

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

NATIONAL SELECTION PROCEDURES: CHALLENGES AND GOOD PRACTICES

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the Estonian Supreme Court**

Thank you, Chair. Good morning, everyone. It is a pleasure for me to be here today and to present a brief outline of the Panel's perspective on NSPs, [in place of our colleague who was unfortunately unable to attend].

From the Advisory Panel's point of view, NSPs are indeed central, since the quality and independence of the Court's judges depend, first and foremost, on the quality of the national processes that lead to their nomination.

I

According to Resolution CM/Res(2010)26, the Panel's primary mandate is to advise States on whether candidates for election as judge meet the requirements of Article 21(1) of the Convention. In performing this task, *the Panel bases itself on the material submitted by States*, including—under paragraph VI.2 of the Committee of Ministers' Guidelines—information on the NSP followed. This ensures that the Panel has the necessary context when forming its views on the eligibility of the candidates.

The Committee of Ministers' Guidelines remain the main and most comprehensive reference for assessing NSPs. *The Guidelines set out the concrete standards* that national processes should meet: 1) a stable legal or administrative framework established in advance, 2) wide publicity and accessibility of the call for applications, and 3) a genuinely competitive procedure. These requirements are *complemented by the principle of fairness and transparency* highlighted in paragraph 8.2.2 of PACE Resolution 2248 (2018) on the procedure for the election of judges to the ECHR. Together, these instruments shape the framework within which the Panel examines the material submitted by States.

So, the Panel has *no express power to review* NSPs, but under the terms of paragraph VI.2 of the Guidelines, when sending its list of candidates to the Panel, a government should also submit information on the NSP followed. Keeping in mind this informing requirement, the Panel, *where appropriate, may draw attention to* aspects relevant to fairness and transparency.

When this is considered justified, the Panel will address queries to governments or seek further information in connection with the respective NSP. For example, during last three years in at least 15 of the 35 lists examined, the Panel identified concerns in relation to the NSP, which in most cases led to specific questions being addressed to the respective governments. In rare cases, flaws in the NSP may also be relevant to the Panel's assessment under Article 21(1), for example where they raise objective doubts as to a candidate's independence.

This practice of assessing NSP has been followed since 2019 and it was explicitly welcomed by the Committee of Ministers in February 2024, when the Deputies invited the Panel to publish its observations on NSP in an anonymised and non-country-specific manner. A similar request has been made by the PACE Committee on the Election of Judges.

II

The criteria (almost complete checklist) used for such assessments, and an overview of the Panel's findings on national procedures, can be found in the Panel's recent, 6th activity report (covers the period from 1 July 2022 to 30 June 2025).

Within this described framework, the Panel examines several recurring elements. Among them are 1) the **publicity** of the call for applications, 2) the number of candidates, 3) the time allowed for submissions, and 4) the way in which candidates were shortlisted—particularly whether and how interviews were conducted. These elements help the Panel determine whether the procedure has been accessible and competitive. Smaller States may of course face structural constraints, which the Panel takes into account.

Another essential aspect is 5) the **composition of the national selection body**. The Guidelines *encourage a balanced body* involving individuals from a variety of institutional and professional backgrounds—academia, the judiciary, the legal profession, and civil society. Such diversity is a structural safeguard against undue influence and contributes to the impartiality and credibility of the process. The Panel also takes note of who makes the final decision (independent body or government ministers or the Head of State) and whether the recommendations of the selection body may be set aside — and on what grounds.

At the same time, it is important to emphasise the **inherent limitations** of the Panel's role. Unlike the PACE Committee, the Panel cannot verify facts or investigate circumstances beyond the documentation it receives. Possible concerns about independence, political influence, or internal dynamics within the selection body, issues that may feature in public debate, cannot be probed by the Panel. This is why structural guarantees such as a balanced composition, clear rules, transparent procedures and the submission of the complete full information throughout the process are vital.

III

Recent reflections, including general themes emerging from public criticism, have brought to light several broader questions worth of further discussion. These include 1) how to ensure the completeness and accuracy of the information submitted to the Panel; 2) whether verification of qualifications could be strengthened at national level; 3) how consistently to apply the requirement of knowledge of the national legal system; and 4) how to maintain coherent minimum standards across diverse national systems.

The Panel also observes that the quality of the information provided by States varies considerably. In some cases, governments supply detailed, practical descriptions of each step. In other cases, they simply provide the legal framework with little explanation of how it was applied. This can require the Panel to seek clarifications, sometimes even on basic points, which inevitably delays the assessment.

Despite these complexities, the overall trend we observe is a positive one. Many States have 1) refined their procedures, 2) strengthened the independence and balance of their selection bodies, 3) clarified the evaluation criteria, improved transparency, and, in several cases, 4) adjusted their practices following the Panel's observations. Public calls for candidatures and interviews are now often broadly standardised. These developments reflect a growing commitment to the principles underpinning the Court's judicial election system.

Finally, although the Panel's mandate is modest, its contribution is part of a shared responsibility. Ensuring that NSPs reflect the highest standards of fairness, transparency and independence ultimately strengthens the legitimacy of the Court itself. The Panel remains committed to constructive cooperation with States and with the Parliamentary Assembly in pursuit of this objective.

I thank you all for your attention!

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.

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.