

Advisory Panel of Experts on Candidates  
for election as Judge to the European Court of  
Human Rights  
*The Secretariat*



5 November 2025  
Advisory Panel (2025)

# **Sixth activity report for the attention of the Committee of Ministers**

**1 July 2022 to 30 June 2025**

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## I. INTRODUCTION

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1. The sixth activity report of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (“the Panel” and “the Court” or “the ECtHR”) covers the period from 1 July 2022 to 30 June 2025.
2. The purpose of this report, as of the previous activity reports, is not only to provide an account of the activities of the Panel but also to allow the Committee of Ministers and those involved or professionally interested in the selection of candidates for election as judge to the Court to become better acquainted with the role of the Panel and the criteria it uses for interpreting and applying in practice the generally worded conditions laid down in Article 21(1) of the European Convention on Human Rights (“the Convention”). As a complement to the activity reports, “A Short Guide on the Panel’s Role and the Minimum Qualifications Required of a Candidate” (“the Short Guide”), prepared by the Secretariat of the Panel, was published in October 2020.
3. In addition to retaining a number of general explanations from its previous activity reports,<sup>1</sup> the present report provides an updated overview of recent developments. Notably, it includes information on the Panel’s assessment of the national selection procedure, the sources of information relied on by the Panel, the interpretation and application of the notion of “high moral character” in Article 21(1) of the Convention, the gender balance of candidates lists and the profile of candidates (see, respectively, paragraphs 25-31 and 40-78, 32, 80-85, 112-115 and 128 below).

## II. MANDATE, FUNCTIONING AND COMPOSITION OF THE PANEL

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4. The Panel was created by Committee of Ministers’ Resolution CM/Res(2010)26 of 10 November 2010. This decision was part of the process of implementation of the Interlaken Declaration of 19 February 2010, which called on the High Contracting Parties to ensure “*full satisfaction of the Convention’s criteria for office as a judge of the Court, including knowledge of public international law and of the national legal systems as well as proficiency in at least one official language*”.
5. According to Resolution CM/Res(2010)26, the Panel’s mandate is to advise the High Contracting Parties whether candidates for election as judge to the Court meet the requirements laid down in Article 21(1) of the Convention, which reads as follows:

*“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.”*

Since the adoption on 24 March 2012 by the Committee of Ministers of its Guidelines on the selection of candidates for the position of judge at the European Court of Human Rights (“the Committee of Ministers’ Guidelines”),<sup>2</sup> the Panel has also taken it to be part of its task to advise on compliance with

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<sup>1</sup> Preceding activity reports covered the following periods: from 10 November 2010 (the date of the setting up of the Panel) to 31 December 2013 for the first report (document Advisory Panel (2013) 12 of 11 December 2013); from 1 January 2014 to 31 December 2015 for the second report (document Advisory Panel (2016) 1 of 25 February 2016); from 1 January 2016 to 30 June 2017, for the third report (document Advisory Panel (2017) 2 of 30 June 2017; from 1 July 2017 to 7 May 2019 for the fourth report and from 7 May 2019 to 1 July 2022 for the fifth report.

<sup>2</sup> Document CM(2012)40-final, as amended at the 1213<sup>th</sup> meeting (26 November 2014, decision [CM/Del/Dec\(2014\)1213/1.5](#)).

the additional “criteria for the establishment of lists of candidates” which are set out in section II of those Guidelines, notably as regards the linguistic proficiency of the candidates and the gender balance of the list.

6. In order to obtain the Panel’s opinion, the governments have to provide the Panel with the names and *curricula vitae* of the three candidates selected at national level three months prior to the submission of the *curricula vitae* to the Parliamentary Assembly of the Council of Europe (“the PACE”). After transmitting its written opinion to the government concerned, the Panel informs the PACE of that opinion.

7. The Panel performs its function in accordance with the operating rules appended to Resolution CM/Res(2010)26.<sup>3</sup> Under those rules, it may adopt such internal working methods as it deems necessary for the exercise of its function.<sup>4</sup> In that context the Panel has adopted supplementary operating rules (reproduced in appendix III).

8. In accordance with paragraph 2 of Resolution CM/Res(2010)26, the Panel comprises 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 members of the Panel are appointed by the Committee of Ministers for a term of three years, renewable once.<sup>5</sup> They do not receive any remuneration in respect of their role. They are reimbursed only for the travel and subsistence expenses incurred in the exercise of their functions.

9. The following members served during the period under consideration:

- **Sir Paul Mahoney** (United Kingdom) (Chair of the Panel from 1 July 2020 until 8 July 2023, when his mandate as a member ended), former judge on the European Court of Human Rights;
- **Mr Maarten Feteris** (Netherlands) (Vice-Chair of the Panel from 1 July 2020 until 8 July 2023 when his mandate as a member ended), President of the Supreme Court of the Netherlands and since 1 November 2020 judge of that court;
- **Mr Bernard Stirn** (France) (member of the Panel until 8 July 2023), former President of the Litigation Division of the French Council of State;
- **Mr Guido Raimondi** (Italy), former President of the Labour Chamber of the Italian Court of Cassation and former President of the European Court of Human Rights;
- **Mr Luis López Guerra** (Spain) (Chair of the Panel since 8 July 2023), honorific professor at the Universidad Carlos III de Madrid and former Section President of the European Court of Human Rights;
- **Ms Mirjana Lazarova Trajkovska** (North Macedonia) (Vice-Chair of the Panel since 8 July 2023), judge of the Supreme Court of North Macedonia and former Section President of the European Court of Human Rights;
- **Ms Saale Laos** (Estonia), Chair of the Criminal Chamber of the Estonian Supreme Court;

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<sup>3</sup> See paragraph 5 of Resolution CM/Res(2010)26.

<sup>4</sup> See operating rule (xiii).

<sup>5</sup> See paragraph 3 of Resolution CM/Res(2010)26.

- **Mr Henrik Bull** (Norway), Justice of the Supreme Court of Norway and former Judge at the Court of Justice of the European Free Trade Association States;
- **Mr Paul Lemmens** (Belgium), former Judge of the Council of State, emeritus professor at the Catholic University of Leuven and former Section President of the European Court of Human Rights;
- **Ms Irena Pelikánová** (Czech Republic), former Judge of the General Court of the Court of Justice of the EU, emeritus professor of law and former attorney at law.

10. The appointments and re-appointments made by the Ministers' Deputies during the period covered by this report were as follows:

- **Mr Guido Raimondi** was re-appointed on 30 June 2022 for a second full term ending on 30 June 2025.
- On 8 July 2020 the Ministers' Deputies appointed **Mr Luis López Guerra** for a full term ending on 8 July 2023 and re-appointed him **on 9 July 2023** for a second full term of three years ending on 9 July 2026.
- **Ms Mirjana Lazarova** was re-appointed on 7 July 2024 for a second full term ending on 7 July 2027.
- **Ms Saale Laos** was re-appointed on 3 November 2024 for a second full term ending on 2 November 2027.
- **Mr Luis López Guerra** and **Ms Mirjana Lazarova** were respectively elected by the Panel as its new Chair and Vice-Chair on 17 June 2023 with effect on 8 July 2023.
- On 9 July 2023, the Ministers' Deputies appointed **Mr Henrik Bull**, **Mr Paul Lemmens** and **Ms Irena Pelikánová** for a full term of three years ending on 9 July 2026.

11. The Panel welcomes the fact that the letter from the Committee of Ministers inviting governments to submit candidatures for filling a vacancy on the Panel explicitly mentions the requirement of good knowledge of at least one of the two official languages of the Council of Europe (English and French) and passive knowledge of the other. This requirement, which ensures that Panel members have an adequate command of both official languages, helps reduce operational costs and facilitates the Panel's work by eliminating the need for translation and interpretation.

12. According to supplementary operating rule 7, adopted by the Panel in 2021 (see paragraph 7 above), a member of the Panel is obliged to withdraw from the discussion and vote when the list under examination concerns the election of the judge elected in respect of the country of his or her nationality. A "national" member may nevertheless be invited by the Panel to provide factual explanations, in particular on the nature of national qualifications or on the national selection procedure.

### III. THE PANEL'S ROLE IN THE ELECTION PROCESS

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#### 1. The procedure before the Panel for assessing the candidates' qualifications

13. The process for electing a judge to the Court starts with a letter from the Secretary General of the PACE inviting the High Contracting Party concerned to submit a list of three candidates by a certain deadline. The PACE dispatches the letter up to fourteen months in advance of the scheduled election of the judge. This letter also draws the High Contracting Party's attention to the existence of the Panel. A copy of the letter is sent to the Secretariat of the Panel.

14. Upon receipt of the PACE's letter, the Panel immediately sends the High Contracting Party a separate letter recalling the Panel's tasks and working methods and inviting the High Contracting Party to submit to it, in both official languages of the Council of Europe (English and French), the names and *curricula vitae* of the candidates proposed, together with information on the national selection procedure.

15. To allow for better comparison of *curricula vitae*, the Panel recommends in the aforementioned invitation letter that, when submitting their list of candidates to the Panel, governments make use of the model *curriculum vitae* already used by the PACE.<sup>6</sup> However, the Panel notes that, during the period covered by the present Activity Report, an increasing number of candidates departed from this model. The resulting *curricula vitae* vary significantly in structure and content; some are extremely detailed, while others omit key information, such as dates of professional experience. These inconsistencies have, in several cases, complicated the Panel's assessment and comparison of candidates' qualifications and necessitated requests for clarification regarding the *curricula vitae*.

16. According to the Panel's operating rule (vi), the Panel is to inform the High Contracting Parties of its views no later than four weeks after the submission of the *curricula vitae*. In order to allow sufficient time to request additional information in case that should prove necessary, the Panel invites the governments to submit the *curricula vitae* at least three months before the expiry of the time-limit for the submission of the list of candidates to the PACE. The Panel's Secretariat collaborates with the PACE Secretariat with a view to coordinating, insofar as possible, the submission of the Panel's views with the timetable of meetings of the PACE's Committee on the Election of Judges.

17. While operating rule (iii) stipulates that the Panel's procedure shall be a written one, rule (iv) provides for the possibility of organising meetings "*where [the Panel] deems it necessary to the performance of its function*". In practice the Panel conducts most of its business in writing and only holds meetings if this is justified in terms of the workload or the importance or complexity of the issues to be discussed. If needed, video conferences are organised.

18. In this context, the Panel recalls that it is not holding interviews with candidates. Admittedly, this limits its ability to verify their competencies. While the Panel can request further information from the government about a candidate's *curriculum vitae*, in practice, it must base its assessment solely on the *curriculum vitae* submitted by the candidate, the government's comments, publicly available material and, on certain occasions, unsolicited information received from various sources.

19. Operating rule (viii) enables the Panel to seek additional information or clarification from the High Contracting Party in relation to any candidate under consideration. This will happen, for example,

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<sup>6</sup> Model *curriculum vitae* for candidates seeking election to the European Court of Human Rights, Appendix 2 to the Memorandum prepared by the Secretary General of the Assembly, Information document [SG-AS \(2025\)](#), 11 June 2025.

where the Panel has doubts as to a candidate's qualifications or the modalities of the national selection procedure. Should the Panel require additional information from the High Contracting Party, a request (invariably in writing) is made, usually within ten working days following receipt of the list by the Panel (as spelt out in supplementary operating rule 4).

20. By virtue of operating rule (x), the proceedings of the Panel are confidential. The Panel seeks to adopt its final views on the candidates as far as possible by consensus. If this proves impossible, final views are adopted by a qualified majority of five votes (operating rule (ii)). With the exception of cases where it is necessary to notify the government concerned and the PACE that the threshold of five votes has not been attained,<sup>7</sup> the voting in relation to the adoption of the final views remains confidential in all respects (supplementary operating rule 8). The confidentiality of the Panel's proceedings does not, however, prevent a government from informing national selection bodies of the content of the Panel's final views, notably in instances where those views have been negative in respect of the qualifications of certain candidates or in respect of the national selection procedure followed.

