AS/Cdh/Inf (2019) 01
5 December 2018
acdhinfdoc01 2019

Committee on the Election of Judges to the European Court of Human Rights

Procedure for electing judges to the European Court of Human Rights

Information document prepared by the Secretariat

Introduction

1.   According to Protocol No 11 to the European Convention on Human Rights (hereinafter "ECHR"), in force since 1 November 1998, the European Court of Human Rights operates on a permanent basis and is made up of full-time professional judges resident in Strasbourg. The number of judges is equal to that of High Contracting Parties. Amending Protocol No.14 to the Convention, in force since 1 June 2010, instituted a single term of office of nine years for judges elected to the Court and set out transitional provisions for the *ipso jure* extension of the term of office of sitting judges at the time the Protocol entered into force (Article 21 of Protocol No.14).

Criteria for office

2.   Article 21, paragraph 1, of the ECHR stipulates:

"*The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence*".

Procedure for electing judges

3.   According to Article 22 of the ECHR:

"The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party".

4.   Article 23, paragraphs 1 to 3, stipulates:

"1. The judges shall be elected for a period of nine years. They may not be re-elected.

2. The terms of office of judges shall expire when they reach the age of 70.[1]

3. The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration."

---

[1] When Protocol No.15 to the Convention enters into force, judges will be able to serve on the Court until the age of 74: see Article 2 of the said Protocol.

Steps taken by the Parliamentary Assembly to improve the procedure for examining candidatures for the election of judges to the European Court of Human Rights

5.   The Assembly decided to improve its own procedure for choosing between the three candidates nominated by each Contracting Party. To this end, it adopted a number of texts: Resolution 1082 (1996) and Recommendation 1295 (1996) in April 1996, Resolution 1200 (1999) in September 1999, Resolution 1646 (2009) in January 2009 and Resolution 2002 (2014) in June 2014.[2]

6.   The Assembly is of the view that information provided by candidates should be presented on broadly similar lines to facilitate comparison between the candidates. For that reason a standard *curriculum vitae* is sent out (see appendix to Resolution 1646 (2009), also appended to the present document). The Assembly also invites candidates to participate in a series of personal interviews. As of 26 January 2015 such interviews are conducted by its newly constituted general Committee on the Election of Judges to the European Court of Human Rights.[3]

7.   In its Recommendation 1429 (1999), the Assembly made proposals for nominating candidates at national level, reiterated in Resolution 1646 (2009).[4] By its Order 558 (1999), it instructed its then Sub-Committee on the election of judges "*to make sure that in future elections to the Court member states apply the criteria which it has drawn up for the establishment of lists of candidates, and in particular the presence of candidates of both sexes*".

8.   In January 2004, the Assembly adopted Resolution 1366 (2004) and Recommendation 1649 (2004). In these texts, it confirmed the necessity to keep the procedure of selection which had been set up. It also emphasised the need to receive candidates all having the required level to exercise the function of judge as well as the need for gender balance. It decided not to consider lists of candidates not fulfilling those criteria. Resolution 1366 (2004) was subsequently modified by Resolution 1426 (2005), Resolution 1627 (2008) and Resolution 1841 (2011) by which single-sex lists of candidates would only be considered if the sex is under-represented (under 40 % of judges) or if exceptional circumstances exist to derogate from this rule.[5]

9.   In November 2018, the Assembly adopted Resolution 2248 (2018), which summed up the election procedure as it had evolved and introduced some further improvements, some of which are still subject to implementation by the Assembly following a formal proposal by the Committee on Rules of Procedure, Immunities and Institutional Affairs. These improvements include the clarification that lists of candidates shall be rejected when not all of the candidates on a given list fulfil all the conditions laid down by Article 21 § 1, when the national selection procedure did not fulfil minimum requirements of fairness and transparency, or when the advisory panel of experts (see para. 12, below) was not duly consulted. Resolution 2248 (2018) also suggests that the Committee on the election of judges shall decide on a proposal to reject a list of candidates by a majority of the votes cast and that Members from the country whose list is under consideration shall not have the right to vote in the Committee on election of judges.

