



Information documents

SG-AS (2019) 05 rev

8 July 2019

Procedure for the election of judges to the European Court of Human Rights as of 15 April 2019

Memorandum prepared by the Secretary General of the Assembly¹

1. Introduction

1. Article 22 of the European Convention on Human Rights (hereinafter: Convention) stipulates that

“[t]he 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.”

2. Article 22 thus lays down a cooperative process: national governments select three candidates while the Assembly elects one of them as a judge.

3. Consequently, the procedure leading up to the election of judges to the European Court of Human Rights has two stages. The first is the selection of candidates leading up to the transmission to the Assembly of a list of three candidates. This is the sole responsibility of the High Contracting Parties to the Convention (i.e. the States Parties, represented by their governments, hereinafter referred to as “governments”), which benefit from expert advice provided by the Advisory Panel of Experts (hereinafter: panel; see para. 4 below). The second stage of the procedure is the responsibility of the Parliamentary Assembly. Following the assessment by its Committee on election of judges to the European Court of Human Rights (hereinafter: committee) of the candidates shortlisted by the States Parties, it is up to the Assembly’s plenary to elect one of the three candidates.

2. Selection procedure by the High Contracting Parties, assisted by the Panel

4. The selection procedure is triggered by a letter of the Secretary General of the Assembly inviting the government to submit a list of candidates by a given deadline (about one year before the intended election date).² The deadline is chosen with a view to giving the government, the panel, the committee and the Assembly enough time to select and assess the candidates and proceed with the election. The quality of the national selection procedure is of crucial importance for the outcome of the whole process. In fact, when all three candidates transmitted to the Assembly are excellent, it may not matter who is elected in the end, from

¹ In [Resolution 2248 \(2018\)](#), the Parliamentary Assembly invited the Secretary General of the Assembly to publish a consolidated information document reflecting the election procedure before the Committee on the Election of Judges and the Assembly (paragraph 9.2).

² See model letter (in Appendix 1).

an institutional point of view: it will necessarily be an excellent judge who, in addition, will enjoy the democratic legitimacy conferred by the election.

5. The Committee of Ministers decided in 2010 to set up the Advisory Panel of Experts to provide expert advice to governments on the qualification of the selected candidates. Governments are invited to submit to the panel the CVs of the candidates they envisage presenting to the Assembly. The panel, following a confidential procedure, examines the CVs and has the possibility of asking questions to the government. The panel then decides (by written procedure or at a meeting) whether it considers that all the candidates fulfil the requirements of Article 21 of the Convention, which 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.”

6. If, however, the panel considers that one or more of the candidates do not fulfil these requirements, it informs the national authorities accordingly. Governments are expected to follow the panel's recommendations, though – formally speaking – they remain free to submit their list to the Assembly regardless of the panel's views. In its recent practice, the committee, which is informed confidentially of the panel's conclusions on the final list submitted by the government, has insisted that the panel be consulted in a meaningful way and its views given due consideration by the government concerned.

7. The national selection procedure must fulfil certain requirements to increase the likelihood of the required outcome – namely that all three candidates are the best available. In 2012, the Committee of Ministers adopted a set of “Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights”.³ The national selection procedures must be fair and transparent. The following are the key requirements:

- (1) the procedure should be stable and established in advance, through codification or in a settled administrative practice;⁴
- (2) the call for candidatures should be public and disseminated widely;
- (3) a reasonable period should be allowed for the submission of applications;
- (4) the body responsible for recommending candidates should have a balanced composition, its members should have sufficient technical knowledge and command respect and confidence, and it should be free from undue influence;
- (5) all serious applicants should be interviewed, based upon a standardised format;
- (6) the applicants' linguistic abilities should be assessed;
- (7) any departure by the final decision-maker from the selection body's recommendation should be justified by reference to the criteria for the establishment of lists of candidates, and finally
- (8) the list should be submitted to the Assembly only after the Panel's opinion on the candidates' suitability has been obtained.