21. If the Panel considers all candidates qualified, it notifies the High Contracting Party in writing of that conclusion without further comment, as provided in Article 5(2) of Resolution CM/Res (2010)26. Observations on the selection procedure followed at national level may nonetheless be included in the Panel's letter to the High Contracting Party concerned (see section III.2 below).

22. In cases where the Panel has considered one or more candidates not to be suitable, reasons for this conclusion will be given in the Panel's written response to the High Contracting Party. During the last few years, when stating the grounds for considering a candidate to be unqualified, the Panel has referred more frequently to the principles and criteria formulated in its activity reports (summarised in the Short Guide) for interpreting and applying the generally worded requirements laid down in Article 21(1) of the Convention (see section V below).

23. When the Panel has expressed a negative conclusion as to the suitability of certain candidates for election as a judge to the Court, the High Contracting Party concerned is expected, though not obliged, to submit one or more new candidatures.

24. In this context, the question arises whether the High Contracting Party needs to reopen the whole national selection procedure in order to identify suitable replacement candidates or whether it may simply present (an)other candidate(s) from the same selection procedure. This question cannot be answered in the abstract. Depending on the selection procedure followed at national level and the quality of candidates participating, it may in certain cases be justified not to start a new procedure, in particular if only one candidate has to be replaced. It may be recalled that the Steering Committee for Human Rights has "*suggested to have at least one 'reserve' candidate standing by in case the original list meets with objections from the Advisory Panel. Whilst recognising that this may not always be acceptable to legal personalities of high repute within their jurisdictions, the CDDH nevertheless recommends that States Parties consider adopting such a practice should circumstances allow*".<sup>8</sup> In some circumstances, in particular if two or three candidates have been judged by the Panel not to be qualified, it is difficult to imagine that other candidates from the same selection procedure will be more qualified than the ones chosen and found lacking by the Panel (unless more meritorious candidates have been discarded at national level for extraneous motives, which in itself would be an indication of serious flaws in the initial selection procedure).

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<sup>7</sup> In such a situation, the Panel does not express an opinion on the issue under consideration. This has occurred on one occasion time during the period covered by the present Activity Report (see paragraph 129, below).

<sup>8</sup> The Steering Committee's report on the review of the functioning of the Advisory Panel of experts on candidates for election s judge to the European Court of Human Rights, CM(2013)175, paragraph 39.

## 2. Role and competence of the Panel in relation to the national selection procedure

25. Under the terms of paragraph VI.2 of the Committee of Ministers' Guidelines, when sending its list of candidates to the Panel, a government should also submit information on the national selection procedure followed. The Panel has deduced from this requirement that, while it has no express power of review in this domain under Resolution CM/Resolution(2010)26, in its final views on the candidates it may, where appropriate, draw attention to aspects of the national selection procedure, notably with regard to fulfilment of requirements of fairness and transparency.<sup>9</sup>

26. A practice to that effect has developed since the spring of 2019. In instances where the Panel has no specific remarks to make about the national selection procedure, that fact will be recorded in the letter communicating its final views to the government concerned. When this is considered justified, the Panel will address queries to the government or seek further information from it in connection with the national selection procedure followed. The Panel's written observations on the point are also included in the Panel's letter that is addressed to the Secretary General of the PACE.

27. It may also be that flaws in the national selection procedure have some relevance for the assessment of candidates under Article 21(1) of the Convention – for example, in the rare cases where there exist objective doubts as to a candidate's independence vis à vis the government nominating him or her (see section V.1, paragraphs 80-85, below, in relation to the Convention's requirement that judges on the Court "*be of high moral character*").

28. At its 1488<sup>th</sup> meeting on 7-8 February 2024, the Ministers' Deputies adopted decisions concerning the Steering Committee for Human Rights (CDDH) report on issues relating to judges of the European Court of Human Rights. According to these decisions, the Deputies: "*welcomed the evolving practice of the Advisory Panel to assess national selection procedures and invited it to publish its views on them in an anonymised and non-country-specific manner*" (CM/Del/Dec(2024)1488/4.2).

29. This is also a request made to the Panel by the PACE Committee on the Election of Judges.<sup>10</sup>

30. Furthermore, the Chair and the Secretariat of the Panel have also actively participated in the meetings of the CDDH sub-group focusing on issues related to the judges of the European Court of Human Rights, including the design of national selection procedures.

31. The criteria used by the Panel for the assessment of the selection procedure followed at national level as well as the overview of the Panel's findings on national selection procedures are indicated in section IV.2 below.

## 3. Sources of information

32. In addition to the *curricula vitae* and any further information provided by the governments upon the Panel's request, the Panel on occasions receives unsolicited material from various sources (for example, non-governmental organisations and individuals, including disappointed candidates). The Panel does not actively seek information from such sources; and, more importantly, it will not reject a candidate as not qualified solely on the basis of information and representations received from them. However, the Panel does not exclude putting questions to a government in the light of unsolicited

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<sup>9</sup> These being requirements stated in paragraph 8.2.2 of Resolution 2248(2018), Procedure for the selection of judges to the European Court of Human Rights, adopted by the PACE on 23 November 2018.

<sup>10</sup> This request was made at the joint meeting of the PACE Committee on the Election of Judges and the Panel, which took place on 13 May 2024.

information or representations insofar as that appears appropriate in order to fully confirm that a candidate has the requisite competences and qualifications or in order to clarify issues concerning the national selection procedure. The Panel's final assessment of a candidate's suitability or of the fairness and transparency of the national selection procedure will be based primarily on material supplied by the government concerned (including the latter's responses to the Panel's questions) and, as spelt out in supplementary operating rule 5, on relevant notorious facts in the public domain (as, for example, documented in resolutions of the PACE or judgements of the Court or other international or supranational courts).

#### **4. The relations between the Panel and the PACE**

33. In accordance with Article 5(4) of Resolution CM/Res(2010)26, the Secretary of the Panel informs the Secretary General of the PACE in writing of the Panel's final views on the candidates. If the list presented to the PACE includes candidates whom the Panel has considered unqualified, the reasons given to the High Contracting Party by the Panel for this conclusion are reproduced in the Panel's letter addressed to the Secretary General of the PACE. In the case of candidates whom the Panel has considered qualified, only this conclusion is communicated, without any further comment being provided, as provided in Article 5(2) of Resolution CM/Res (2010)26.

34. In line with paragraph 8.2.3 of Resolution 2248 (2018) of 23 November 2018 on the procedure for the election of judges to the European Court of Human Rights, the PACE has decided not to consider lists of candidates if the Panel has not been duly consulted beforehand by the government concerned.<sup>11</sup>

35. By virtue of paragraph 8.1 of the same Resolution 2248 (2018): *“the Chairperson or a representative of the Advisory Panel shall be invited by the Chairperson of the Committee on the Election of Judges to explain the reasons for the panel's views on candidates, during the briefing sessions scheduled before each set of interviews.”*

36. In this context, the Chair of the Panel, accompanied by the Secretary, participated in ten meetings of the PACE Committee on the Election of Judges during the period covered by this Activity Report.

37. In the view of the Panel, this initiative on the part of the PACE has progressively led to the installation of a fruitful dialogue between itself and the Committee on the Election of Judges, without in any way entailing an encroachment into the prerogatives of the PACE as regards the election of judges.

38. A joint meeting with the Committee was held on 13 May 2024 in Vienna, at the invitation of the Austrian Constitutional Court. The meeting aimed to address several issues of common interest, particularly the assessment of national selection procedures and the interpretation of the eligibility criteria set out in Article 21(1) of the Convention, as well as the cooperation between the Committee on the Election of Judges and the Panel.

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<sup>11</sup> In the same Resolution the PACE also invited its Committee on Rules of Procedure, Immunities and Institutional Affairs to consider those proposed changes in the election procedure before the Assembly that would require amendments to the Rules of Procedure. By Resolution 2278 (2019), paragraph 2.4, the PACE amended its rules of procedure with regard to the procedure for the election of judges to the European Court of Human Rights.

## **IV. CRITERIA FOR THE ASSESSMENT OF THE NATIONAL SELECTION PROCEDURE**

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### **1. General criteria**

39. As indicated above, the two primary criteria employed by the Panel for assessing the national selection procedure are those set out in paragraph 8.2.2 of Resolution 2248 (2018) of the PACE, namely the criteria of fairness and transparency. The aspects of the national selection procedure that the Panel has so far looked at, basing itself on the Committee of Ministers' Guidelines, have included:

- the kind of qualifications, experience and qualities required of the persons applying for selection, including personal qualities such as independence and impartiality;
- the legal basis of the selection procedure followed and whether the rules establishing the national selection procedure were made public;
- the publicity given to the call for applications, in particular its extent (especially when the number of applications received appeared to be limited);
- the number of candidates who responded to the call for applications and the number of these candidates who were interviewed;
- the time-limit for responding to the call for applications;
- more generally, the efforts, or lack of effort, on the part of the government to ensure that a sufficient number of good candidates of both sexes, present themselves;
- the composition of the national selection body; in particular (a) whether the composition of the national selection body was balanced, with members coming from a variety of backgrounds (including members nominated by independent entities such as bar councils, magistrates' associations, non-governmental organisations and bodies representing the academic world and civil society) or (b) whether, on the contrary, the national selection body is packed with representatives of the government, the political majority in parliament and officials serving the government;
- the procedure followed by the national selection body;
- the selection criteria applied at the national level and the transparency of those criteria;
- the role played by government ministers or the Head of State in the finalisation of the list of candidates;
- whether any complaints were made (including by candidates) about or in connection with the national selection procedure, and if so, how these complaints were dealt with by national authorities;
- the size and population of the country (when the number or quality of applicants in response to the call for candidatures was low);
- in the event of a single-sex list of candidates that does not include the under-represented sex in the composition of the Court (at present, the female sex), the relevant background circumstances insofar as they have a bearing on the issue of justifying a derogation from the general rule of gender balance of lists of candidates (see section VI.1 below).

### **2. Overview of the Panel's findings on national selection procedures**

40. In accordance with the request of the Committee of Ministers and the PACE (see paragraphs 28-29 above), the Panel reviewed the national selection procedure for candidates proposed for election to the Court during the period covered by this report. In at least 15 of the 35 lists examined, the Panel identified concerns in relation to the national selection procedure, which in most cases led to specific questions being addressed to the respective governments.

41. While many States have made commendable efforts to ensure fairness, transparency and compliance with the Guidelines of the Committee of Ministers, the Panel has also identified a number of challenges, shortcomings and practices that fall short of these standards.

42. This section provides an overview of the Panel's findings across the procedures reviewed, with the aim of identifying emerging trends, drawing attention to areas in need of improvement and highlighting promising practices that may serve as useful reference points for all States.

### **A. Insufficient response to the call for candidates**

43. In several national selection processes, there was a marked shortage of candidates.

44. In one particular case, two successive calls for candidates had to be organised. In the first call, only three applications were received, of which two candidates subsequently withdrew. The remaining candidate from that list was therefore joined by two new candidates, the only ones who applied in response to a second call. Thus, in the second call, the number of candidates was below three. Despite this situation, the government concerned decided not to re-publish the vacancy a third time or to explore more proactive outreach measures, such as the engagement with professional networks. It cited national legal principles prohibiting individual recruitment and requiring an open, non-discriminatory competition. While recognising the importance of these legal principles and acknowledging that the vacancy had been widely publicised, the Panel considered the repeated lack of interest to be problematic as it undermined the competitiveness and potential diversity of the process. This may suggest that potential candidates perceived the national selection procedure as politically biased, believing that they stood no chance against candidates favoured by the government. Such politicisation, or even the perception of it, could have a chilling effect on their willingness to apply. The Panel therefore recommended that, in future cases of persistent low interest, the vacancy should at least be re-advertised.

