



European Court accepts request from Slovenia's Supreme Court for an advisory opinion concerning landowners' property rights in relation to the construction of national roads

The European Court of Human Rights has accepted a request (no. P16-2026-003) for an advisory opinion under Protocol No. 16 to the European Convention on Human Rights submitted by Slovenia's Supreme Court on 5 March 2026.

The request concerns a procedure that entitles the authorities to occupy a plot of land and to commence construction work, thereby effectively depriving a property owner of the use of their land, without first formally acquiring the property.

Under the Slovenian Construction Act, a building permit may be issued for certain roads of national importance merely on the basis of a decision to initiate expropriation proceedings, while the land is still under the ownership of another person.

In its request, Slovenia's Supreme Court has asked the European Court of Human Rights to provide guidance on whether allowing the issuance of a building permit and the construction of a motorway without first expropriating the affected land constitutes an unjustified interference with the landowners' property rights, as protected by Article 1 of Protocol No. 1 to the Convention and Article 33 of the Constitution of Slovenia.

The request was accepted¹ by a five-judge panel of the Grand Chamber on 11 May 2026. At this stage only the question of the admissibility of the request, as such, was decided by the Panel.

The advisory opinion requested will be provided by the Grand Chamber, comprising 17 judges, constituted in accordance with Rule 24 of the Rules of Court.

The time-limits that have been set for submissions in these proceedings are indicated below.

[Protocol No. 16](#) enables member States' highest national courts and tribunals to ask the Court to give advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the European Convention or its Protocols. The advisory opinions are not binding. The Court has delivered [eight advisory opinions](#) since Protocol No. 16 came into force on 1 August 2018. For more information see the [FAQ](#).

Background

Under the Slovenian Construction Act, as a general rule, a building permit may be issued only if the developer already holds a right to build on the land concerned – be it ownership, an appropriate easement, or another relevant right. However, an exception is made for the construction of certain roads of national importance, including motorways and expressways. For these national roads, a building permit may be issued merely on the basis of a decision to initiate expropriation proceedings, while the land is still under the ownership of another person.

¹ Where the panel accepts a request for an advisory opinion in accordance with Rule 93 of the [Rules of Court](#), a Grand Chamber shall be constituted pursuant to Rule 24 to consider the request and to deliver an advisory opinion.

Under the case-law of the Slovenian Constitutional Court, the issuance of a building permit constitutes an interference with the property rights of the owner of the land on which construction is planned and amounts to *de facto* expropriation.

Where a building permit is issued merely on the basis of a decision to initiate expropriation proceedings, the owners are entitled to financial compensation for the loss of enjoyment of their land from the commencement of construction works until the compensation for the expropriated land is finally determined.

Advisory opinion request

The advisory opinion is sought in the context of judicial review (administrative-dispute) proceedings pending before the Supreme Court following an appeal on points of law. The case concerns the question of whether allowing the issuance of a building permit and the construction of a motorway without first expropriating the affected land constitutes an unjustified interference with the landowners' property rights, as protected by Article 1 of Protocol No. 1 to the Convention and Article 33 of the Constitution of Slovenia.

The parties to the proceedings are the State, represented by the Ministry of Natural Resources and Spatial Planning, as the defendant, and four individuals, the co-owners of two plots of land over which a planned motorway is to run, as the plaintiffs. The third (interested) party in the proceedings is *Družba za avtoceste v Republiki Sloveniji* (DARS), a company whose founder and the sole shareholder is the Slovenian State, and which operates and maintains the national motorway and expressway network.

Question submitted in the advisory opinion request

"From the perspective of the protection afforded to the owner by Article 1 of Protocol No. 1, in the construction of state roads, is it always sufficient for the owner to receive monetary compensation for *de facto* expropriated property, or must he also be guaranteed protection against interference with his property until a final decision on expropriation has been made?"

Grand Chamber Panel decision

The request for an advisory opinion was introduced on 5 March 2026. It was accepted by the Panel of the Grand Chamber on 11 May 2026. At this stage only the question of the admissibility of the request, as such, was decided by the Panel. When the Panel accepts the request, a Grand Chamber is constituted in accordance with Rule 24 of the [Rules of Court](#) to deal with the request and to deliver the advisory opinion in due course.

Subsequent procedure and time-limits

Any other [Contracting Party](#) or any other interested person wishing to intervene as a third party in these proceedings (Rule 44 § 7) must request leave to do so by 8 June 2026. If leave is granted, the written observations must be filed with the Court by 23 June 2026 at the latest.

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Protocol No. 16 allows the highest courts and tribunals, as specified by the member States that have ratified it, to request advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the European Convention or its Protocols.

The aim of Protocol No. 16 is to enhance interaction between the Court and national authorities and thereby reinforce the implementation of Convention rights and freedoms by the requesting courts in their adjudication of pending cases.

An advisory opinion may only be sought in the context of a case pending before the requesting court. A panel of five judges decides whether to accept the request, giving reasons for any refusal.

Advisory opinions, which are given by the Grand Chamber, are not formally binding.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.