8. The Assembly⁵ for its part also assesses the fairness, transparency and consistency of the national selection procedures, including public and open calls for candidatures, though without going into the same detail as specified in the Committee of Ministers' Guidelines. The committee has, however, begun to place a greater emphasis on this issue. In 2016, it rejected two lists on purely procedural grounds. In one case, the Committee of Ministers' Guidelines were not respected as the list was transmitted simultaneously to the panel and to the Assembly. This meant that the government was not able to take the views of the panel into account prior to transmission of the list to the Assembly. In another case, no meaningful national selection procedure was carried out at all. Following discussions in yet another case, in January 2019, the committee decided that it would no longer consider lists of candidates when no interviews had been carried out during the national selection procedure.

9. The committee limits its assessment of the national selection procedure, which must be described in the letter transmitting the list of candidates, to its fairness and transparency in general and does not substitute its own choice of candidates to that of the national selection procedure. This means that provided the procedure followed was generally fair and transparent, the committee will not reject the list on procedural grounds only because it found that other persons than the selected candidates ought to have been placed on the list. As

³ Adopted by the Committee of Ministers on 28 March 2012, [CM\(2012\)40-final](#), available at: <https://rm.coe.int/16805cb1ac>, as amended on 26 November 2014 by [CM/Del/Dec\(2014\)1213/1.5-app5](#).

⁴ The survey carried out in the preparation of Assembly's document No. 11767 in 2008 upon which resolution 1646 (2009) of 27 January 2009 was based, shows that at the time, many States did not have a procedure that would have satisfied the requirements laid down in the “Guidelines”.

⁵ See [Resolution 1646 \(2009\)](#), paras. 2. and 4.1.

specified in Article 22 of the Convention, it is the responsibility of governments to provide the Assembly with shortlist of three candidates.⁶ Basing itself also on the Committee of Ministers' Guidelines, the committee merely exercises general oversight of the fairness and transparency of the procedures followed in establishing the list of candidates, which should be transmitted to the Assembly in alphabetical order.⁷

10. The outcome of the national selection procedure must generally be a list of three candidates comprising at least one man and one woman. A single-sex list is acceptable when the candidates belong to the sex which is underrepresented in the Court (i.e. the sex to which under 40% of the total number of judges belong; the relevant time is the date of the Secretary General's letter inviting the government to present a list and informing it of the gender balance among judges at this time, see para. 4 above). In exceptional circumstances, where a government has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes, the Assembly may decide to consider a single-sex list even when candidates do not belong to the underrepresented sex (see also para. 19 below: two-thirds majority required).⁸

3. Election procedure before the Assembly

11. Article 23 of the Convention, 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 70.⁹

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

12. After the list is transmitted to the Assembly, it is published on the Assembly's website. As from the date of transmission, the list is the Assembly's "property". It can only be withdrawn or modified by the government concerned as long as the deadline set for its transmission – specified in the letter of the Secretary General of the Assembly - has not yet expired.¹⁰ After the expiry of the deadline, the government can no longer withdraw or modify the list of candidates. However, at any moment of the procedure and before the Assembly proceeds to a vote, a candidate may decide himself or herself to withdraw from the list. In such a case, after the Secretary General of the Assembly has received a signed letter of withdrawal, the election procedure is immediately interrupted, and the government concerned is invited to complete the list.¹¹

3.1. Procedure before the Committee on the election of judges

13. The candidatures are first examined by the committee, which is mandated by the plenary Assembly to interview candidates, scrutinise their *curricula vitae* and make specific recommendations to the Assembly concerning their qualifications. Based on its recommendation, the Assembly proceeds with the election, or rejects the list.