Requirements for submission of lists of candidates for the office of judge

10.   Paragraph 4 of Assembly Resolution 1646 (2009) specifies:

" [...] *the Assembly recalls that in addition to the criteria specified in Article 21 § 1 of the Convention, as well as the gender requirement, states should, when selecting and subsequently nominating candidates to the Court, comply with the following requirements:*

4.1. issue public and open calls for candidatures;

4.2. when submitting the names of candidates to the Assembly, describe the manner in which they had been selected;

---

[2] See especially paragraphs 9 and 10 and Appendix thereto.
[3] See Rules of Procedure of the Assembly, Strasbourg, April 2018, pages 134 -136 and 166-170. Previously, interviews used to be carried out by a special sub-committee of the Assembly's Committee on Legal Affairs and Human Rights. See also Andrew Drzemczewski "The Parliamentary Assembly's Committee on the Election of Judges to the European Court of Human Rights, Council of Europe", in vol. 35, Human Rights Law Journal, 2015, pp. 269-274.
[4] The last two sentences of paragraph 2, in Resolution 1646 (2009), specify "In the absence of a real choice among the candidates submitted by a State Party to the Convention, the Assembly shall reject lists submitted to it. In addition, in the absence of a fair, transparent and consistent national selection procedure, the Assembly may reject such lists". See also, in this connection, Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights, adopted on 28 March 2012.
[5] Resolution 1366 (2004), as modified by Resolutions 1426 (2005), 1627 (2008), 1841 (2011), and 2002 (2014) specifies, in its § 4, that such "exceptional circumstances" exist "where a Contracting Party has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes meeting the requirements of Article 21 § 1 of the European Convention on Human Rights." Such exceptional circumstances must be duly so determined by a two-thirds majority of Committee, whose position subsequently needs to be endorsed by the Assembly in the framework of a Progress Report of the Assembly's Bureau.
Text available at http://assembly.coe.int/nw/xml/RoP/RoP-XML2HTML-EN.asp?id=EN_CEGCAIFG#Format-It.

4.3. transmit the names of candidates to the Assembly in alphabetical order;

4.4. candidates should possess an active knowledge of one and a passive knowledge of the other official language of the Council of Europe (see model curriculum vitae appended hereto[6]), and

4.5. that, if possible, no candidate should be submitted whose election might result in the necessity to appoint an ad hoc *judge.*"

11.   This text consolidates and reinforces the recommendations made to states in 2004 when governments were asked to ensure, *inter* alia *"that a call for candidatures has been issued through the specialised press" and that "every list contains candidates of both sexes"*[7] (paragraph 19 of Assembly Recommendation 1649 (2004)). Resolution 1646 (2009) is based on a report which emphasises the need for more fairness and transparency in national selection procedures, the need for candidates to possess a number of years of relevant (judicial) work experience and a knowledge of both working languages of the Council of Europe.[8]

12.   Of interest to note, in this connection, is that in 2010 the Committee of Ministers set up an advisory panel of experts on candidates for election as judges to the Court. Its function is to advise States Parties to the Convention – before the latter transmit lists of candidates to the Assembly – whether candidates for election meet the criteria stipulated in Article 21, paragraph 1, of the Convention.[9]

Results of interviews with the Assembly's Committee on the Election of Judges

13.   The Committee considers the candidates not only as individuals but also with an eye to a harmonious composition of the Court, taking into account, for example, their professional backgrounds and a gender balance. The Committee's recommendations are transmitted to Assembly members in the framework of the Progress Report of the Bureau of the Assembly.

Election by the Assembly

14.   On the basis of the candidatures transmitted to it, and in the light of recommendations provided to it by the Committee on the Election of Judges, the Assembly elects the judges to the European Court of Human Rights during its part-sessions.[10] The candidate having obtained an absolute majority of votes cast is declared elected a member of the Court. If no candidate obtains an absolute majority, a second ballot is held, after which the candidate who has obtained a relative majority of votes cast is declared elected. Election results are publicly announced by the President of the Assembly during the part-session.[11]

---

[6] The text of the model curriculum vitae is appended to the present document.

