

ECtHR: Updated Guidelines on Implementation of Advisory Opinion Procedure under ECHR Protocol No. 16



News

András Csúri

On 25 September 2023, the ECtHR, sitting in for the **Plenary Court (assembly of all ECtHR judges)**, approved an updated version of the **Guidelines on the implementation of the advisory opinion procedure under Protocol No. 16 to the European Convention on Human Rights (“the Convention”)**. The new guidelines can be found on the **“Advisory Opinions” and “Official Texts” pages of the ECtHR’s website**. The changes, based upon the practice developed by the Court, concern, among other things, the Court’s jurisdiction in respect of requests for advisory opinions (paragraphs 6.3 and 7), the appropriate stage at which to submit a request (paragraph 10), the form and content of a request (paragraphs 12, 13, and 14), and the delivery of the Court’s opinion (paragraph 32).

Background: **Protocol No. 16** came into force on 1 August 2018 and enables the highest national courts and tribunals, as designated by the CoE member states that ratified the Protocol, to request the ECtHR to give advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention or the Protocols thereto (→ [eucrim 2/2018, 109](#)). Requests can be made in the context of cases pending before a national court or tribunal, with the ECtHR having the discretion to accept a request or not. The ECtHR’s reasoned advisory opinions are non-binding and are delivered by the Grand Chamber.

Currently, 22 CoE member states have signed and ratified Protocol No. 16. To date, the Court has received eight requests for an advisory opinion. It has accepted seven and refused one. The Court has so far delivered six advisory opinions, with one opinion pending.

AUTHOR

András Csúri

Vienna University of Economics and Business

ISSN: 1862-6947

<https://eucrim.eu>



About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the **Union Anti-Fraud Programme (UAFP)**, managed by the **European Anti-Fraud Office (OLAF)**.



**Co-funded by
the European Union**