14. The committee has 22 seats (including the chairpersons of the Committee on Legal Affairs and Human Rights and the Committee on Equality and Non-Discrimination, who are *ex officio* members). Its ordinary members and their substitutes are nominated by the political groups in proportion to their strength in the Assembly. Nominees must have sufficient legal expertise and experience. This committee is the only one in the Assembly to which such a requirement applies. The committee can only deliberate validly when a quorum of one third of its members (seven) is present. To ensure an appropriate level of participation, the Assembly has asked political groups to replace members with a poor attendance record, in principle after three consecutive or five non-consecutive absences.¹² Members lose their seats once the group they belong to has

⁶ See the Court's second Advisory Opinion dated 22 January 2010 "on certain legal questions concerning the lists of candidates submitted with a view to the election of judges to the European Court of Human Rights" (No. 2) ("second Advisory Opinion"), para. 45: "Within the framework thus defined by the Convention, the High Contracting Parties have complete latitude in constituting their lists."

⁷ See Appendix to [Resolution 1432 \(2005\)](#), para. 3.

⁸ See the Court's (first) Advisory Opinion dated 12 February 2008 on certain legal questions concerning the lists of candidates submitted with a view to the election of judges to the European Court of Human Rights.

⁹ 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.

¹⁰ See second Advisory Opinion (note 6), para. 49.

¹¹ See second Advisory Opinion (note 6), paras. 56-57.

¹² See [Resolution 2278 \(2019\)](#), para. 5.

ceased to exist; however, a chairperson or vice-chairperson elected on behalf of such a group remains in office until their term expires.¹³

15. The committee meetings follow a consistent procedure. The meetings are held *in camera* and all participants are subject to strict confidentiality. Deliberations with respect to each list of candidates consist of three steps:

- a briefing session;
- interviews with candidates;
- discussion and vote.

16. In the briefing sessions, before each set of interviews, members receive information, such as the confidential views of the panel on the list. The panel's views are provided to members in written form at the beginning of each briefing session. The chairperson of the panel is invited to attend the briefing sessions in order to explain the panel's views on the list and reply to possible questions by members. The committee also receives information obtained by the chairperson from other sources considered by the chairperson as relevant. An expression of governmental preference shall play no role in the deliberations of the committee,¹⁴ which bases itself solely on the criteria laid down in the Convention as "fleshed out" by the Assembly itself (see Appendix 2, below).

17. The committee must first decide whether there are any procedural grounds which might lead to the rejection of the list. This is the case when:

- the national selection procedure did not satisfy the minimum requirements of fairness and transparency, for example when there was no public call for candidatures;
- when no interviews were held during the national selection procedure;
- or when the panel was not duly consulted.

A proposal to reject a list on procedural grounds requires a majority of the votes cast.¹⁵

18. The committee shall also reject a single-sex list unless the candidates belong to the sex which is underrepresented in the Court, i.e. the sex to which under 40% of the total number of judges belong, at the time of the Secretary General's letter inviting presentation of a list (para. 10 above). In exceptional circumstances, where a Contracting Party has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes, the committee may decide to consider a single-sex list even when the candidates do not belong to the underrepresented sex.

19. Before the decision on the existence of exceptional circumstances is taken by the committee, the chairperson of the committee invites the Minister of Justice of the State concerned to take part in an exchange of views with the committee. The Minister, or a person designated by him or her, is given the opportunity to explain the circumstances which have prompted his / her government to transmit a single-sex list.

20. Such exceptional circumstances must be duly so considered by a two-thirds majority of the votes cast by the members of the committee, whose views must be ratified by the Assembly in the framework of a Progress Report of the Bureau. Interviews can therefore only take place at the next meeting of the committee following the ratification of the position of the committee by the Assembly. If the two-thirds majority is not reached in the committee for recognising exceptional circumstances, the committee shall recommend that the Assembly reject the list concerned.

21. When no grounds exist to reject a list on procedural or gender equality grounds (or when there is no majority to accept a proposal to reject the list on these grounds), the candidates are interviewed one by one, in alphabetical order. Each interview lasts thirty minutes. The first five minutes can be used by the candidate to present his or her candidature. This opportunity, of which the candidates are informed ahead of time, is used by practically all candidates. After this, the chairperson opens the interviews by asking each candidate the same one or two questions. Members can ask any questions, including clarifications regarding the candidate's CV. Questions can be asked in either of the two official languages. Candidates have simultaneous interpretation between both official languages at their disposal and may give their answers in either official language.