45. In another case, the government had to organise three successive calls for candidates before completing the first list. Only one application was received in the first call, two candidates were presented in the second, and two candidates applied again in the third. Following these three calls, a list of three candidates was submitted first to the Panel and then to the PACE.

### **B. Publicity, accessibility, and timeframes of the call for candidates**

46. The Panel found that several States effectively disseminated calls through official gazettes, press agencies, professional associations, universities and legal journals, thereby ensuring a wide reach. In other cases, however, more limited approaches were used, which may have reduced the visibility of the call and potentially limited access to a wider pool of qualified candidates.

47. In one national process, the only channel of publication was the website of the Ministry of Justice, with no call made through professional networks or general media. The Panel questioned whether this method could genuinely bring the vacancy to the attention of all suitable candidates. In

another case, the call for applications was published only in the official gazette of the State, an outlet that may not be frequently consulted by the wider legal and academic community.

48. A further concern was raised in a case where the application deadline was limited to just two weeks, which, even in time-sensitive circumstances, could be too short for interested candidates and limit well-prepared applications.

49. In another case, candidates were not allowed to apply directly but had to be proposed by various representative bodies. This nomination-based system limited access to the process and could have restricted the inclusiveness and openness of the procedure, especially for qualified individuals who were not affiliated with or supported by one of the authorised nominating entities.

### **C. Composition of national selection bodies: concerns of balance and independence**

50. The Panel encountered a number of cases where the composition of the selection body raised concerns about institutional balance, independence, and diversity of perspectives. In this context, it recalls that the balanced composition of these bodies is crucial to guarantee that future ECtHR judges are independent and impartial, in line with the Convention's standards for merit-based appointments of judges free from undue government influence (see paragraph 59).

51. In one case, the national selection body was composed almost entirely of government ministers and senior officials from the executive and legislature with no representation from academia, the practising legal profession, civil society, or judges' associations. While technically lawful, such a composition fell short of the Guidelines' expectation of a body composed of individuals from varied professional and institutional backgrounds, free from undue influence and commanding public respect.

52. In another national procedure, the composition of the selection commission changed significantly from previous rounds. Several experts were replaced by the new government, although they had previously been regarded as valuable and impartial contributors. Their replacement was perceived by some sections of society as resulting in a commission composed of individuals closely associated with the ruling political elite, raising concerns about potential political interference in the process.

53. In another selection procedure, multiple bodies were involved; however, the decisive role was played by a commission composed exclusively of officials from the President's Office, which was also the only body to conduct interviews. A judicial body, which had previously participated in the shortlisting process, could not conduct interviews. Its assessment was based solely on written applications, and its recommendations were non-binding. The Panel found that the commission did not appear to include members with specific expertise required to assess the legal and professional qualifications of the candidates.

### **D. Evaluation and final decision-making**

54. In many cases, States provided detailed descriptions of selection criteria, including experience in human rights law, language proficiency, motivation, and knowledge of the Convention system.

55. However, in other cases, the Panel encountered a lack of clarity on how candidates were assessed or how final decisions were made.

56. In one case, the authorities did not explain the rationale for selecting one candidate over others, despite the fact that unselected candidates seemed to have a manifestly better experience than those nominated. This resulted in a negative assessment by the Panel.

57. In another case, the government overruled the recommendation of a judicial body without providing reasons.

58. An often-encountered problem is that governments reply to the Panel's inquiries with formalistic references to legal provisions, but do not provide practical information on how the relevant criteria were effectively applied or weighed during evaluation. The Panel expects governments to provide a solid justification for their selection of candidates.

### **E. Political influence and potential exclusion of highly qualified candidates**

59. The Panel reiterates the importance of establishing a selection procedure at national level to ensure the independence and impartiality of future ECtHR judges. This is in line with the requirements of the Convention, as interpreted by the Court, that (domestic) judges be selected according to "criteria based on merit" and following a procedure which provides "safeguards against undue influence and/or unfettered discretion" of the government or the legislature. Consequently, the Panel considers that the Court's own composition should meet these requirements.<sup>12</sup>

60. In relation to the point above, the Panel noted instances where political dynamics could be perceived as excessively influencing the selection of candidates, to the detriment of other well-qualified candidates.

61. In certain cases, candidates with strong qualifications were excluded from the final list. In this regard, the Panel recalls that its mandate does not involve a comparative assessment of candidates, but is limited to assessing whether the proposed candidates meet the minimum requirements of Article 21 of the Convention. Accordingly, the Panel is not always in a position to know why seemingly excellent candidates did not apply or were not included on the final list. The Panel cannot rule out the possibility that in certain cases political considerations rather than merit may have influenced the composition of the final list of candidates. This "blind spot" remains a limitation of the Panel's mandate to this day.

62. In one procedure, a new nationality requirement was introduced, restricting eligibility to individuals with a single nationality, thereby excluding experienced dual nationals from applying. This criterion had not been applied in previous selection procedures. Because of the obvious risk of an arbitrary exclusion of certain candidates, it was for the government to provide the Panel with an objective and reasonable justification for introducing such a criterion. Consequently, having received only limited justification from the government concerned as to the introduction of this requirement, the Panel explicitly highlighted, in the letter containing its opinion, the abovementioned negative impact such a requirement could have on the pool of potential candidates, with the understanding that the PACE could draw the relevant consequences.<sup>13</sup>

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<sup>12</sup> ECtHR [GC], 1 December 2020, [Gudmundur Andri Astradsson v. Iceland](#), § 234; ECtHR [GC], 15 March 2022, [Grzęda v. Poland](#), § 308.

<sup>13</sup> The PACE did not share these concerns and proceeded with the election procedure in respect of the country concerned.

## **F. Interview procedures and language assessment**

63. Effective interviews and robust assessment of language skills are essential to the evaluation of candidates. In several procedures, the Panel noted good practices, including structured interviews, assessments conducted in English and French, and evaluations of applicants' judicial reasoning and communication abilities.

64. In contrast, the Panel identified weaknesses in other cases.

65. In one procedure (see paragraph 53, above), the body responsible for shortlisting candidates did not conduct interviews, relying solely on written applications for its assessment. The interviews were instead carried out at a later stage by another body, which lacked a balanced composition. This latter body ultimately altered the selection made by the initial shortlisting body.

66. Particularly concerning was the inclusion in one case of clearly irrelevant and politically sensitive questions during interviews. Candidates were asked about past political demonstrations, election events, and constitutional amendments – topics that, in the concrete circumstances of the case, might have been used to screen candidates on ideological grounds.

## **G. Insufficient information provided to the Panel**

67. The Panel is frequently dependent on the quality and completeness of information submitted by national authorities to carry out its assessment. In a number of cases, the materials provided consisted only of the legal framework without details about its actual implementation during the selection process.

68. In one case, the Panel had to request follow-up information on fundamental aspects of the process, including how the call for applications was published, the number of applicants, the interview procedures and the criteria used for the shortlisting. In another case, there was no explanation of how the selection body applied the selection criteria, and the role of the nominating institutions remained unclear.

69. In another case, the Panel decided not to examine the national selection procedure in depth because of serious concerns about the suitability of the candidates. However, it also noted that its previous feedback on individual candidates appeared to have been ignored or overlooked by the national authorities.

## **H. Delays in the presentation of lists**

70. Some delays have been observed in the submission of lists of candidates by States Parties (see paragraph 132, below). These may be due to difficulties in organising or completing an appropriate national selection process, or to the need to replace one or more candidates. Although such lengthy delays - in particular those exceeding one year - remain relatively rare, they may result in a de facto extension of the mandate of the incumbent judge or in the vacancy for a certain period of time of the judgeship for the State concerned. Ensuring timely and efficient national selection procedures is therefore essential to avoid such outcomes altogether.

## **I. Notable positive practices**

71. Despite these challenges, in a majority of cases (18 lists), the Panel noted in its letter to the Government that the national selection procedure did not raise any particular concerns. In some instances, the Panel observed very positive developments.

72. For example, in one case, the composition of the national selection committee – previously composed of governmental officials – included a significant proportion of members from outside the governmental structure, in particular representatives from the Constitutional Court and highly reputed academics.

73. Another positive example of a national selection procedure involved the national selection committee establishing and applying a set of detailed, objective and transparent selection criteria for assessing candidates. This enabled candidates to clearly understand what was expected of them, allowing for an objective selection. The criteria covered core areas such as intellectual and legal capacity (including a high level of legal expertise, analytical skills, and familiarity with domestic and international law), personal qualities (such as integrity, sound judgment, and independence), judicial temperament (including fairness, awareness of diversity, and commitment to justice), communication and linguistic abilities (including the capacity to explain complex legal matters clearly and a passive knowledge of French), and efficiency (such as time management, teamwork, and the ability to deliver reasoned judgments under pressure). The Panel considers that providing such a list of criteria constitutes an excellent practice.

74. One selection process involved 17 applicants, a diverse and competent selection body (including a former Chief Justice, the Attorney General and a university professor), and transparent application of clear criteria. All shortlisted candidates were interviewed, and their language skills were duly assessed.

75. In a number of procedures, preference rankings provided by the selection committee were transparently followed by the appointing authority.

76. In one case, the Panel observed that the selection procedure fell significantly short of the standards set out in the Committee of Ministers' Guidelines on the selection of candidates for the post of judge at the ECtHR. This was particularly evident in two key areas: the composition of the selection committee - comprised, with one exception, entirely of Government ministers or officials serving the Government or Parliament - and the very limited publicity given to the call for applications. However, in response to these shortcomings, the State in question revised its selection procedure and issued a new call for candidates. Notably, the revised procedure addressed previous concerns by eliminating the dominance of executive or legislative officials. The evaluation of candidates was then entrusted to a legally established, institutionally independent working group composed of representatives from the judiciary, the legal profession and human rights institutions. This represented a significant improvement in safeguarding the independence, impartiality and credibility of the selection process.

## **J. Summary of challenges identified**

77. While many States have made commendable efforts in organising national selection procedures for ECtHR candidates, the Panel's examination of recent lists has revealed a number of challenges, including:

- Inadequate publicity or overly formalistic approaches to calls for candidates;
- A low number of persons responding to the call for candidates;

- Unbalanced or politicised composition of selection bodies;
- Lack of transparent decision-making or of justifications for derogations from recommendations made by the selection bodies;
- Unjustified exclusion of highly qualified applicants;
- Gaps in information provided to the Panel.

78. The Panel reiterates that formal legal compliance does not suffice: national procedures must also meet the spirit of transparency, independence and fairness embedded in the Committee of Ministers' Guidelines. The legitimacy of the Strasbourg Court and the trust of the public in the judicial election process depend on the fair and consistent application of these principles.

## V. CRITERIA FOR THE ASSESSMENT OF THE QUALIFICATIONS OF THE CANDIDATES

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79. Under the terms of Article 21(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*”. The Panel has continuously reviewed the application of this provision in the light of its experience in dealing with concrete cases. In doing so, it pays due regard to the Committee of Ministers' Guidelines. It follows from the text of Article 21(1) of the Convention that the necessary level of professional competence or experience to serve as a judge on the Court may be achieved through two broad, alternative career avenues, namely (i) experience in the judicial sphere and (ii) recognition as a jurisconsult. Before addressing these two avenues of professional qualification for the position of judge on the Court, it is first necessary to say a few words about the personal requirement of “*high moral character*”.

