



Court accepts request from Luxembourg Constitutional Court for advisory opinion on obligation for lawyers to appear in person before disciplinary bodies, failing which they may not be represented by counsel or apply for fresh hearing after ruling against them

On 11 May 2026 the European Court of Human Rights accepted a request (no. P16-2026-002) for an advisory opinion submitted by the Constitutional Court of Luxembourg on 2 March 2026.

The request was submitted in the context of disciplinary proceedings brought against a former lawyer of the Luxembourg Bar. The individual in question was disbarred for life after failing to appear in person at her appeal hearing, thereby breaching section 26 of the Law of 10 August 1991 on the profession of lawyer, which governed the procedure before disciplinary bodies. Her counsel was not granted leave to represent her in her absence. As she failed to appear in person, a decision *in absentia* was delivered, with no possibility of applying for a fresh hearing, pursuant to the provisions of section 26 of the Law of 10 August 1991. The case is currently pending before the Luxembourg Court of Cassation, which referred a preliminary question to the Constitutional Court. The Constitutional Court has in turn requested an advisory opinion from the European Court.

The request concerns the compatibility with the provisions of the Convention, in particular Article 6 (right to a fair hearing), of the obligation for lawyers facing disciplinary proceedings to appear in person before a disciplinary tribunal and their impossibility of applying for a fresh hearing in the event of an *in absentia* decision against them. It will be examined by the Grand Chamber, comprising 17 judges, constituted in accordance with Rule 24 § 2 (g) of the Rules of Court.

This is the first request for an advisory opinion submitted by one of the highest courts in Luxembourg.

Facts

In May 2013 F.C., a lawyer, resigned from the Luxembourg Bar.

Subsequently, on an unspecified date, disciplinary proceedings were brought against her by the Bar Council for acts committed while she was still a member of the Bar.

In July 2023 she was disbarred for life *in absentia* by the Disciplinary and Administrative Board.

F.C. appealed to the Disciplinary and Administrative Board of Appeal (“the Appeals Board”). The hearing was set for 6 November 2024 after being adjourned five times, including twice at F.C.’s request.

On the day of the hearing F.C. did not appear in person before the Appeals Board. The Appeals Board refused to grant leave to her counsel to represent her in her absence and to put forward arguments in her defence. It based its decision on section 26 of the Law of 10 August 1991, which provided that “the accused lawyer [had to] appear in person. He or she [could] be assisted by a lawyer. Should he or she fail to appear, a decision *in absentia* [would] be delivered, with no possibility of applying for a fresh hearing”. The Appeals Board, ruling on the merits in F.C.’s absence, upheld the first-instance decision to disbar her for life.

F.C. appealed on points of law. She argued, in particular, that section 26 of the Law of 10 August 1991 was unconstitutional as it imposed a significant, unjustified restriction on her right to a fair hearing and on her defence rights.

On 16 October 2025 the Court of Cassation referred the following preliminary question to the Constitutional Court:

“Section 26, paragraph 11, of the Law of 10 August 1991 on the profession of lawyer lays down the disciplinary procedure before the Disciplinary and Administrative Board and the Disciplinary and Administrative Board of Appeal, in that it requires the accused lawyer or former lawyer to appear in person, without providing for any possibility of representation by a lawyer, and precludes any application for a fresh hearing in the event of failure to appear, regardless of the reason for such failure. Is that provision compatible with the right to a fair hearing and with the defence rights protected by Article 110 of the Constitution as applicable after July 2023 and by Article 12 of the Constitution as applicable before 1 July 2023?”

On 27 February 2026 the Constitutional Court decided to submit a request for an advisory opinion to the Court and to suspend its examination of the preliminary question while awaiting the reply.

Advisory opinion request

The questions asked in the request for an advisory opinion were worded as follows:

“A. Does the ECHR [European Convention on Human Rights] guarantee a professional facing proceedings before a disciplinary tribunal, not only the right to be assisted by counsel, but also the right to be represented by counsel?

B. Can the national legislature require a professional facing disciplinary proceedings to appear in person before a disciplinary tribunal, or does the obligation for a professional facing disciplinary proceedings to appear in person before the disciplinary tribunal infringe the rights guaranteed by the ECHR? Does the obligation for a professional facing disciplinary proceedings to appear in person before the disciplinary tribunal pursue a legitimate aim, in particular with regard to the nature of disciplinary proceedings and the requirements of disciplinary investigations, in that it makes it possible to ensure the presence of the professional before the disciplinary tribunal with a view to direct interaction with the disciplinary-tribunal members, to discipline the professional, to avoid failures to appear, to ensure efficient case resolution and the proper administration of justice and to prevent delaying tactics?

C. Does the delivery of a decision *in absentia* and the absence of any appeal against that decision on questions of both fact and law, whether those factors are taken together on their own or in conjunction with the obligation for a professional facing disciplinary proceedings to appear in person before the disciplinary tribunal and with the impossibility of being represented by counsel, infringe the rights guaranteed by the ECHR? Does the delivery of a decision *in absentia* and the absence of any appeal against that decision on questions of both fact and law, whether those factors are taken together on their own or in conjunction with the obligation for a professional facing disciplinary proceedings to appear in person before the disciplinary tribunal and with the impossibility of being represented by counsel, have a reasonable relationship of proportionality with any legitimate aims that may emerge in the answer to question B?

D. Are the answers to question C

(i) subject to the disciplinary tribunal’s power to grant one or more limited, duly justified adjournments?

(ii) different depending on whether the matter is being heard at first instance or on appeal?

(iii) dependent on whether the appeal decision is in turn subject to a cassation appeal limited to points of law?”

Grand Chamber Panel decision

The request for an advisory opinion was submitted on 2 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 a request, a Grand Chamber is constituted in accordance with Rule 24 of the Rules of Court to examine the request and to deliver the advisory opinion.

Subsequent procedure and time-limits

Any Contracting Party or any 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**.

Protocol No. 16

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 Convention or its Protocols. Its aim is to enhance interaction between the Court and national authorities and thereby reinforce the implementation of Convention rights and freedoms by the requesting courts.

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.

Useful links:

- [What is a request for an advisory opinion?](#)
- [Advisory opinions](#)

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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.