

Enhancing the selection process of European Court
of Human Rights judges through multi-institutional dialogue

SEMINAR MARKING THE 15 YEARS OF THE ADVISORY PANEL'S WORK

27 November 2025, Strasbourg

LOOKING AHEAD: ENHANCING THE ELECTION PROCEDURE AND THE
ADVISORY PANEL'S EVOLVING ROLE

**Ms Petra Bayr, Chairperson of the Committee on the Election of Judges to the
European Court of Human Rights of the Parliamentary Assembly of the
Council of Europe**

1. Thank you very much, Mr Grabenwarter, for this thought-provoking presentation. Thank you also for hosting us in Vienna for this meeting in May 2024, which was really the starting point for further clarification of several issues regarding the interpretation of the criteria under Article 21(1) of the European Convention on Human Rights (the 'Convention') and the national selection procedures.
2. I will begin by addressing what Mr Grabenwarter said, and, as Ms Chatzivassiliou has already mentioned, I will also provide an outline of our current draft report.
3. Firstly, regarding the criticism of lobbying, I am not convinced that it can be said that lobbying affects only the Parliamentary Assembly of the Council of Europe (the 'Parliamentary Assembly'). It can happen at all stages of the procedure, including selection at the national level, and, from my experience, I think that is the most critical stage where political interference can occur.
4. As regards the Committee on the Election of Judges to the European Court of Human Rights (the 'Committee'), some measures have been taken to reduce the risk due to lobbying. For instance, I would like to remind you that since 2019, members of the country whose list is being considered do not have the right to vote in the Committee. In fact, those members also tend not to be involved in the debate about how the Committee assesses the candidates in general, to this given list of their own country.
5. When you refer to the problem that politicians conduct the hearings in the Committee, indeed, they do so. I should like to stress, that the Parliamentary Assembly, which was entrusted with by the Convention with this fundamental role

of electing judges, is by definition a political body. It is composed of representatives coming from national parliaments. The democratic legitimacy of the European Court of Human Rights (the 'Court') derives from the fact that its judges are elected by a political body that reflects the prevailing political trends across Member States. The President of the Court said this morning that it is very important that judges are embedded in the real world and in the lives of their States.

6. At the same time, our rules require that the Committee's members have a legal background. I can assure you that the questions that our members ask candidates are very legal and technical rather than political. The Committee's members are therefore perfectly suited to assess the candidates, including their qualifications, experience, and independence. Our composition procedure and interview format have been developed to ensure that the political element is excluded as far as possible.
7. Members of the Parliamentary Assembly are elected by their constituents. The Parliamentary Assembly is not a body that reproduces itself, but it is legitimised by a broad basis. The idea of avoiding self-reproducing systems in the election of judges for the Court is an important safeguard of independence and, at the same time, brings legitimacy.
8. I think that discrepancies between the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (the 'Advisory Panel') and the Committee in specific cases are unavoidable. These are different bodies with distinct compositions, backgrounds, and responsibilities. However, such cases where these bodies do not agree are rare anyway.
9. As Mr. Grabenwarter said, in the majority of the cases, the Committee gives particular weight to the Advisory Panel's opinion, and it is our established practice to reject lists without interviews when the Advisory Panel has issued a negative opinion.
10. Having said that, the Committee is fully aware that not interviewing candidates after inviting them to a hearing raises problems, including systemic problems. This happened last year with the list of Austria and Monaco, and this year with Hungary, due to procedural grounds, when the Committee took a position that was different from that of the Advisory Panel.

11. Let me assure you that the Committee strives to avoid these scenarios as much as possible, because it does not condone the practice of sending candidates back home without meeting them. The Committee is considering changes to some of its working methods, timelines, and workflows to avoid such a scenario, with the central goal that, in the end, it is not its job to prevent individual frustration, but to ensure that the best judges possible are sitting on the bench.
12. Regarding the Committee's current representativeness, attendance at its meetings has improved significantly over the years. The average attendance is far beyond half of the Committee's members; we are a total of 22 members, and two of us are included ex officio. For instance, in September this year, 21 of these 22 members attended, and in 2025, on average, attendance at the Committee's meetings in Paris was 78%, up from 60% in 2024. Therefore, these numbers average 70%. I notice in the room when the Committee holds these meetings that they are as full as the meetings of committees that are much bigger than ours.
13. Finally, I must also disagree with the proposal to change the system from a short list of three candidates to a single nomination by a country, subsequently to be confirmed by the Parliamentary Assembly. This would drastically reduce the freedom of choice granted to the Parliamentary Assembly by the Convention, giving states too much power to impose their preferred candidate on the Court. This would, in turn, reduce the democratic legitimacy of the Court and increase the politicisation of the process throughout.
14. Now, I will briefly outline the main proposals that the Committee is considering for the future. Hopefully, they will be finalised in January 2026 and debated by the Parliamentary Assembly, most likely during the April part-session.
15. Among the most important points included in this draft is the Committee's view that it is time for the Committee of Ministers of the Council of Europe (the 'Committee of Ministers') to review its guidelines in relation to national selection procedures based on past practices. There are abundant past practices from across Europe. For example, the guidelines could clarify exactly what is meant by a 'balanced composition of the selection body' and stipulate that a majority of its members should come from outside of the government. This composition should be set out

in advance in accordance with a relevant regulation, rather than left to the discretion of the relevant member of the Committee of Ministers.

16. Another point is that the competence of potential candidates in the field of human rights should be included in the Committee of Ministers' guidelines, although it is not required under Article 21 of the Convention.
17. The Committee is also considering asking the Committee of Ministers to revise the Advisory Panel's mandate to explicitly include the assessment of national selection procedures. This would assist governments and expand the advisory role of the Advisory Panel, which, in turn, would help the Committee in its own assessment and hopefully provide answers to questions it has regarding the composition of the national selection bodies, which very often remain unclear or are not answered at the moment.
18. In this regard, the Committee would also like to invite the Advisory Panel to be more explicit in its opinions on national selection procedures to avoid misunderstandings between the Advisory Panel and the Committee.
19. The Committee is also considering proposing an amendment, in fact, to Article 23(2) of the Convention to exclude the automatic extension of the term of office of a judge after 10 years in office. Judges could remain in office for up to one year after the expiry of the nine-year term, if no new judge has been elected due to delays in submitting the list or rejections. This, in the Committee's view, would put some pressure on governments to submit acceptable lists of candidates in due time so that the judge's term of office under the Convention is not unduly stretched out. There have been examples, in the recent past and at the moment, of judges who served for 12 or 13 years, or even more, and that is not the idea behind the Convention.
20. To conclude, I look forward to hearing your views on this proposal. Let me conclude by stressing the need for all stakeholders, the governments, the Advisory Panel, and the Parliamentary Assembly to work together effectively on the basis of mutual trust and good faith in order to ensure that the most qualified and most independent judges are elected to sit on the Court.

21. Also, having learned throughout my political career and elsewhere about other systems of international or regional courts, I think that we really can say that the way we decide, select, and elect judges for the Court serves as the gold standard. We are all aware that the good is the enemy of the better, and nevertheless, I hope we improve our system altogether.

22. Thank you very much.