### 1. The condition of “be[ing] of high moral character”

80. In previous activity reports, qualities such as integrity, a high sense of responsibility, courage, dignity, diligence, honesty, discretion, respect for others and the absence of conviction for crimes have been mentioned as key components of the requirement of being of a high moral character, as well as (obviously) independence and impartiality.<sup>14</sup>

81. Generally speaking, however, the Panel has to assume that these personal qualities are possessed by the candidates. A candidate's character is hardly ever open to being assessed on the basis of what appears in the *curriculum vitae*. In particular, it will only be when something is manifestly apparent from the *curriculum vitae* that a negative judgement as to character can be made. Representations received from third parties asserting the existence of facts capable of supporting an unfavourable assessment of the moral character of a candidate are dealt with in the manner described above at paragraph 31 (in section III.3 on sources of information). Furthermore, the Panel will take into account publicly available information in this connection only once the government proposing the candidate has been given the opportunity to comment on the information's pertinence and merits. In practice, issues concerning a candidate's “*high moral character*” have therefore rarely arisen and, until recently, no manifest problems under this head have ever been signalled by the Panel in its views.

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<sup>14</sup> In its first activity report of December 2013 at paragraph 28 the Panel made reference to the Resolution on judicial ethics adopted by the Plenary of the Court in 2008. An updated Resolution on judicial ethics was adopted by the Court in 2021 and is available on its website: [Resolution\\_Judicial\\_Ethics\\_ENG.pdf](#)

82. During the period under review there has been one instance in which the Panel found that serious objective doubts existed in regard to the independence and impartiality of candidates vis à vis the government nominating them. The negative conclusion was arrived at not only on the basis of what appeared in the *curricula vitae* concerned and the information furnished by the government, notably as to the national selection procedure, but also in the light of notorious facts and documents that were in the public domain. In the latter connection the Panel considers that it cannot ignore publicly known facts which, as documented in reliable sources, are liable to compromise a candidate's independence and impartiality, even though those facts have not been mentioned by the candidate or the government in question (on this point, see paragraph 32 above).

83. As far as the Panel is concerned, being, or having been, active in national politics does not in itself and automatically constitute a disqualifying incompatibility on the ground of being indicative of a lack of judicial independence and impartiality. Relevant considerations in this regard will include the recent or distant character and the intensity or looseness of the links with national politics. What is certain is that active involvement in politics – whether as a member of a government, as a parliamentarian or as a high official – is not enough on its own for disqualification; there must be other sufficient objective indicators of a lack of independence and impartiality.<sup>15</sup> On the other hand, the Panel is naturally not prevented from expressing an overall negative assessment under the other two conditions laid down in Article 21(1) in regard to the professional qualifications and experience of a candidate whose career has essentially been in the political field.

84. With regard to the criterion of high moral character, the Panel has encountered situations where a candidate has made public statements that could be perceived as controversial or potentially damaging to his or her moral standing. Assessing such matters is inherently challenging and difficult to determine. In such cases, the Panel has sought clarification from the nominating government. If there is still a need for further checks, the PACE Committee might consider to raise the issue with the candidate concerned, during the interview process, and to assess whether the statements can be considered inconsistent with the required standard of moral character.

85. To sum up, the “*high moral character*” of candidates normally cannot be examined by the Panel and has to be presumed, especially given that the Panel is not empowered to convene candidates for an interview; and it will only be very exceptionally, when there is some manifest evidence capable of rebutting this presumption, that an issue concerning the “*high moral character*” will be addressed by the Panel.

## **2. General considerations concerning the conditions relating to professional competence**

86. The two “professional” qualifying conditions provided for in Article 21(1) of the Convention, although very general in their terms, fall to be understood and applied as a whole. Moreover, the object and purpose of the Convention, as an instrument intended to guarantee rights which are practical and effective rather than theoretical and illusory,<sup>16</sup> should be taken into account in their interpretation and application. The effectiveness of the Convention is influenced by the willingness of national authorities to follow the judgements of the Court. They will readily do so if the quality of the reasoning is high and if the authority of the Court is beyond question. The process of establishing and maintaining the authority of the Court is something which occurs over the long term and is, to a large extent, dependent on the quality and experience of the judges. The Court itself has emphasised the importance of the

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<sup>15</sup> Some differences in the assessment of political activities and statements of candidates may have arisen between the Panel, which has very limited information on this matter, and the PACE.

<sup>16</sup> ECtHR [GC], 9 April 2024, [Verein KlimaSeniorinnen Schweiz and Others v. Switzerland](#), § 545; ECtHR [GC], 25 June 2024, [Ukraine v. Russia \(re Crimea\)](#), § 1336.

quality of judges for its own authority.<sup>17</sup> Having as judges at the Court persons who come from positions at a high level in the Contracting States obviously will have positive repercussions for the authority of the Court. If, for example, a disproportionate number of judges were relatively young, lacking in extended experience and not having reached a prominent position in the national judicial system or in the academic world, then acceptance of the Court's case-law, in particular by the highest domestic courts, could be negatively influenced. In short, in order to be successful in carrying out its mandate,<sup>18</sup> the Court should inspire confidence in the parties, in national judiciaries at the highest level and in the Contracting States generally.

87. Although the Panel has continued to reflect on and examine the “professional” qualifying conditions laid down in Article 21(1) of the Convention from different perspectives in the light of its actual experience in evaluating a large number of candidates over the last years, the fundamentals of the conditions to be applied, as explained in the first activity report,<sup>19</sup> remain essentially the same. In the broadest terms these include professional experience of long duration at a high level. The Panel endeavours to obtain a comprehensive picture of the candidates and carries out a global assessment of all the qualities of a candidate, whatever his or her professional career path, with a view to determining whether the candidate has the aptitude for exercising the judicial function at a high level which is appropriate for an international court (of which knowledge of human rights law is only one, albeit important, component).

88. The Court, by its nature, status and pan-European role, assumes that its members already have, on election, all the fully developed judicial qualities that come from long experience. However, many countries find it difficult to attract three candidates of a long professional experience. It is, therefore, all the more important that the High Contracting Parties widely advertise calls for candidatures at national level in order to ensure having the highest number of qualified candidates possible.

89. In concrete terms, regarding the necessary length of experience, the Panel would on average expect a minimum of 15 to 20 years working in a relevant professional environment. As to the breadth of experience required, certain candidates who possessed a good, even excellent, *curriculum vitae* for their age have been considered by the Panel to lack sufficiently deep experience at a senior level. Even though they could be taken to be well-qualified mid-career legal professionals with an evidently promising future before them, the level of their professional experience to date was considered to fall below that required of an international judge tasked with adjudicating on measures adopted by national parliaments, governments and superior courts. In this connection, the Panel also notes that experience of working in teams at international level could be an important asset, as serving as a judge on the Court entails being able to be a productive member of a collegial judicial body which operates in an international environment representing different legal traditions.

90. The Panel seeks to apply the same criteria to all countries and all candidates in order to ensure consistency in the application of Article 21(1) of the Convention and equality of treatment across the board, and also in order to avoid the risk of disparity in the quality of the judges composing the Court. Nonetheless, in some instances where it has been hesitant about a borderline candidate in terms of his or her qualifications, it has taken into account as a counter-balancing factor in its assessment the characteristics of the country – in particular, its small size and population and the consequential difficulty in finding three suitably qualified high-level candidates.

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<sup>17</sup> See ECtHR, [Advisory opinion of 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, § 42.](#)

<sup>18</sup> Compare, with respect to the confidence to be enjoyed by domestic courts, ECtHR [GC], 23 April 2015, *Morice v. France*, § 128; ECtHR [GC], 1 December 2020, *Gudmundur Andri Astradsson v. Iceland*, § 283.

<sup>19</sup> See document Advisory Panel (2013)12 of 11 December 2013, paragraph 27.

91. For present purposes the foregoing considerations have been necessarily expressed in the most general terms, but they do indicate that High Contracting Parties when presenting a list of candidates, and the PACE when deciding which candidate to elect as a judge, should acknowledge that their decisions in this regard are of quite a momentous importance, requiring thorough consideration so as to ensure that candidates proposed are of mature professional experience and unquestionable qualifications for the exercise of a high judicial function on the international plane. It is not only a matter of sending to the Court men and women who enjoy support at the national level, but also an imperative of contributing to the composition of the Court in such a way that it can perform its task for the whole “community of Convention States”.<sup>20</sup>

### **3. The condition of “possess[ing] the qualifications for appointment to high judicial office”**

92. The expression “*high judicial office*” would seem to cover posts as a judge on a national supreme or constitutional court, whereas it would seem to exclude posts as a judge on lower national first-instance courts (although judges on lower national courts may otherwise qualify as “jurisconsults” – on this point, see paragraph 110 below).

93. The qualifying condition of “*possess[ing] the qualifications for appointment to high judicial office*” must be given a substantive interpretation consistent with its purpose in the light of the criterion of professional experience of long duration at a high level (see paragraph 89 above) and not a purely formal one. Given the wide diversity of national rules on eligibility for appointment to constitutional and supreme courts, the Panel’s view is that all persons eligible for appointment to one of the highest national courts in a country, and even persons holding office on such a court, would not, for that reason alone, be automatically considered qualified to be candidates for election to the Court. In contrast, actual service for a significant number of years on a supreme or constitutional court should normally mean that a national judge is qualified.

94. In this context it should be borne in mind that national judicial structures vary considerably. For example, in some countries a person may be appointed to a supreme court (often consisting of many members) at a relatively young age because of his or her innate ability, but nonetheless with limited judicial experience. On the other hand, some national systems require experience of at least ten to fifteen years as a judge or practising lawyer before being eligible for appointment to the highest courts.

95. In sum, consistent with the global appreciation of a candidate’s qualifications, account is taken of the person’s entire career in the judicial sphere, including the length and level of judicial service or practice of the law and whether he or she has had to deal with cases involving fundamental rights issues and complex interpretative issues of law. Academic work or the publication of substantial writings may also represent an important factor compensating for weakness otherwise existing on the judicial side of the candidature.

96. The Panel nevertheless observes that a significant number of candidates proposed and assessed under the condition of “*possess[ing] the qualifications for appointment to high judicial office*” come from courts of appeal. While this is not necessarily a problem in itself, as the assessment of these candidates also depends on the role and importance of the appellate court in question within the relevant judicial system, as well as on the responsibilities of the candidate within these courts, this

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<sup>20</sup> ECtHR, 24 July 2003, [Karner v. Austria](#), § 26.

finding illustrates the inherent difficulty in certain countries in attracting candidates serving as judges in the highest courts of the country concerned.

97. Even more problematic is the fact that in several cases the Panel found that the candidates were judges of lower courts, i.e. courts of first instance, who did not even exercise appellate functions. In view of what has been said above about the need for a judicial experience of long duration at a high level, the Panel normally considers that experience at such a level of the judicial system is incompatible with the requirements of Article 21 of the Convention. However, in some specific cases, and taking into account the particular circumstances and characteristics of the country or court concerned (such as the fact that the country concerned was a so-called “micro-state” with a very limited number of courts, or that the court of first instance was located in a very important city and exercised appellate functions in respect of certain types of litigation), did the Panel consider such candidates to meet the requirements of Article 21 of the Convention. The high level of responsibility exercised by the candidate concerned within a court of first instance, such as the fact that he or she was the president of that court with the legal status and rank of a Supreme Court judge, has also been considered as a positive factor in certain exceptional cases.