[7] See Resolution 1366 (2004), as modified by Resolutions 1426 (2005), 1627 (2008) and 1841 (2011), paragraphs 3 and 4 (as explained in paragraph 8, above). See, in this connection, paragraph 5.vi of this Resolution which reads *"that one of the criteria used by the committee should be that, in case of equal merit, preference should be given to a candidate of the sex under-represented at the Court"*. See also decision adopted by the Ministers' Deputies at their 593rd meeting on 27-28 May 1997 (item 4.1), and paragraph 49 of the Explanatory Report to Protocol No 14 to the ECHR which reads*: "It was decided not to amend the first paragraph of Article 22 to prescribe that the lists of three candidates nominated by the High Contracting Parties should contain candidates of both sexes, since that might have interfered with the primary consideration to be given to the merits of potential candidates. However, Parties should do everything possible to ensure that their lists contain both male and female candidates"*.

[8] See PACE Doc. 11767 of 1 December 2008, report of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Chope, *passim.*

[9] Resolution CM/Res(2010)26, as amended, on the establishment of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights. The panel is composed of seven personalities. See also Assembly Resolution 1764 (2010), adopted on 8 October 2010, based on Doc. 12391 of 7 October 2010, report of the Committee on Legal Affairs and Human Rights, Rapporteur: Ms Wohlwend.

[10] Modalities for the election procedure can be found in the Appendix to Resolution 1432 (2005), reproduced in Rules of Procedure of the Assembly, Strasbourg, October 2016, at page 166.

[11] See paragraph 8 of Assembly Resolution 1726 (2010), adopted on 29 April 2010, which specifies when judges' terms of office commence. The paragraph reads: "[the Assembly…] confirms its position that the nine-year term of office of a judge elected by the Assembly to the Court shall commence from the date of taking up of his/her duties, and in any event no later than three months after his/her election. However, if the election takes place more than three months before the seat of the outgoing judge becomes vacant, the term of office shall commence the day the seat becomes vacant. If the election takes place less than three months before the seat of the outgoing judge becomes vacant, the elected judge shall take up his/her duties as soon as possible after the seat becomes vacant and the term of office shall commence as from then and in any event no later than three months after his/her election."

Timetable envisaged for elections in 2019

Elections foreseen in January 2019

Sweden, Italy and Ukraine – the term of office of the judge elected in respect of **Sweden** (Ms Helena Jäderblom) expires on 26 September 2021[12]. The term of office of the judge elected in respect of **Italy** (Mr Guido Raimondi) expires on 4 May 2019. The term of office of the judge elected in respect of **Ukraine** (Ms Ganna Yudkivska) expires on 14 June 2019.

Election foreseen in April 2019

Malta and Turkey – the term of office of the judge elected in respect of **Malta** (Mr Vincent A. De Gaetano) expires on 19 September 2019. The term of office of the judge elected in respect of **Turkey** (Ms Işıl Karakaş) expired on 30 April 2017.

Elections foreseen in June 2019

Estonia and Germany – the term of office of the judge elected in respect of **Estonia** (Ms Julia Laffranque) expires on 3 January 2020. The term of office of the judge elected in respect of **Germany** (Ms Angelika Nußberger) expires on 31 December 2019.

Election foreseen in October 2019

Portugal – the term of office of the judge elected in respect of **Portugal** (Mr Paulo Pinto de Albuquerque) expires on 31 March 2020.

Timetable envisaged for elections in 2020

Elections foreseen in January 2020

France and Greece – the term of office of the judge elected in respect of **France** (Mr André Potocki) expires on 21 June 2020. The term of office of the judge elected in respect of **Greece** (Mr Linos-Alexandre Sicilianos) expires on 17 May 2020.

---

[12] She recently tendered her resignation, effective as of the end of August 2018.

APPENDIX I

Model curriculum vitae for candidates seeking election to the European Court of Human Rights[13]

In order to ensure that the members of the Parliamentary Assembly of the Council of Europe have comparable information at their disposal when electing judges to the European Court of Human Rights, candidates are invited to submit a short curriculum vitae on the following lines:

I. Personal details
Name, forename
Sex
Date and place of birth
Nationality/ies

II. Education and academic and other qualifications

III. Relevant professional activities
a. Description of judicial activities
b. Description of non-judicial legal activities
c. Description of non-legal professional activities
*(*Please underline the post(s) held at present)

IV. Activities and experience in the field of human rights

V. Public activities
a. Public office
b. Elected posts
c. Posts held in a political party or movement
(Please underline the post(s) held at present)