¹³ See [Resolution 2278 \(2019\)](#), para. 7.

¹⁴ See Appendix to [Resolution 1432 \(2005\)](#), para. 3, sentence 3 ("any expressions of governmental preference shall play no role in the deliberations of the [then sub-] Committee on the Election of Judges.").

¹⁵ [Resolution 1366 \(2004\)](#) para. 3. as modified by [Resolution 2278 \(2019\)](#), para. 2.4.2.

22. After the three interviews, the committee has an exchange of views on the merits of the candidates. The committee first decides whether all three candidates fulfil the criteria for election as a judge (Article 21 paragraph 1 of the Convention, quoted in paragraph 5, above), failing which it recommends to the Assembly rejection of the list. Such a recommendation must be adopted by a majority of members entitled to vote.¹⁶ The Assembly has decided not to consider lists of candidates on the following substantive grounds, namely where:

- the areas of competence of the candidates appear to be unduly restricted;
- not all the candidates fulfil the conditions laid down by Article 21 para. 1 of the Convention;
- one or more of the candidates does not appear to have an active knowledge of one of the official languages of the Council of Europe and a passive knowledge of the other.

23. When the list is not rejected, the committee votes on its preference among the candidates, by secret ballot.

24. For any decision other than that on preference among the candidates, voting shall take place by a show of hands, unless at least one third of the members present request a secret ballot. Only those members who were present during all three interviews are entitled to vote on a given list. Members from the State Party which submitted a list are permitted to participate in discussions, but they cannot vote on a possible rejection of the list, nor on the preference among the candidates.¹⁷ The chairperson is entitled to vote.

25. The committee's recommendation is communicated to the Assembly in good time before the part-session during which the election is scheduled to take place. The recommendation does not include reasons for the committee's choice and does not indicate the exact majority. But the standard formulations used to express the result of the vote make it clear to what extent one or, possibly, two of the candidates succeeded in convincing the committee of their qualities. For example, it is indicated that a recommendation in favour of one candidate was adopted "unanimously", "with an overwhelming (or large, or clear, or narrow) majority", or simply "by a majority" (sometimes "over" another candidate; it is understood that a second name is mentioned whenever the vote was fairly close between the first and second candidate, whilst the third candidate was far behind; and that a "large" majority implies a majority of at least two thirds). The recommendations are published on the Assembly's website a number of days before the election (usually on the Wednesday before the part-session).

26. When the committee recommends the rejection of a list, for which succinct reasons must be given, the Secretary General of the Assembly and the chairperson of the committee provide any necessary information, in confidence, to the Permanent Representative of the State Party concerned in Strasbourg and to the chairperson of the national delegation to the Assembly, respectively. The committee's recommendation to reject a list is ratified by the Assembly in the framework of a Progress Report of the Bureau to the Assembly. Ratification of the committee's proposal signifies definitive rejection of the list. Should the recommendation to reject the list be defeated by a majority vote in the Assembly, the list is referred back to the committee¹⁸. In such a case, an election cannot take place during the same part-session, as the Assembly would not have the benefit of a recommendation by the committee in favour of one or another candidate. The consideration of the list would only come back on the Assembly's agenda after the committee has again taken position on the list.

3.2. *Election by the Assembly*

27. The Assembly is empowered by Article 22 of the Convention to elect the judges "by a majority of votes cast from a list of three candidates [...]".

28. A first round of election is held on the Tuesday of the part-session – a practice designed to achieve the highest possible participation. Members have the possibility to vote – by secret ballot – throughout the morning and afternoon sittings. The names of the candidates appear on the ballot paper in alphabetic order. The ballot paper does not reflect the preference expressed by the committee, nor that of the Government. However, members have at their disposal the recommendation by the committee. If one candidate obtains the absolute majority of the votes cast, he or she is declared elected. Failing that, a second round takes place on the Wednesday, for which a relative majority is sufficient. Election results are publicly announced by the President of the Assembly during the part-session.¹⁹

¹⁶ [Resolution 1366 \(2004\)](#) para. 3. as modified by [Resolution 2278 \(2019\)](#), para. 2.4.2.