98. In one case, the Panel examined the qualifications of a candidate who had spent most of his career in international jurisdictions. In this context, the Panel recalls that knowledge of the national law and legal system remains an important requirement for candidates to become a judge at the Court. While this does not mean that candidates who have spent a major part of their career in international courts are to be excluded, the Panel expects them to also have a sufficient familiarity with their national legal system.

99. In conclusion, the Panel would reiterate its concern about the fact that there is still a considerable number of candidates without long-lasting judicial experience. It is convinced that, in the interests of strengthening the overall judicial quality of the Court, the High Contracting Parties should take every reasonable step possible to encourage a greater number of very experienced judges from the highest courts to make themselves available as candidates for election to the Court. Regarding this issue, the Panel notes that candidates presented by governments have been younger for some years now. The Panel notes that, while some younger candidates are perfectly qualified, this also illustrates a tendency for some governments to present less experienced candidates than in the past.

#### **4. The condition of being a “jurisconsult of recognised competence”**

100. The term “jurisconsult” is a rather antiquated word for an expert in law. It denotes a person who is highly knowledgeable about the law but who is not necessarily a practising lawyer or a judge. In short, it refers to a legal scholar. The qualifying phrase “of recognised competence” shows that something over and above expertise in the law, even great expertise in the law, is meant.

101. Once again, inherent in these observations is the importance of electing to the Court persons of mature professional experience at a high level.

102. The Panel considers that, for persons pursuing an academic career, the level of “*recognised competence*” is normally attained when they have been a tenured full professor – not an associate, assistant or visiting professor – at a university of standing for many years and have published important academic works, for example relating to the protection of human rights and the relationship between those rights, the general interest and the rights of others.<sup>21</sup>

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<sup>21</sup> Compare with the definition given by Jean-Paul Costa in a letter of 9 July 2010 to the Ministers’ deputies, quoted in the second activity report of the Panel, document Advisory Panel (2016)1, paragraph 44.

103. Lack of sufficiently high-level experience as a full, tenured professor over many years on the part of a candidate who has followed an academic career may, although not always, be compensated by the parallel existence of other relevant professional experience, for instance as an advisor or lawyer in cases involving human rights or constitutional issues or as a member of national, international or European supervisory bodies in areas connected with human rights. It is a question of degree and of the overall quality of the *curriculum vitae* in question.

104. The selection of persons other than academics, such as practising lawyers, prosecutors, ombudspersons, diplomats, legal advisors of governmental entities or non-governmental organisations and, generally, legal professionals in the public (including political) or private domains, on the ground of their being “jurisconsults of recognised competence” is also possible. This will be particularly so where they have, through their career, acquired professional intimacy with the functioning of courts – subject always to the criterion that they have the mature professional experience expected of a judge serving on an international court.

105. In this context, the Panel notes that a number of the candidates it has examined under the heading of “jurisconsult of recognised competence” presented what it would call a “diversified” or, in some cases, “fragmented” career, combining several professional experiences of different nature, such as judicial, academic, practical, international, or governmental. This is of course not a problem in itself, as a diversified career may have enabled the candidate concerned to acquire a varied legal knowledge and different skills that may be relevant to the numerous fundamental rights issues arising under the Convention. However, the Panel notes that these experiences very often took place at a “low” to “mid” level and for a “short” to “medium” period of time. This might be an issue where multiple short experiences may not have allowed the candidate concerned to acquire the level of experience required for a judge at the Court. By contrast, the Panel has accepted candidates with this type of profile when it considered that all these combined experiences had taken place at a sufficient level and for a sufficient period of time, in particular when these experiences, whatever their nature, had a specific focus on human rights.

106. In regard to candidates who do not have an academic profile and who at first sight do not appear to meet that criterion, the Panel will see if the *curriculum vitae* indicates the existence of compensating factors. For example, the Panel accepted the candidature of a senior civil servant who had held important legal responsibilities for a long period of time in the prime minister’s office and who had a relevant experience in the Council of Europe. In reaching this conclusion, the Panel also took into account the fact that this candidate fulfilled the requirement for appointment to the highest courts of his country. Other concrete examples that might be cited of persons other than career academics who, so the Panel accepted, could be regarded as being “jurisconsults of recognised competence” were candidates who had combined professional experience:

- as a criminal lawyer in private practice, as a lecturer, as an international legal expert and as a former national and international criminal judge;
- as a professor and as a government agent before the Court; and
- as a senior national or international civil servant, namely as an agent of the European Commission before the General Court and the Court of Justice of the European Union, and as an associate professor.

107. Regarding internal Council of Europe candidates, the Panel has expressed different opinions. For some of these candidates, although they had successfully attained a mid-point of their career within the Organisation, their experience was too far from being sufficiently extensive or sufficiently high-level to qualify them as jurisconsults of recognised competence. In their case, their mid-level professional experience within the Council of Europe was not compensated by sufficient other

experience, whether academic or judicial. However, in a limited number of other cases, some of these internal candidates presented relevant complementary activities, notably in the academic or judicial field, which allowed the Panel to accept their candidature when assessing their overall career, based on the existence of compensatory factors.

108. While the experience in the field of Convention law or fields of law relevant to the implementation of Convention rights is a highly material factor to be taken into account, it must be kept in mind that the essential qualifications to adjudicate on Convention issues can be acquired in a number of ways other than working with such issues on a day-to-day basis. It may be said that professors of constitutional, European or public international law might normally be regarded as having competence in the field covered by the jurisdiction of the Court, even if they have not specialised in human rights. Academics and other legal professionals in these and other fields should, however, be able to show some real engagement during their career with questions of human rights related to their field of law. Among others, professors of criminal law, criminal procedure, family law or immigration law are likely to be able to show some of this engagement.

109. In sum, being a “*jurisconsult of recognised competence*” means more than just having expertise as a lawyer at a certain level. One may, for example, have acquired good knowledge of human rights and the Convention by obtaining impressive academic qualifications, publishing some learned articles and so on. However, without a long academic or other professional experience and important publications, a lawyer may fail to qualify as a “*jurisconsult of recognised competence*”, notwithstanding a solid knowledge of Convention law. Even full professors, while being competent jurists, cannot be said to meet the condition of being “*jurisconsults of recognised competence*” within the meaning of Article 21(1) of the Convention if their appointment was of recent origin and their professional experience was limited.

110. In such circumstances the Panel seeks to identify whether such jurists have any compensating experience as a consultant, lawyer or dispute resolver in cases involving the protection of fundamental rights. There are thus a few examples of the Panel accepting, on the ground of being a “*jurisconsult of recognised competence*”, candidates who have combined academic experience that was not of the most senior level with a certain judicial experience. As a corollary, a national judge who does not satisfy the Article 21(1) condition of “*possess[ing] the qualifications for appointment to high judicial office*” may, by virtue of a parallel academic career with important publications in relevant fields of law, meet the requirements for being considered a “*jurisconsult of recognised competence*” (see paragraph 95 above). It may be that, on an overall assessment of the *curriculum vitae* by the Panel, a combination of elements falling under the two professional heads mentioned in Article 21(1) of the Convention renders the expertise sufficient.

111. As a concluding remark, the Panel would once more emphasise (see paragraph 109 above) that many, if not most, of the candidates whom it has found to fall short of the standard of “*jurisconsults of recognised competence*” were excellent experts in the law who were no doubt in good standing with their professional peers but who nonetheless, being at a middle or even early stage of their careers, had not yet acquired the necessary length and breadth of professional experience. As mentioned above, Article 21(1) of the Convention is concerned, not simply with the appointment of competent experts, but with the election of international judges called on to adjudicate in human rights cases that are liable to be complex, sensitive or of significant influence for the development of the democratic society in the “community of Convention States” (see paragraph 91 above).

## VI. OTHER RELEVANT REQUIREMENTS

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### 1. Gender balance

112. The Panel also has regard to the gender balance of the list of candidates. If a single-sex list that does not include the under-represented sex (defined in the Committee of Ministers' Guidelines<sup>22</sup> and in the PACE's Resolution<sup>23</sup> as under 40% of the judges sitting on the Court) is submitted, the Panel considers itself to be empowered to ask the government to explain the exceptional circumstances justifying this departure from the "general rule" specified in the Guidelines.

113. When assessing whether all the necessary and appropriate steps have been taken to ensure that the list includes candidates of both sexes meeting the requirements of Article 21(1) of the Convention, the Panel will take into consideration factors such as:

- whether, in the absence of qualified candidates of the under-represented sex (at present, the female sex), the call for candidatures was re-published and, if so, in what manner;
- whether any members of the under-represented sex figured on a reserve list;
- whether any concrete and specific efforts were made to encourage members of the under-represented sex to apply, such as inserting in the call for candidatures a prominent mention that applications from them would be particularly welcome.

114. Any derogation from the rule of gender balance that is not perceived to be justified by the existence of exceptional circumstances will be signalled by appropriate observations in the Panel's final views on the list.

115. In the lists submitted to the PACE during the period covered by this activity report (1 July 2022 to 30 June 2025), the High Contracting Parties have respected the rule on gender-balance by including at least one female candidate (that is, a candidate of the under-represented sex). On two occasions the Panel accepted a single-sex list of candidates where all the candidates were female.

### 2. Language proficiency

116. In accordance with the Committee of Ministers' Guidelines, candidates must, as an absolute minimum, be proficient in one official language of the Council of Europe (English and French) and should also possess at least a passive knowledge of the other, so as to be able to play a full part in the work of the Court.<sup>24</sup>

117. In practice, the Panel is not in a position to reliably verify compliance with this requirement, since it does not have the opportunity to interview the candidates and can only judge on the basis of what is included in the *curriculum vitae* prepared by the candidate (primarily the candidate's own declaration as to language proficiency) and in the accompanying information from the government. The Panel therefore expects governments to explain what level of proficiency they required from the candidates and how that proficiency was tested (see in this respect paragraphs 63 and 67 above).

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<sup>22</sup> Paragraph II.8 of the Committee of Ministers' Guidelines reads: "*Lists of candidates should as a general rule contain at least one candidate of each sex, unless the sex of the candidates on the list is under-represented on the Court (under 40 % of judges) or if exceptional circumstances exist to derogate from this rule.*"

<sup>23</sup> Paragraphs 6-8 of [PACE Resolution 1426 \(2005\) on Candidates for the European Court of Human Rights](#): "*The Assembly decides not to consider lists of candidates where: [...] the list does not 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.*"

<sup>24</sup> Paragraph II.3 of the Committee of Ministers' Guidelines.

## VII. OVERVIEW OF THE PANEL'S WORK IN THE PERIOD FROM JULY 2022 TO JUNE 2025

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### 1. General overview of the Panel's work

118. The Panel's work is cyclical, dictated by the duration of the terms of office of the judges at the Court. Thus, during its 15 years of existence the Panel has examined 110 lists of candidates in respect of all the Contracting States (17 lists during the first three years of its existence, 17 lists in 2014-2016, 12 lists in 2016-June 2017, 11 lists in 2017-April 2019; 18 lists in 2019-July 2022, and, as far as the period covered by this activity report is concerned, 35 lists in 2022-2025).

### 2. Organisation of meetings, budget and secretariat

#### A. Meetings

119. From 1 July 2022 to 30 June 2025, the Panel held 10 meetings, 4 of them by video-conference (see appendix I for a list of all meetings).

120. On 30 November 2022 and 11 December 2024, the Chair in office at the time was invited by the Committee of Ministers' Deputies to have the now customary periodic exchange of views with them on the activities of the Panel (see appendix II for the text of the two introductory presentations by the Chairs).

121. On 23 June 2023 and 11 December 2024, the Chair of the Panel had meetings with the President of the Court, at the latter's invitation, in order to discuss the implications of the Panel's activities for the Court.

122. At the invitation of the PACE's Committee on the Election of Judges, a joint meeting to discuss certain matters of common interest was held on 14 May 2024, in Vienna, between the latter and the Panel. With a view to maintaining the optimum level of assistance that the Panel can provide to the PACE Committee, it is intended that such joint working meetings will continue to be a regular feature in the future.

#### B. Budget and Secretariat

123. The budgetary appropriation for the Panel in the Council of Europe's ordinary budget for 2022-2025 amounted to €37,800 per year. The Directorate of Legal Advice and Public International Law (DLAPIL) provides secretariat services to the Panel.

124. The Panel Secretariat currently comprises three staff members from the Public International Law Division of the DLAPIL who provide support to the Panel as part of their broader responsibilities within the Directorate:

- **Ms Ana Gómez** (Secretary to the Advisory Panel);
- **Ms Deniz Eroğlu** (Assistant to the Advisory Panel);
- **Mr Antoine Karle** (Assistant to the Advisory Panel).

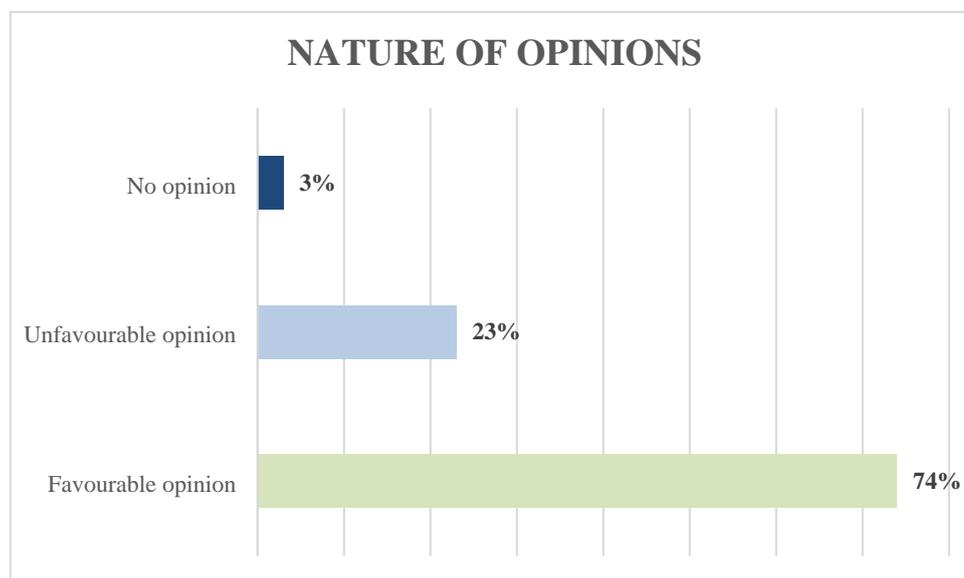
### 3. The lists and opinions in figures (2022-2025)

#### A. Number of lists submitted and opinions given

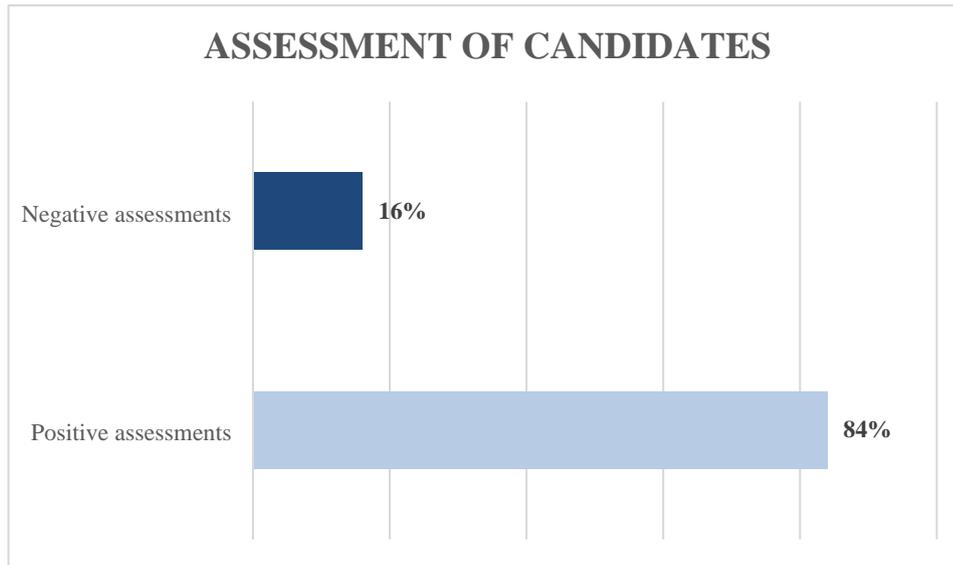
125. The following table indicates, per year or part of a year, the number of lists and candidates assessed by the Panel and the number of opinions given by it. The indicated number of lists is higher than the number of vacancies occurring at the Court because it includes the cases where the government had to present more than one list, following a negative opinion expressed by the Panel or the rejection of its first list by the PACE.

Year	2022 (as from 1 July 2022)	2023	2024	2025 (until 30 June)	Total
Number of lists	6	8	17	4	35
Number of candidates assessed	9	15	40	9	73
Number of opinions	5	7	18	5	35

126. The following diagrams indicate the variations in the Panel's overall opinions on the lists submitted to it and in the opinions given on individual candidates.



Total number of lists	Favourable opinion	Unfavourable opinion	No opinion
35	26	8	1

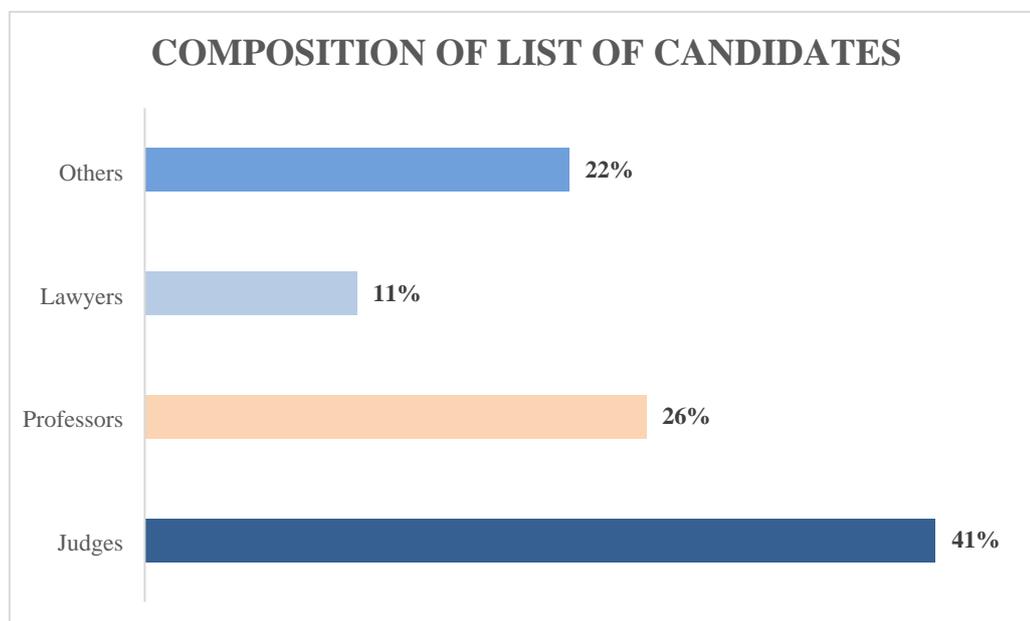


Total number of candidates	Positive assessment	Negative assessment
<b>73</b>	<b>61</b>	<b>12</b>

127. During the period under review, four High Contracting Parties disregarded the Panel’s opinion and submitted to the PACE a list which had previously been totally or partially rejected by the Panel, without replacing the candidates who had been assessed by the Panel as not being qualified. The PACE subsequently rejected all four of these lists. More positively, one High Contracting Party took the Panel’s opinion into account and, on two occasions, replaced the candidates who had not been considered qualified by the Panel.

## B. Profiles of candidates

128. As indicated in the following diagram, the lists of candidates submitted to the Panel were composed of approximately 41% judges, 26% university professors, 11% practising lawyers and 22% others.



Total number of candidates	Judges	Lawyers	Professors	Others (including combined backgrounds)
73	30	8	19	16

## C. Deadlines for submitting a list to the Panel and periods within which lists are examined by the Panel

129. The Panel notes that the majority of governments have met the deadlines set for submitting candidate lists. It has observed progress in this regard. However, there have been some significant delays in submitting the list of candidates: in one extreme case, the delay is ongoing and already amounts to more than four years; in two other cases, the delays were nine and five months respectively.

130. In the period from 1 July 2022 to 30 June 2025, the Panel was able to provide its first response to the lists within the time-limit foreseen by Resolution CM/Res(2010)26 (four weeks). However, given that in almost 50% of the cases additional information was requested from the government, the average time for communicating the final opinion was 46.5 days.

#### **D. The Panel's conclusions**

131. As indicated in the table above, during the 36 months from 1 July 2022 to 30 June 2025, the Panel had referred to it 35 lists<sup>25</sup> and the *curricula vitae* of 73 candidates (which figure includes replacement candidates).

132. In respect of 15 of these 35 lists, the Panel considered the candidates (including “replacement” candidates) to be qualified for the purposes of Article 21(1) of the Convention, without requesting further information. Regarding two of the 35 lists, the Panel considered, without requesting further information from the government concerned, one or all of the candidates not to be qualified for the purpose of Article 21(1) of the Convention.

133. In the case of the 17 other lists the Panel requested additional information on one or more of the nominated candidates and/or on the national selection procedure. Requests for additional information have thus become the rule rather than the exception. In respect of ten lists, the Panel subsequently came to the final conclusion that the candidates met the requirements of Article 21(1) of the Convention. Regarding six lists, representing eight candidates, the Panel expressed a negative opinion following the receipt of additional information. Five of these eight candidates were subsequently replaced by the Government. In one case the first replacement candidate withdrew but the second replacement candidate was considered by the Panel to be qualified.

134. Finally, in one case, the Panel could not reach an opinion, because it could not reach the majority required by the operating rules of the Panel annexed to the Resolution CM/Res(2010)26 of five out of seven members.

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<sup>25</sup> For the purpose of this report, a list may be composed of only one or two candidates in case of replacement of candidates whom the Panel considered as not qualified under Article 21(1) of the Convention.

## VIII. GENERAL CONCLUSIONS AND OUTLOOK FOR THE FUTURE

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135. The overall success of the Convention system depends on confidence in the judicial authority of the Court. The common minimum guarantees for the protection of human rights in Europe as defined in the Convention and interpreted by the Court must be fully observed by all High Contracting Parties, in particular by their governmental and judicial arms. This in turn means that it is crucial that the Court be composed of judges with the necessary breadth and depth of professional experience, so that their judgements can attract the respect and confidence of their peers in national supreme and constitutional courts.

136. The Panel has noted a steady improvement in the willingness of governments to take its views into account when compiling candidate lists for submission to the PACE. While some lists now require little scrutiny, it has become common practice for the Panel to request clarifications regarding candidates or national selection procedures. These requests are generally met with prompt and thorough responses, reflecting a positive spirit of cooperation. In some cases, however, governments still provide only limited replies, which hinders the Panel's ability to fully carry out its mandate. A constructive engagement fosters a meaningful dialogue. That said, while replacement candidates following a negative opinion are acceptable, they have not always been as well qualified as the Panel would have expected (see paragraph 24 above). In this respect, the Panel notes that this is in some cases possibly due to the reluctance of the High Contracting Parties to reopen their national selection process, preferring instead to rely on existing reserve candidates.

