even after leaving the country. Furthermore, no issues regarding the quality of representation were raised by the applicant in the appeal lodged with the Lisbon Court of Appeal (see paragraph 5 above).

13. Lastly, no responsibility can be attributed to the authorities for not having made any additional efforts to otherwise notify the applicant of developments in the proceedings as the applicant had, by his own admission, left the country in 2014 without providing a new address.

14. In the light of the above, the applicant could reasonably have foreseen the consequences of his conduct and must be considered to have intentionally and unequivocally waived his rights under Article 6 of the Convention (see *Jones v. the United Kingdom* (dec.), no. 30900/02, 9 September 2003). In those circumstances, the applicant could not have expected the Court of Appeal, which reviewed the first-instance judgment on points of fact and law, to assess evidence *ex novo*.

Accordingly, having regard to the proceedings as a whole, the Court is satisfied that overall fairness was ensured (see *Beuze v. Belgium* [GC], no. 71409/10, §§ 120-22, 9 November 2018, and the references therein).

15. It follows that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 April 2026.

Simeon Petrovski Deputy Registrar	Anja Seibert-Fohr President