

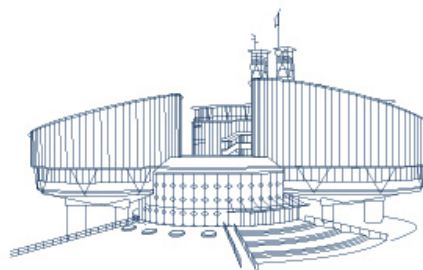
PRESS RELEASE

GRAND CHAMBER REJECTS AS INADMISSIBLE CASE CONCERNING DELIBERATION PRACTICE AT NETHERLANDS SUPREME COURT

Kuijt v. the Netherlands

ECHR 230 (2026) 23.09.2026

Issued by the Registrar of the Court



The case of [Kuijt v. the Netherlands](#) (application no. 19365/19) concerned Ms Kuijt's complaint about the practice at the Supreme Court of the Netherlands (Hoge Raad der Nederlanden) by which judges of the Criminal Law Division who are not part of the judicial panel to which the case has been assigned may participate in the deliberations, without taking part in the vote. This is allowed in the interest of ensuring the uniform interpretation and application of the law (*rechtseenheid*) and such Supreme Court judges are called "reservisten". She challenged this practice as incompatible with Article 6 (right to a fair trial) of the European Convention.

A Grand Chamber hearing in the case was held on Wednesday 21 January 2026.

In today's Grand Chamber ruling¹, the European Court of Human Rights declared, by a majority, the application inadmissible. The Court concluded that a legal avenue had been available to Ms Kuijt at national level to raise her complaint but that she had not used it. It would have been important to give the Supreme Court the opportunity to assess and respond to her criticisms of a well-known and long-standing internal practice that was intended to serve the purpose of ensuring the uniform application of the law. The decision underlines the importance of shared responsibility between national courts and the European Court, in line with the principle of subsidiarity.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

[Q&A on exhaustion of domestic remedies](#)

PRINCIPAL FACTS AND COMPLAINTS

The applicant, Johanna Kuijt, is a Dutch national who was born in 1964 and lives in the Netherlands.

Ms Kuijt was convicted in 2015 for disrupting a municipal council meeting and for failing to comply with an order from an official to leave the council chamber immediately. She was given a two weeks' prison sentence by the Court of Appeal in 2016, and was also ordered to serve a previously suspended sentence of two months. She lodged an appeal on points of law.

Ms Kuijt's lawyer asked the Supreme Court for the names of the judges who would be hearing her

¹ Grand Chamber judgments and decisions are final (Article 44 of the Convention).

case. The names of the three judges forming the panel were supplied. Subsequently, her lawyer asked whether *reservisten* would participate in the deliberations on her case. The registry referred to the “Protocol on participation in the examination and deliberations at the Supreme Court of the Netherlands”, published on the website of the court, which indicates that *reservisten* may participate in the deliberations of cases.

Ms Kuijt challenged the three judges assigned to her case and the other judges of the Supreme Court’s Criminal Law Division. She argued that she would be denied a hearing by an independent and impartial tribunal established by law, in violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, given that one or more *reservisten* could participate in the deliberations.

By decision of 21 December 2018, the challenge panel of the Supreme Court dismissed the applicant’s challenge. The challenge panel was composed of judges from another section. The challenge panel did not find any indications that justified Ms Kuijt’s fear of a lack of impartiality. It further stated that the complaints relating to requirements of a tribunal “established by law” and the requirements of an independent tribunal could not be examined within the challenge procedure, but should have been raised within the main cassation proceedings.

Regarding the role of *reservisten*, it referred to Section 75 of the Judiciary (Organisation) Act, which stipulates that multi-judge chambers examine and decide cases in a formation of three or five judges, and ruled that the other judges of the Division are not responsible for examining and determining the case and the possible participation of the other judges did not alter that fact. It also referred to section 1.2 of the Protocol, which stipulates that *reservisten* may participate in the deliberations of cases for the purpose of safeguarding legal unity in the Division. It pointed to the importance of consistency of the case-law at the Supreme Court level for public confidence in the judicial system and for legal certainty, both of which are fundamental aspects of the rule of law.

By judgment of 8 January 2019 the Supreme Court dismissed Ms Kuijt’s appeal on points of law.

Relying on Article 6 (right to a fair trial) of the European Convention on Human Rights, Ms Kuijt complained that given that judges from outside the judicial panel may have taken part in the deliberations on her case, her appeal on points of law had not been heard by an independent and impartial tribunal established by law.