137. On the basis of the Panel's experience over the 15 years since its creation, its conclusion is that, in broad terms, the quality of candidates who have been presented has improved, at least in part because of the existence of the Panel. The required passage of a list before the Panel has prompted governments to focus on the quality of candidates in a way that perhaps some of them did not do so before. And the clarification of the criteria used by the Panel, in the activity reports and the Short Guide, has been taken into account by governments in a way which in general has led to a higher quality of the candidates.

138. Nevertheless, the Panel notes with concern that between 1 July 2022 and 30 June 2025, it has come to a negative conclusion on a relatively significant proportion of candidates (see paragraph 130 above for statistics), with there also being a number of candidates accepted as fulfilling the minimum qualifying conditions but whom the Panel had regarded as being borderline in terms of their qualifications. It is also disquieting that the Panel has, again, in one case, felt itself obliged to express a negative opinion as to the candidates' suitability on account of an objectively perceived lack of independence and impartiality on their part vis à vis the government nominating them (see paragraph 82 above).

139. The greater frequency with which queries are put to governments in connection with their compliance with the standards, both non-binding and binding, set out in the Committee of Ministers' Guidelines on the selection of candidates, is likely to continue, as a sign of the increased attention paid to these procedural standards on the part of the Panel (as for the reasons why, see paragraphs 25-26 above).

140. The primary responsibility for selecting candidates who fully meet the requirements of Article 21(1) of the Convention lies with the High Contracting Parties, while the Panel's role remains advisory. A vacancy on the Court, one of Europe's highest judicial positions, requires a candidate with sound judgment, extensive professional experience, and a strong sense of justice. It is therefore essential that States submit three qualified candidates. The Panel regrets that it is still occasionally presented with lists including one or more candidates who clearly do not meet the Convention's criteria. The Panel

cannot exclude that this may have been because political considerations had more weight than considerations based on merit. What the Panel is not always made aware of, are the reasons why apparently excellent candidates have not been put on the list. Information from external sources can be useful in this respect.

141. The Panel welcomes the increasing attention paid to its views by the PACE, including the practice of consulting the Panel before elections and involving its representative in briefing sessions.

142. Differences in assessment may occasionally arise, particularly in borderline cases where the Assembly conducts interviews and the Panel must rely on written materials. The Panel remains committed to a constructive cooperation with both the Committee of Ministers and the PACE. It stands ready to explore further ways to strengthen its contribution to ensuring a rigorous and credible judicial election process.

## APPENDIX I – MEETINGS OF THE ADVISORY PANEL

7 October 2022, meeting held at the Council of Europe’s office in Paris (France);

2 March 2023, meeting held in Vienna (Austria);

23 June 2023, meeting held at the seat of the Council of Europe in Strasbourg (France);

11 October 2023, meeting by video-conference;

15 December 2023, meeting held at the Council of Europe’s office in Paris (France);

14 May 2024, meeting held in Vienna (Austria);

2 July 2024, meeting by video-conference;

10 October 2024, meeting held by video-conference;

3 April 2025, meeting held by video-conference.

11 June 2025, meeting held at the Council of Europe’s office in Paris (France).

<b>Year</b>	<b>2022 (as from 1 July)</b>	<b>2023</b>	<b>2024</b>	<b>2025 (until 30 June 2025)</b>
<b>Number of meetings</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>2</b>
<b>Number of opinions</b>	<b>5</b>	<b>7</b>	<b>18</b>	<b>5</b>

## APPENDIX II – PRESENTATIONS BY THE CHAIRS OF THE ADVISORY PANEL AT THE EXCHANGES OF VIEWS WITH THE MINISTERS’ DEPUTIES

### Presentation by Sir Paul Mahoney on 30 November 2022

1. Thank you, Madam Chair. As usual, let me begin by expressing the thanks of the Advisory Panel for today’s invitation. Since your last invitation to me in January of this year, the Panel’s fifth activity report has been transmitted to you, on 27 October.
2. Permettez-moi de commencer en citant quelques statistiques. Au cours de la période de trois ans et demi couverte par le cinquième rapport d’activité, période actualisée à ce jour, 23 listes de candidats (concernant 14 pays) et les *curricula vitae* de 54 candidats (ce chiffre inclut les candidats de remplacement) ont été examinés par le Panel. Dans le cas de 13 des 23 listes, le Panel a conclu que les candidats répondaient aux exigences de l’article 21(1) de la Convention. Dans les dix autres cas, le Panel a exprimé un avis négatif concernant 15 des candidats. Quatre de ces candidats ont été remplacés par le gouvernement.
3. Au cours de cette période, trois des 14 Etats contractants concernés ont soumis à l’Assemblée parlementaire une liste qui avait précédemment fait l’objet d’une évaluation négative, en tout ou en partie par le Panel, dans deux cas sans remplacer les candidats que la Panel avait jugés non qualifiés et dans un cas après avoir remplacé deux des candidats initiaux mais pas un des candidats de remplacement que la Panel avait également jugé non qualifié. Dans deux de ces cas, l’Assemblée parlementaire a rejeté les listes et dans un cas, la liste a été acceptée.
4. Les listes de candidats étaient composées d’environ 41% de juges, 26% de professeurs d’université, 18% d’avocats en exercice et 15% d’autres personnes (par exemple, des hauts fonctionnaires ayant une formation juridique).
5. Permettez-moi maintenant de vous présenter deux développements récents dans la pratique du Panel.
6. Premièrement, au cours des dernières années, s’est développée une pratique selon laquelle, outre l’évaluation des candidats proposés, le Panel entreprend un examen de la procédure de sélection suivie au niveau national.<sup>26</sup> Le cadre de l’examen par le Panel est largement fondé sur les normes, contraignantes et non contraignantes, énoncées dans les Lignes directrices du Comité des Ministres de 2012 concernant la sélection des candidats pour le poste de juge à la Cour et sur les exemples de bonnes pratiques présentées dans l’exposé des motifs des Lignes directrices.
7. La douzaine d’aspects de la procédure nationale de sélection que le Panel a examinés jusqu’à présent<sup>27</sup> ont porté sur, par exemple, la composition équilibrée, ou non, de l’organe national de sélection, la publicité donnée à l’appel à candidatures, le délai pour répondre à l’appel et les efforts déployés par le gouvernement pour s’assurer qu’un nombre suffisant de candidats qualifiés des deux sexes se présentent ; et, de manière générale, sur la question de savoir si la procédure suivie a respecté les conditions fondamentales d’équité et de transparence, exigées par l’Assemblée Parlementaire.<sup>28</sup>
8. Une question qui s’est présentée dans le cadre de la procédure de sélection nationale est de déterminer dans quelle mesure le gouvernement peut divulguer le contenu de l’avis final reçu du Panel. En vertu de la résolution du Comité des Ministres instituant le Panel, les procédures devant le Panel sont confidentielles. Cette confidentialité n’empêche pas un gouvernement d’informer les organes nationaux de sélection du contenu de l’avis du Panel.<sup>29</sup> Il ne s’agit pas d’une exception à la règle de confidentialité puisqu’un organisme national de sélection doit être considéré comme faisant partie du mécanisme de sélection des candidats d’un Etat contractant. En revanche, le Panel ne s’estime pas compétent pour décider si une exception en tant que telle

<sup>26</sup> See the fifth activity report, §§ 25-27 for an explanation of the background to this development.

<sup>27</sup> See the fifth activity report, §33, for a fuller explanation of these aspects.

<sup>28</sup> Resolution 2248(2018) adopted by the Standing Committee of the Parliamentary Assembly, §8.2.2.

<sup>29</sup> See the fifth activity report, §19.

peut être faite afin de permettre à un gouvernement de communiquer à un candidat proposé l'appréciation du Panel à son égard. Ceci est d'autant plus vrai qu'une telle personne ne serait pas, elle-même, liée par la règle de confidentialité du Comité des Ministres.

9. A second development is that, in the context of the general rule of gender balance of the lists of candidates as specified in the Committee of Ministers' Guidelines, the Panel has been called on to develop the criteria for examining lists lacking any female candidates. The Panel basically assesses whether, in the words of your Guidelines, all necessary and appropriate steps have been taken by the competent national authorities to ensure that the list includes candidates of both sexes who possess the minimum qualifications stated in the Convention.<sup>30</sup> The Panel would hesitate to accept that a derogation from the rule of gender balance is justified by exceptional circumstances in respect of a country where there can be presumed to be a reasonable pool of suitably qualified female lawyers, notably in the academic, practising and judicial spheres. As a purely personal aside, I would add that the competent national authorities may wish to bear in mind that the Parliamentary Assembly has shown that it will take a very strict approach to compliance with the rule of gender balance.

10. Turning now to a query raised at the last exchange of views. When assessing candidates' qualifications, the Panel seeks to apply the same criteria to all countries and all candidates in order to ensure consistency in the application of the Convention's requirements and equality of treatment across the board, and also in order to avoid the risk of disparity in the quality of the judges composing the Court.<sup>31</sup> Exceptionally, a country's characteristics - such as its small size and population and the consequential difficulty in finding suitably qualified candidates - may be taken into account to a certain extent [as counter-balancing factor] when the Panel is hesitant about a borderline candidate. But never to the point of distorting the Convention's essential qualifying conditions or compromising the principle of equal treatment.

11. In January one Permanent Representation expressed disappointment about the proportion of States transmitting a list to the Parliamentary Assembly despite a negative opinion by the Panel [(just over 20% on the statistics I mentioned earlier)]. Of course, the Panel only offers advice to the Government; it has no veto; and it is not infallible. The Panel arrives at its assessment on the basis of the written file (primarily the *curricula vitae* furnished by the candidates themselves), without interviewing the candidates. This means that it is possible that, if and when they are interviewed by the Parliamentary Assembly's Committee on the Election of Judges, borderline candidates who received a negative assessment from the Panel may demonstrate that they in fact do possess the minimum qualifications. Nonetheless, it necessarily weakens the system if the rate of refusals to follow the Panel's advice is too high, especially in regard to candidates whom the Panel has assessed as being clearly under-qualified as opposed to borderline. And in a way it is unfair for, and penalises, those countries which loyally play the game and do follow the Panel's advice despite the inconvenience caused.

12. More generally, if the ultimate objective pursued by this advisory system is that the Parliamentary Assembly should have before it lists of highly qualified, rather than just barely qualified, candidates, it is also disappointing that the Panel is being confronted with too many candidates who are on the borderline of being qualified - too many youngish mid-career academics, associate professors of law not established full professors; too many judges from lower courts; too many practising lawyers with no particular experience of the kind of issues that come up before the Strasbourg Court; and so on.

13. Finally, a joint meeting between the Parliamentary Assembly's Committee on the Election of Judges and a delegation of the Panel took place in June, at the invitation of the Assembly Committee. The object of this joint meeting was to discuss ways in which the assistance that the Panel in practice also provides to the Assembly Committee could be improved. The meeting was friendly and, as the Panel delegation saw it, fruitful.

14. That brings me to the end of my introductory presentation, which will be my last one as Chair of the Panel given that my term of office, together with the terms of office of Mr Maarten Feteris, former President and presently judge of the Supreme Court of the Netherlands, and of Monsieur Bernard Stirn, ancien président de la

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<sup>30</sup> The factors so far taken into account are explained in the fifth activity report, at paragraph 64.

<sup>31</sup> As explained in the fifth activity report, at paragraph 44.

section du contentieux du Conseil d'Etat français, will be coming to an end in July of next year. Thank you for your attention. I now remain at your disposal to answer as best I can any questions that you might have.