¹⁷ See para. 4.i. of the terms of reference of the Committee on the Election of Judges to the European Court of Human Rights as amended by [Resolution 2278 \(2019\)](#), para. 2.4.1.

¹⁸ [Resolution 1366 \(2004\)](#) para. 3. as modified by [Resolution 2278 \(2019\)](#), para. 2.4.2.

¹⁹ 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

APPENDIX 1 – Model of a letter addressed to a Permanent Representative / Ambassador

Dear Ambassador,

I have the honour to inform you that, in accordance with Article 23 of the European Convention on Human Rights, as amended by Protocol No.14 to the Convention, the term of office of XXX, Judge at the European Court of Human Rights, will expire on XXX and the Parliamentary Assembly has consequently to proceed with the election of a judge in respect of XXX.

I should therefore be grateful if your authorities could submit a list of three candidates for the position of judge in respect of your country, in accordance with Article 22 of the European Convention on Human Rights. The letter transmitting the list of three candidates and their detailed *curricula vitae* should describe the procedure by which the candidates were selected. I refer you in particular to Parliamentary Assembly [Resolution 1646 \(2009\)](#) which sets out the requirements for fair and transparent national selection procedures.

The *curricula vitae* should be submitted in Word format and preferably in both English and French, according to the model adopted by the Parliamentary Assembly (<http://assembly.coe.int/CommitteeDocs/2009/ModelCVEN.doc>). In order to facilitate the work of the Assembly and contacts with the candidates, the *curricula vitae* should indicate full professional and/or private contact details.

I should like to draw your attention to the fact that, since the entry into force of Protocol No. 14 to the European Convention on Human Rights on 1 June 2010, the term of office of a judge elected is a non-renewable period of nine years and, in any event, it expires when a judge reaches the age of 70.

As regards the need to ensure a balanced representation of women and men on the Court, I would refer you to the Assembly's [Resolution 1366 \(2004\)](#), as modified by [Resolutions 1426 \(2005\)](#), [1627 \(2008\)](#), [1841 \(2011\)](#), [2002 \(2014\)](#) and [2278 \(2019\)](#), and especially its paragraph 3 and 4 which specify that lists of candidates must include at least one candidate of each sex unless a single-sex list of candidates is composed of an under-represented sex (i.e., the sex to which under 40% of the total number of judges belong) or if exceptional circumstances exist. At present, women are under-represented in the Court.

I would also like to draw your attention to the establishment, by the Committee of Ministers, of an advisory panel of experts on candidates for election as judge to the European Court of Human Rights (Resolution CM/Res (2010) 26 as amended). Therefore, before submitting your list of candidates to the Parliamentary Assembly, you are invited to submit it to the advisory panel in time for the latter to be able to provide an opinion on whether the candidates included in the said list meet the requirements stipulated by the European Convention on Human Rights. I understand that the Secretariat of the advisory panel will be contacting you on this matter.

The principles regarding the election procedure, as well as additional information, can be found in the Appendix to this letter. For any other question relating to the election procedure before the Assembly, I invite you to contact XXX.

I would like to recall that the Commission on the Election of Judges to the European Court of Human Rights has decided to no longer consider lists of candidates drawn up without recourse to interviews at national level.

The election of a judge in respect of XXX is scheduled for the Assembly's XXX part-session, following interviews with the candidates by the Committee on the Election of Judges to the European Court of Human Rights. I would therefore be grateful if the list of three candidates could be submitted to the Parliamentary Assembly (email: wojciech.sawicki@coe.int) by XXX at the latest.

Yours sincerely,

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."

Appendix to the model of letter addressed to a Permanent Representative / Ambassador**Election procedure:**

According to Article 22 of the European Convention on Human Rights “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”.

According to Article 21, paragraph 1, of the Convention “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”.

Article 21, paragraph 3, of the Convention provides that “During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office ...”.

Furthermore, Article 23 of the Convention, paragraphs 1 to 3, read as follows:

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

Relevant texts:

- [Resolution 1646 \(2009\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=17704&lang=en) of the Parliamentary Assembly on the nomination of candidates and election of judges to the European Court of Human Rights
(<http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=17704&lang=en>)
- Relevant extract from the Rules of the Parliamentary Assembly, January 2019, Complementary Texts, Elections by the Parliamentary Assembly, Part V “Candidates for the European Court of Human Rights”, page 174: [Resolution 1366 \(2004\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=1366&lang=en) as modified by [Resolutions 1426 \(2005\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=1426&lang=en), [1627 \(2008\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=1627&lang=en), [1841 \(2011\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=1841&lang=en), [2002 \(2014\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=2002&lang=en) and [2278 \(2019\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=2278&lang=en)
(http://assembly.coe.int/nw/xml/RoP/RoP-XML2HTML-EN.asp?id=EN_CEGCAIFG#Format-It)
- Committee of Ministers [Resolution CM/Res\(2009\)5](http://wcd.coe.int/ViewDoc.jsp?id=1508697) on the status and conditions of service of judges of the European Court of Human Rights and of the Commissioner for Human Rights, adopted on 23 September 2009 (<http://wcd.coe.int/ViewDoc.jsp?id=1508697>)
- Committee of Ministers [Resolution CM/Res\(2010\)26](http://wcd.coe.int/ViewDoc.jsp?Ref=CM/Res(2010)26&Language=lanEnglish), as amended by [Resolution CM/Res\(2014\)44](http://wcd.coe.int/ViewDoc.jsp?Ref=CM/Res(2014)44) on 26 November 2014, on the establishment of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights
([https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Res\(2010\)26&Language=lanEnglish](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Res(2010)26&Language=lanEnglish))
- Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights, March 2012, as amended in November 2014 by [CM/Del/Dec\(2014\)1213/1.5-app5](http://wcd.coe.int/ViewDoc.jsp?Ref=CM(2012)40&Language=lanEnglish&Ver=final&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)
([https://wcd.coe.int/ViewDoc.jsp?Ref=CM\(2012\)40&Language=lanEnglish&Ver=final&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM(2012)40&Language=lanEnglish&Ver=final&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383))
- [Resolution 1726 \(2010\)](http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=17849&lang=en) of the Parliamentary Assembly on Effective implementation of the European Convention on Human Rights: the Interlaken process, paragraph 8
(<http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=17849&lang=en>).

Additional information:

The European Convention on State Immunity and its Additional Protocol setting up a European Tribunal, the members of which include, amongst others, members of the European Court of Human Rights, were opened for signature in May 1972. The Protocol entered into force on 22 May 1985. Your authorities may wish to notify the candidates to the present election that the person elected may be required to perform additional duties of judge at the European Tribunal in matters of State Immunity.

Newly elected judges may also be included in the Court's judicial formation that is asked to provide an Advisory Opinion on the interpretation of the 1997 Convention on Human Rights and Biomedicine (ratified by 29 States). This procedure, laid down in Article 29 of the Convention on Human Rights and Biomedicine, has as yet never been used.

See also the Parliamentary Assembly's portal: http://website-pace.net/en_GB/web/as-jur/echr-judges-election

APPENDIX 2 – Criteria to evaluate candidatures for office of Judge on the European Court of Human Rights: checklists¹

Evaluation of lists of candidates received from State Parties

Extract from [Resolution 1366 \(2004\)](#), as modified by [Resolutions 1426 \(2005\)](#), [1627 \(2008\)](#), [1841 \(2011\)](#), [2002 \(2014\)](#) and [2278 \(2019\)](#)

“3. The Assembly decides not to consider lists of candidates where:

- i. the areas of competence of the candidates appear to be unduly restricted;*
- ii. not all of the candidates fulfil each of the conditions laid down by Article 21, paragraph 1, of the European Convention on Human Rights;*
- iii. one of the candidates does not appear to have an active knowledge of one of the official languages of the Council of Europe and a passive knowledge of the other;*
- iv. the national selection procedure did not satisfy the minimum requirements of fairness and transparency;*
- v. the Advisory Panel was not duly consulted.*

In such cases, 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. This proposal shall be endorsed by the Assembly in the Progress Report of the Bureau of the Assembly and the Standing Committee. The Assembly's endorsement of the proposal to reject a list entails its definitive rejection; the State concerned is invited to submit a new list. Rejection by the Assembly of the committee's proposal to reject a list shall entail the referral of the list back to the committee.

4. Moreover, the Assembly decides to consider single-sex lists of candidates when the candidates belong to the sex which is under-represented in the Court (i.e. the sex to which under 40% of the total number of judges belong), or in exceptional circumstances 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 paragraph 1 of Article 21 of the European Convention on Human Rights.

Such exceptional circumstances must be duly so considered by a two-thirds majority of the votes cast by members of the Committee on the Election of Judges to the European Court of Human Rights. If the required majority has not been achieved, the committee shall recommend that the Assembly reject the list concerned. This position shall be endorsed by the Assembly in the Progress Report of the Bureau of the Assembly and the Standing Committee.”

Specific matters to be borne in mind:

- **Transparency and fairness of national selection procedure:** public and open call for candidatures, including through the specialised press (Sources: PACE [Resolution 1646 \(2009\)](#) on Nomination of candidates and election of judges to the European Court of Human Rights, paragraph 4.1 and PACE [Resolution 2278 \(2019\)](#) on Modification of various provisions of the Assembly's Rules of Procedure, paragraph 2.4.2)

¹ This is an extract from an updated and slightly revised background document, prepared by the Secretariat in 2015, which has been used by the Assembly's Committee on the Election of Judges to the European Court of Human Rights to help it evaluate candidatures for the office of Judge on the European Court of Human Rights.

For a more detailed overview consult: A. 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.

Explanation:

Although the Parliamentary Assembly noted discernible progress in the national selection procedures of several countries in its Resolution 1646 (2009), paragraph 2, it recalled that there remained a “significant variance” regarding the fairness, transparency and consistency at national level. Recalling that the national selection procedure must be a reflection of “principles of democratic procedure, transparency and non-discrimination”, it specified, in paragraph 2 of Resolution 1646 (2009), that, “in the absence of a fair, transparent and consistent national selection procedure” and/or where it is not given a “real choice” between candidates selected at national level and submitted to the Assembly, the Assembly may decide to reject such lists.

- **Description by States Parties of the manner in which candidates to the ECtHR have been selected** (Source: PACE [Resolution 1646 \(2009\)](#), paragraph 4.2)

Explanation:

Given the great variance in the national selection processes, as stated above, asking states to describe the manner in which this national selection of candidates has taken place provides helpful indications about the rigour of a given national selection procedure, permitting, as the case may be, to better assess the qualifications of candidates.

- **Gender: the list must include at least one candidate of each sex, except when the candidates belong to the sex which is under-represented in the Court, that is the sex to which under 40% of the total number of judges belong, or if exceptional circumstances exist to derogate from this rule** (Sources: [Resolution 1366 \(2004\)](#), as modified by [Resolutions 1426 \(2005\)](#), [1627 \(2008\)](#), [1841 \(2011\)](#), [2002 \(2014\)](#) and [2278 \(2019\)](#), [CM Guidelines](#), paragraph 8)

Explanation:

Following a contentious debate over an all-male list submitted by Malta in 2007, which was subject of an Advisory Opinion by the European Court of Human Rights in February 2008, this requirement, with possibility for exceptional derogation, as formulated above, is now uncontested.

- **List of candidates in alphabetical order** (Sources: PACE [Resolution 1646 \(2009\)](#) paragraph 4.3; Appendix to PACE [Resolution 1432 \(2005\)](#), paragraph 3)

Explanation:

Not only should the Assembly have a “real choice” between three candidates in terms of their *actual* qualifications, as noted above, but the alphabetical listing of candidates has the function of ensuring neutrality as regards their relative status in the national selection process. Candidates are listed in alphabetical order on the Assembly’s ballot paper.