OUTCOME

REASONING OF THE COURT

The Court examined the Government’s plea that Ms Kuijt had not used all the legal avenues available to her at national level and so had failed to comply with the duty to exhaust domestic remedies (Article 35.1 of the European Convention).

The Court noted that the challenge panel, keeping within its scope, had carefully examined the requirement of impartiality, and had provided reasons for rejecting Ms Kuijt’s attempt to recuse the judges of the Criminal Division. It considered that Ms Kuijt had made use of a relevant legal avenue in so far as the impartiality aspect was concerned but concluded that in this respect the application was manifestly ill-founded.

Regarding the other aspects – namely, that the judges deciding her appeal could not be regarded as independent, and that the judicial formation did not satisfy the “established by law” requirement – these did not fall within the remit of, and could not be examined by, the challenge panel, which had indicated that Ms Kuijt could raise those aspects in the main appeal proceedings themselves.

The Court underlined the importance of judicial independence, which, along with judicial impartiality, is essential to maintaining public confidence in the courts, and also necessary to the principles of shared responsibility and subsidiarity, which are fundamental to the Convention system.

Responding to the applicant's argument that the legal avenue suggested by the challenge panel had no basis in the statutory framework, and that there were procedural barriers against it, the Court considered that it would have been for the Supreme Court to address this. Taking account of the direct applicability of the Convention in Dutch law, and also of the receptiveness of the Supreme Court to arguments based on Convention principles, the European Court accepted that an effective legal avenue existed, at least in theory, at national level. There was no practical example of the legal avenue referred to by the challenge panel as, since the examination of Ms Kuijt's appeal, no challenge to the *reservisten* system had been made in main proceedings. That meant that the Supreme Court had never had the opportunity to hear and consider the arguments that the applicant had now raised before the European Court. This was not a satisfactory state of affairs, especially since the complaint was directed at a well-known and long-standing practice that had been adopted by the Supreme Court to ensure uniform application of the law. Noting that, in a subsequent (unrelated) judgment, the Supreme Court had shown its ability and its readiness to assess its practice in the light of international human rights treaties, the Court considered that it would have been all the more important to give the Supreme Court the opportunity to assess and respond to Ms Kuijt's criticisms of that practice.

In light of these considerations, the Court concluded that a legal avenue had been available to Ms Kuijt at national level but that she had not used it. It therefore declared, by a majority, the application inadmissible. At the same time, the Court underlined that the serious concerns underlying her complaint would merit careful examination by the Supreme Court.

PROCEDURE AND COMPOSITION OF THE COURT

The application was lodged with the European Court of Human Rights on 4 April 2019.

On 15 April 2020 the Government of the Kingdom of the Netherlands was given [notice](#)² of the application, with questions from the Court.

On 1 July 2025 the parties were informed that the Chamber intended to relinquish the case and were invited to submit any comments they wished to make.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber³ on 26 August 2025.

The President of the Court invited the Consultative Council of European Judges (CCJE), and the European Commission for Democracy through Law ("the Venice Commission") to submit written interventions.

The French Government were granted leave to intervene in the written proceedings as third parties.

A Grand Chamber [hearing](#) in the case was held on Wednesday 21 January 2026.

The decision was given by the Grand Chamber of 17 judges, composed as follows:

Mattias **Guyomar** (France), *President*,
Arnfinn **Bårdsen** (Norway),
Ivana **Jelić** (Montenegro),
Lado **Chanturia** (Georgia),
Ioannis **Ktistakis** (Greece),
Kateřina **Šimáčková** (the Czech Republic),
Georgios A. **Serghides** (Cyprus),
Jolien **Schukking** (Netherlands),
Darian **Pavli** (Albania),
Erik **Wennerström** (Sweden),
Diana **Sârcu** (the Republic of Moldova),
Davor **Derenčinović** (Croatia),
Úna **Ní Raifeartaigh** (Ireland),
Alain **Chablais** (Liechtenstein),

Anna **Adamska-Gallant** (Poland),
Vahe **Grigoryan** (Armenia),
Vasilka **Sancin** (Slovenia),

and also John **Darcy**, *Deputy Grand Chamber Registrar*.

The decision is available in English and in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int.

FOLLOW THE COURT ON:



Contact [ECHRPress](mailto:echrp@echr.coe.int) to subscribe to the press-release mailing list.

Find the Court's press releases: [HUDOC - Press collection](http://hudoc.echr.coe.int)

Press contacts

✉ echrp@echr.coe.int | tel.: +33 3 90 21 42 08

Media enquiries are welcome by email or phone.

Jane Swift (tel: + 33 3 88 41 29 04)

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.

² In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges or the President of the Section may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

³ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber."