

## **Resolution CM/Res(2010)26**

### **on the establishment of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights**

*(Adopted by the Committee of Ministers on 10 November 2010 at the 1097bis meeting of the Ministers' Deputies)[1]*

The Committee of Ministers, acting under the terms of Articles 15 and 16 of the Statute of the Council of Europe,

Referring to Article 21 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), as amended by its Protocol No. 14 (CETS No. 194);

Recalling the Interlaken Declaration whereby the High Contracting Parties to the Convention and the Council of Europe were invited to ensure the full satisfaction of the Convention's criteria for office as a judge of the Court and the importance of ensuring the impartiality and quality of the Court;

Convinced that the establishment of a Panel of Experts mandated to advise on the suitability of candidates that the member states intend to put forward for office as judges of the Court would constitute an adequate mechanism in this regard;

Recalling the responsibility of the High Contracting Parties to the Convention to ensure a fair and transparent national selection procedure;

Welcoming the support expressed by all member states for the systematic use of such a mechanism;

Hereby establishes an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (hereinafter the "Panel"), as follows:

#### **1. Mandate**

The Panel shall advise the High Contracting Parties whether candidates for election as judges of the European Court of Human Rights meet the criteria stipulated in Article 21§1 of the European Convention on Human Rights and in Section II of the 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.[2]

#### **2. Composition**

The Panel shall be composed of seven members, chosen from among members of the highest national courts, former judges of international courts, including the European Court of Human Rights and other lawyers of recognised competence, who shall serve in their personal capacity. The composition of the Panel shall be geographically and gender balanced.

### **3. Appointment**

The members of the Panel shall be appointed by the Committee of Ministers<sup>[3]</sup> following consultations with the President of the European Court of Human Rights. Proposals for appointment may be submitted by the High Contracting Parties. Any vacancy shall be filled in the same manner. Members shall be appointed for a term of three years, renewable once. Where a member of the Panel does not complete his/her term, a successor will be appointed for a full term. Members of the Panel shall be from different member states.

### **4. Secretariat**

The Secretary General of the Council of Europe shall provide the Panel's secretariat.

### **5. Functioning**

Before submitting a list to the Parliamentary Assembly as provided for in Article 22 of the Convention, each High Contracting Party will forward to the Panel, via its secretariat, the names and curricula vitae of the intended candidates at the latest three months before the expiration of the time-limit for the submission of the list of candidates to the Parliamentary Assembly. On the basis of these written submissions, the Panel shall perform its function in accordance with the operating rules appended to this resolution.<sup>[4]</sup>

Where the Panel finds that all of the persons put forward by a High Contracting Party are suitable candidates, it shall so inform the High Contracting Party without further comment.

Where it is likely that the Panel may find one or more candidates not suitable for office, the chair of the Panel shall contact the High Contracting Party concerned to inform it and/or to obtain any relevant comments. If, in the light of the written submissions and any comments obtained, the Panel considers that one or more of the persons put forward by a High Contracting Party are not suitable, it shall so inform the High Contracting Party, giving reasons for its view, which shall be confidential. The Panel shall in a similar manner consider one or more new candidates who would subsequently be presented by the High Contracting Party.

When a list of three candidates nominated by a High Contracting Party is being considered in accordance with Article 22 of the European Convention on Human Rights, the Panel shall make available to the Parliamentary Assembly in writing its views as to whether the candidates meet the criteria stipulated in Article 21§1 of the Convention. Such information shall be confidential.

### **6. Financial provisions**

The operational costs of the Panel, and any reasonable expenses incurred by its members in the exercise of their function, shall be borne by the Council of Europe.

### **7. Entry into force and transitional provisions**

This resolution shall enter into force from the date of its adoption. It shall not apply to any list already submitted to the Parliamentary Assembly on that date. Where selection procedures

are already under way, the High Contracting Parties concerned may forward the names and curricula vitae of the intended candidates to the Panel once constituted, time allowing.

### **Operating Rules**

- (i) The Panel shall elect its own chair.
  - (ii) The Panel shall adopt its opinions by consensus or, in the absence of consensus, by a qualified majority of five out of seven.
  - (iii) The Panel's procedure shall be a written one. Members shall transmit their views on candidates to the chair in writing.
  - (iv) The Panel may hold a meeting where it deems this necessary to the performance of its function.
  - (v) It shall work in both official languages of the Council of Europe.
  - (vi) It shall inform the High Contracting Parties of its views no later than four weeks after the High Contracting Parties have submitted the names and curricula vitae of the intended candidates to the Panel's secretariat.
  - (vii) It shall assess the suitability of candidates on the basis of the information provided by the High Contracting Party, which shall be in one of the official languages of the Council of Europe.
  - (viii) It may seek additional information or clarification from the High Contracting Party in relation to any candidate under its consideration.
  - (ix) It may in exceptional circumstances decide to hold a meeting with representatives of a High Contracting Party in the exercise of its function. It shall be for the Panel to decide whether a meeting is necessary.
  - (x) The Panel's proceedings shall be confidential. Any meeting with representatives of a High Contracting Party shall take place in camera.
  - (xi) A Panel member who wishes to resign shall so inform the chair of the Panel, who shall inform the Chairman of the Committee of Ministers and the Secretary General.
  - (xii) If a member of the Panel is nominated by a High Contracting Party for election as a Judge of the European Court of Human Rights, he/she shall withdraw from the Panel.
  - (xiii) The Panel may adopt such internal working methods as it deems necessary to the exercise of its function.
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[1] As amended by Resolution [CM/Res\(2014\)44](#) on 26 November 2014 at the 1213th meeting of the Ministers' Deputies.

[2] As amended by Resolution [CM/Res\(2014\)44](#), with effect from 26 November 2014.

[3] The decision to appoint the members of the Panel shall be taken by the Committee of Ministers by the simple majority of votes within the meaning of Article 10.4 of the Rules of Procedure for the Meetings of the Ministers' Deputies.

[4] As amended by Resolution [CM/Res\(2014\)44](#), with effect from 26 November 2014.