- **Standardised curriculum vitae** (Source: PACE [Resolution 1646 \(2009\)](#), see Appendix 3)

Explanation:

The practice of standardising candidates’ *curricula vitae* not only has the practical function of providing guidance to candidates regarding the specific type of information to provide, but also has the purpose of allowing the Assembly a better comparison between candidates.

- **Ad hoc judges: as far as possible no candidate should be submitted whose election might result in the necessity to appoint an ad hoc judge** (Source: PACE [Resolution 1646 \(2009\)](#), paragraph 4.5)

Explanation:

This may be the case, for instance, where a candidate is or has been a government agent involved in preparing (numerous) cases before the Strasbourg Court or where he or she may have participated, for example, in many judgments/decisions rejecting applicants’ final internal domestic appeals. This may create a conflict of interest situation.

- **Length of term and maximum age-limit of judges** (Sources: [Explanatory Report](#) to Protocol No. 14, (CETS No. 194), paragraph 53; [Explanatory Memorandum](#) on CM Guidelines, paragraph 29).

Explanation:

Currently, as *per* Article 23, paragraph 1, of the Convention, judges are elected for a fixed term of nine years. Paragraph 2 of Article 23 of the Convention sets the maximum age-limit of judges of the ECtHR at 70 years. Protocol No. 15, which is not yet in force, extends this age-limit to 74 years. Unless a candidate of exceptional quality is put forward, the assumption is that a judge must be able to carry out at least half of his or her nine-year term so as not to unnecessarily disrupt the work of the Court with frequent elections of judges

Criteria to evaluate candidates for the post of Judge on the European Court of Human Rights

Article 21, paragraph 1, of the European Convention on Human Rights (ECHR), stipulates that:

“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.”

See also [PACE Resolution 1646 \(2009\)](#) and [Resolution 1366 \(2004\)](#), as modified by [Resolutions 1426 \(2005\)](#), [1627 \(2008\)](#), [1841 \(2011\)](#), [2002 \(2014\)](#) and [2278 \(2019\)](#)

- **Relevant professional work experience** (judicial and/or other, characterised by its level, nature and length)
- **Language proficiency: candidates should possess an active knowledge of one and a passive knowledge of the other official language of the Council of Europe**
- **Motivation**
- **Knowledge of the Council of Europe/experience of the system of the ECHR**
- **Clarity and precision of thought and of speech**
- **Judgement/specific skills**

APPENDIX 3 – Model curriculum vitae for candidates seeking election to the European Court of Human Rights¹

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.

¹ 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 4 – Timetable envisaged for elections

In 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.

Date to be defined:

Ukraine – the term of office of the judge elected in respect of **Ukraine** (Ms Ganna Yudkivska) expired on 14 June 2019.

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.

Election foreseen in June 2020:

Switzerland – the term of office of the judge elected in respect of **Switzerland** (Ms Helen Keller) expires on 3 October 2020.

APPENDIX 5 – Expiry of judges' terms of office

14 June 2019	Judge elected in respect of Ukraine
19 September 2019	Judge elected in respect of Malta ²
31 December 2019	Judge elected in respect of Germany ³
3 January 2020	Judge elected in respect of Estonia ⁴
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)
3 October 2020	Judge elected in respect of Switzerland
12 September 2021	Judge elected in respect of Belgium
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 North 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
14 March 2027	Judge elected in respect of Spain
11 July 2027	Judge elected in respect of Montenegro
25 September 2027	Judge elected in respect of San Marino
31 December 2027	Judge elected in respect of Norway
6 January 2028	Judge elected in respect of Albania
31 March 2028	Judge elected in respect of Sweden

² The term of office of the new judge, elected on 9 April 2019, shall commence as from 20 September 2019.

³ The term of office of the new judge, elected on 27 June 2019, shall commence as from 1 January 2020.

⁴ The term of office of the new judge, elected on 26 June 2019, shall commence as from 4 January 2020.

4 May 2028

Judge elected in respect of Italy

30 June 2028

Judge elected in respect of Turkey