### **Presentation by Luis López Guerra on 11 December 2024**

Monsieur le Président,

Mesdames et Messieurs les Délégués des Ministres,

1. Permettez-moi de débiter mon intervention en exprimant les remerciements du Panel consultatif pour votre invitation d'aujourd'hui. Cette réunion marque le onzième échange de vues entre le Comité des Ministres et le Président du Panel. Le dernier de ces échanges s'est déroulé en novembre 2022 avec l'ancien Président du Panel Sir Paul Mahoney. Pour ma part, ayant été élu à la présidence du Panel fin juin 2023, c'est la première fois que j'ai l'honneur de m'adresser à vous.

2. Le **Panel consultatif, créé en novembre 2010** par une Résolution du Comité des Ministres, a pour mandat de conseiller les Hautes Parties Contractantes sur la question de savoir si les candidats à l'élection en tant que juges de la Cour remplissent les conditions minimales énoncées à l'article 21§1 de la Convention européenne des droits de l'homme (« la CEDH » ou « la Convention ») et sont aptes à exercer les fonctions de juge à la Cour. En tant qu'organe composé d'experts, le Panel s'efforce d'appliquer, en tant que seuil minimal, les critères objectifs de l'article 21 de la CEDH (à savoir jouir de la plus haute considération morale et réunir les conditions requises pour l'exercice de hautes fonctions judiciaires ou être un jurisconsulte possédant une compétence notoire).

3. L'objectif de mon intervention aujourd'hui est de présenter les **principaux développements depuis** le dernier échange de vues avec le Comité des Ministres en **novembre 2022**.

4. Permettez-moi de commencer en citant quelques **statistiques**. Au cours des deux dernières années, le Panel a tenu **sept réunions** (quatre en présentiel et trois en ligne). Pendant cette période, il a **examiné 22 listes de candidats** (chaque liste correspondant à une nouvelle soumission de candidature) **provenant de 14 Etats**, évaluant un total de **50 candidats** (y compris les candidats de remplacement). Le Panel a toujours été dûment consulté par les gouvernements et de son côté, s'est efforcé avec succès de respecter les délais de réponse fixés dans votre Résolution CM/Res (2010)26<sup>32</sup>. De plus, le Panel a également rendu ses avis dans un délai encore plus restreint, lorsque cela s'avérait nécessaire, afin de s'adapter à des situations spécifiques et de compenser les retards liés à la soumission tardive de certaines listes.

5. Les **listes de candidats étaient composées** d'approximativement 39% de juges, 34% de professeurs d'université, 9% d'avocats en exercice et 18% d'autres personnes (par exemple, des hauts fonctionnaires ayant une formation juridique).

6. En ce qui concerne **trois listes**, le Panel a considéré que **tous les candidats** (neuf candidats) étaient **qualifiés** au sens de l'article 21§1 de la Convention **sans avoir besoin de solliciter des informations supplémentaires** de la part du gouvernement concerné. Cependant, dans deux de ces cas, il ne s'agissait pas de la première liste de candidats soumise.

7. S'agissant de **19 listes**, le Panel a demandé des **informations supplémentaires** concernant un ou plusieurs des candidats nommés et/ou la procédure de sélection nationale. En effet, les demandes d'informations supplémentaires sont devenues la règle plutôt que l'exception.

8. Pour **14 de ces listes** (impliquant 36 candidats), le Panel a finalement conclu que les **candidats proposés répondaient aux exigences de la Convention**. Cependant, à **quatre reprises, la Commission sur l'élection des juges de l'Assemblée parlementaire a rejeté un candidat** (soit un total de quatre candidats) évalué positivement par le Panel. À cet égard, il convient de noter que le Panel fonde son évaluation sur le dossier écrit

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<sup>32</sup> Conformément à la règle (vi) des règles de fonctionnement annexées à la Résolution CM/Res(2010)26, ce délai est de quatre semaines.

transmis par le gouvernement concerné (principalement les curriculums vitae établis par les candidats eux-mêmes), sans avoir l'opportunité d'interviewer les candidats.

9. Les évaluations finales du Panel ont été négatives pour quatre candidats. Dans un cas, le Panel n'a pas pu atteindre la majorité requise pour accepter ou rejeter un candidat. Ces candidats ont ensuite été remplacés par le gouvernement concerné.

10. Dans certains cas, un candidat issu de la liste initiale soumise par le gouvernement concerné a été jugé qualifié par le Panel mais rejeté par l'APCE. Par la suite, le candidat de remplacement proposé par le gouvernement après le rejet de l'APCE a cette fois-ci été considéré comme non qualifié par le Panel.

11. These figures indicate that **approximately 10% of the candidates were not considered sufficiently qualified by the Panel.**

12. I am **very pleased to confirm that during this period there has not been a single case where the Panel has given a negative opinion on a candidate and the country has proceeded to submit that candidate to the PACE.** This is in contrast to what has occasionally happened in the past and is fully in line with the statements and recommendations of your Committee. It also allows me to conclude that compliance with the Panel's opinions has improved significantly over the years.

13. Nevertheless, there have been exceptional cases of significant delays in the submission of lists.

14. **Relations with the PACE** have continuously been reinforced in 2023 and 2024. According to [PACE Resolution 2278 \(2019\)](#) amending various provisions of the Assembly's Rules of Procedure:

- *The Assembly decides not to consider lists of candidates where (among other) the Advisory Panel was not duly consulted.*
- *“The Chairperson or a representative of the Advisory Panel shall be invited by the Chairperson of the Committee on the Election of Judges to explain the reasons for the panel's views on candidates, during the briefing sessions scheduled before each set of interviews”.*

In this context, the Chair of the Panel, together with the Secretary of the Panel, have participated in seven meetings of the PACE Committee on the Election of Judges over the past two years. As Chair, I had the honour of personally attending five of these meetings.

15. At the invitation of the Assembly Committee, the Panel held a joint meeting with the PACE Committee on 13 May 2024 in Vienna, at the invitation of the Austrian Constitutional Court, the second such meeting. The purpose was to address several issues of common interest, particularly regarding the evaluation of national selection procedures and the interpretation of the criteria for office outlined in Article 21§1 of the Convention. These criteria are detailed in the Panel's activity reports (five since its establishment, with the latest dated October 2022) and in the concise short guide on the Panel's role and the minimum qualifications required of candidates. In the broadest terms, these minimum conditions have been understood by the Panel as requiring “professional experience of long duration at a high level” on the part of candidates. Ideally, the Panel is seeking “to ensure that candidates proposed are of mature professional experience and unquestionable qualifications for the exercise of high judicial function”.

16. The Chair and the Secretariat of the Panel have also actively participated in the meetings of the CDDH subgroup focusing on issues related to the judges of the European Court of Human Rights. **The Panel warmly welcomes the Decisions adopted by the Committee of Ministers** at the 1488th meeting of the Ministers' Deputies on 7–8 February 2024 concerning the CDDH report on this topic.

17. In accordance with these Decisions, the Deputies:

*“welcomed the evolving practice of the Advisory Panel to assess national selection procedures and invited it to publish its views on them in an anonymised and non-country-specific manner”*  
[CM/Del/Dec\(2024\)1488/4.2](#)

18. This is a request also made by the PACE Committee on the election of judges.
19. The Panel will try to include its views on **national selection procedures**<sup>33</sup> in the Panel's activity reports, the next one to be adopted in 2025. Allow me to give you a few examples of the issues related to the national selection procedures. These include: the balance in the composition of the national selection body, whether this body is responsible for interviewing candidates, who ultimately decides on the appointment of candidates, the level of publicity given to the call for applications, the time allocated for responses, the eligibility criteria (including nationality requirements), and the efforts made by the government to ensure a sufficient number of qualified candidates apply, including candidates of both sexes. More generally, the Panel has also considered whether the procedure followed meets the basic requirements of fairness and transparency set out by the Parliamentary Assembly.
20. During the past two years, the Panel has faced several challenges, including the low number of candidates applying for the position of judge at the Court. This has occasionally resulted in a shortage of suitable candidates, necessitating multiple calls for candidatures.
21. On very rare occasions, the Panel has also encountered cases where publicly available information about specific candidates raised concerns regarding their "high moral character" and integrity. These matters are inherently difficult to assess or substantiate with concrete evidence. However, since our last exchange of views in 2022, such instances have not resulted in negative conclusions about the candidates in question.
22. Furthermore, this advisory system is designed to ensure that the Parliamentary Assembly considers lists of highly qualified candidates, rather than those who merely meet the minimum criteria. Nonetheless, it is worrying that the Panel encounters a significant number of candidates on the borderline in terms of qualifications and experience. These include young mid-career candidates, associate rather than established full professors, judges from lower courts, lawyers without relevant experience in the types of issues typically addressed by the Strasbourg Court, candidates with limited judicial experience or exposure to international human rights law, and those who have held a mix of positions but not at a sufficiently high level.
23. The establishment of the Panel by the Committee of Ministers marked a significant milestone in the process of selecting and electing judges. By 2025, the Panel will have been in operation for 15 years. We are deeply grateful for your ongoing support throughout its existence, which has been reaffirmed in recent decisions.
24. The Panel will continue its efforts, within the framework of its mandate and in cooperation with the member states and the Parliamentary Assembly, to assist in the selection procedure and to ensure that the highest standards are maintained in the election of judges to the European Court of Human Rights.
25. This concludes my introductory presentation. I would like to thank you once again for the opportunity to engage in this exchange today. I would also like to express my gratitude to the Secretary General of the PACE for the excellent cooperation.
26. I now remain at your disposal and will do my best to address any questions you may have.

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<sup>33</sup> The framework for the Panel's assessment is largely based on the binding and non-binding standards set out in the 2012 Guidelines of the Committee of Ministers on the selection of candidates for the position of judge at the Court, as well as the examples of good practices presented in the explanatory memorandum to the Guidelines.

### APPENDIX III - SUPPLEMENTARY OPERATING RULES OF THE ADVISORY PANEL

- 1) The quorum shall be reached when five of the seven members of the Panel are present in the case of a meeting, whether the meeting be physical, remote or hybrid. If a written procedure is being followed, the quorum shall be reached when five members reply.
- 2) The time-limit of four weeks as set out in rule (vi) of the operating rules appended to Resolution CM/Res(2010)26 on the establishment of the Panel (“the operating rules”) shall only begin to run if the list of candidates has been submitted in due form, that is to say, using the model CV form required by the Parliamentary Assembly.
- 3) The members shall give, in so far as possible, their opinion on a list of candidates within five working days following the receipt of the list from the Secretariat.
- 4) Additional information from the Government concerned may be requested, if considered necessary, preferably within ten working days following the receipt of the list from the Secretariat.
- 5) To assess the qualifications of candidates, the Panel may also have recourse to other sources of publicly available information in addition to the information provided by the Government.
- 6) Any member of the Panel possessing the nationality of the country whose list is under consideration shall refrain from taking part either in the Panel’s discussion or in any vote on the adoption of the final views on this list irrespective of whether they have a close personal or professional relationship with any of the candidates. The Panel member in question may, however, provide factual information to the Panel, in particular on the national selection procedure. In this case, the Government concerned is informed that the Panel member possessing the nationality of the country in question had withdrawn from the examination of the list.
- 7) A member of the Panel shall similarly withdraw from the Panel’s consideration of a list in circumstances where there is a conflict of interest, notably by reason of their having a close relationship, whether professional or personal, with one or more candidates on the list, it being understood that no conflict of interest can be taken to exist in the case of mere professional or personal acquaintance.
- 8) With the exception of cases where it is necessary to notify the Government concerned and the Parliamentary Assembly that the threshold of a majority of five votes laid down in operating rule (ii) has not been attained, the voting in relation to the adoption of the Panel’s final views on a list shall remain confidential in all respects.