VI. Other activities
a. Field
b. Duration
c. Functions
(Please underline your current activities)

VII. Publications and other works
(You may indicate the total number of books and articles published, but mention only the most important titles (maximum 10))

VIII. Languages
(Requirement: an active knowledge of one of the official languages of the Council of Europe and a passive knowledge of the other)

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	fair	very good	good	fair
a. First language: .... (*Please specify*)	..	..	..	..	..	..	..	..	..
b. Official languages:									
– English	..	..	..	..	..	..	..	..	..
– French	..	..	..	..	..	..	..	..	..
c. Other languages:									
....	..	..	..	..	..	..	..	..	..
....	..	..	..	..	..	..	..	..	..
....	..	..	..	..	..	..	..	..	..

IX. In the event that you do not meet the level of language proficiency required for the post of judge in an official language, please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court.

X. Other relevant information

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court.

---

[13] This text is taken from the Appendix to Parliamentary Assembly Resolution 1646 (2009). Also available on the Parliamentary Assembly website: http://assembly.coe.int/CommitteeDocs/2009/ModelCVEN.doc.

APPENDIX II

Expiry of judges' terms of office:

31 January 2017	Judges elected in respect of Albania[1]
30 April 2017	Judges elected in respect of Turkey
4 May 2019	Judge elected in respect of Italy
14 June 2019	Judge elected in respect of Ukraine
19 September 2019	Judge elected in respect of Malta
31 December 2019	Judge elected in respect of Germany
3 January 2020	Judge elected in respect of Estonia
31 March 2020	Judge elected in respect of Portugal
17 May 2020	Judge elected in respect of Greece
21 June 2020	Judge elected in respect of France (age limit reached)
31 August 2020	Judge elected in respect of Norway[2]
3 October 2020	Judge elected in respect of Switzerland
12 September 2021	Judge elected in respect of Belgium
25 September 2021	Judge elected in respect of Sweden[3]
31 October 2021	Judges elected in respect of the Czech Republic and Poland
2 December 2021	Judges elected in respect of Bosnia and Herzegovina and the Republic of Moldova
1 January 2022	Judges elected in respect of Croatia and the Russian Federation
31 October 2022	Judges elected in respect of Iceland and Lithuania
17 December 2022	Judge elected in respect of Romania
31 March 2023	Judge elected in respect of Denmark
12 April 2024	Judges elected in respect of Bulgaria and Serbia
1 July 2024	Judge elected in respect of Ireland
31 August 2024	Judge elected in respect of Liechtenstein
2 September 2024	Judge elected in respect of Latvia
16 September 2024	Judge elected in respect of Armenia and Monaco
31 October 2024	Judge elected in respect of Andorra
31 October 2024	Judge elected in respect of Austria
1 May 2024	Judge elected in respect of Luxembourg
28 December 2024	Judge elected in respect of the Slovak Republic
31 December 2024	Judge elected in respect of Finland
17 April 2025	Judge elected in respect of Cyprus
29 May 2025	Judge elected in respect of Slovenia
11 September 2025	Judge elected in respect of the United Kingdom
3 January 2026	Judge elected in respect of Azerbaijan
31 January 2026	Judge elected in respect of "the former Yugoslav Republic of Macedonia"
2 April 2026	Judge elected in respect of the Netherlands
23 April 2026	Judge elected in respect of Hungary
7 January 2027	Judge elected in respect of Georgia

---

[1] The term of office of the new judge, elected on 9 October 2018, shall commence no later than three months after his election.
[2] The term of office of the new judge, elected on 9 October 2018, shall commence no later than three months after his election.
[3] Sitting judge tendered her resignation – effective as of the end of August 2018 (see page 4, above).

14 March 2027	Judge elected in respect of Spain
12 July 2027	Judge elected in respect of Montenegro
25 September 2027	Judge elected in respect of San Marino

Hyperlinks to useful texts

Article 21 of Protocol No.14
http://conventions.coe.int/treaty/en/treaties/html/194.htm

Recommendation 1429 (1999)
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16755&lang=en

Resolution 1432 (2005)
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17316&lang=en

Resolution 1646 (2009)
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17704&lang=en

Recommendation 1649 (2004)
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17193&lang=en

Resolution 2002 (2014), paragraphs 9 & 10 and Appendix
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21049&lang=en