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STEERING COMMITTEE FOR HUMAN RIGHTS

(CDDH)

**COMMITTEE OF EXPERTS ON THE SYSTEM OF THE
EUROPEAN CONVENTION ON HUMAN RIGHTS**

(DH-SYSC)

**DRAFTING GROUP ON ISSUES RELATING TO JUDGES OF THE EUROPEAN
COURT ON HUMAN RIGHTS**

(DH-SYSC-JC)

Compilation of comments on tables on the recognition of service as a judge
of the European Court of Human Rights provided by delegations in DH-SYSC-JC and in the
CDDH/

Compilation des commentaires sur les tableaux sur la reconnaissance des états de service
en tant que juge à la Cour européenne des droits de l'homme fournies par les délégations
dans le DH-SYSC-JC et les délégations dans le CDDH

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ANDORRA / ANDORRE

Concernant les informations contenues dans les tableaux relatifs à la reconnaissance des états de service en tant que juge à la Cour européenne des droits de l'homme, la Principauté d'Andorre ne dispose pas d'éléments nouveaux à apporter.

ARMENIA / ARMÉNIE

As agreed by the DH-SYSC-JC at its 1st meeting (28-30 September 2022), the Armenian Government hereby submits updates to the three Tables on the recognition of service as a judge of the European Court of Human Rights given the current legislative regulations (section 1 of the present document), as well as the comments with respect to the good practices reflected in the Examples of good practice in relation to the Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights (section 2 of the present document).

Section 1: The Government provides the relevant provisions of the domestic legislation in force at the material time as follows:

a. “Constitutional Law on Judicial Code of the Republic of Armenia (in force from 9 April 2018, hereinafter referred to as “the Judicial Code”).

Article 57. Salary and social guarantees of a judge

“3. The pension security of a judge, as well as the social security of his or her family members in case of his or her death (casualty) due to injury or mutilation received while performing his or her official duties or in connection with the performance of those duties, is carried out in accordance with the Law on ensuring the activities, service and social guarantees of public officials.

[...]

7. The guarantees provided for by paragraph 3 of this Article shall also extend to the person having held the office of a judge in an international court to which the Republic of Armenia is a party.”

Article 80. Requirements for members of the Supreme Judicial Council

“2. Pursuant to Article 174 § 2 of the Constitution, a judge having at least 10 years of experience as a judge shall be a member of the Supreme Judicial Council elected by the General Assembly [of judges].

3. Within the meaning of this Code, the period of holding an office of a judge [...] at an international court to which the Republic of Armenia is a party [...] shall also be considered as a professional experience of a judge.”

Article 111. Including a former judge, a former judge of the Constitutional Court of the Republic of Armenia and a former judge of an international court to which the Republic of Armenia is a party, a member of the Supreme Judicial Council in the list of judge candidates

“1. [...] a judge of an international court to which the Republic of Armenia is a party [...] (hereinafter referred to as “a former judge”), who complies with the requirements prescribed by Article 97 § 1 of this Code, shall have the right to be included in the list of judicial candidates.”

Article 123. Preparation of recruitment of the promotion list of candidates of judge to be appointed to the post of a judge at the Courts of Appeal

“6. The following persons shall be included in the promotion list of candidates of judges to be appointed to the post of a judge at the Courts of Appeal:

[...];

(2) a former judge having held office during the last 10 years who has at least five years of experience as a judge.

[...]

9. The person specified in § 6 (2) of this Article shall attach to the application the documents provided for by Article 98 § 2 of this Code, whereas the person having held the office of a judge [...] in an international court to which the Republic of Armenia is a party shall also attach the documents on having previously worked in the mentioned post.”

Article 132. Preparation of recruitment of the promotion list of candidates of judges to be appointed to the post of a judge at the Court of Cassation

“2. The following persons having attained the age of forty, holding only the citizenship of the Republic of Armenia, having the right of suffrage, possessing high professional qualities shall be included in the promotion list of judicial candidates to be appointed to the post of a judge at the Court of Cassation:

[...]

(2) a former judge having held office during the last 10 years, who has at least 10 years of professional work experience, at least five years out of which— in the post of a judge;

[...]

5. The person specified in § 2 (2) of this Article shall attach to the application the documents provided for by Article 98 § 2 of this Code, whereas the person having held the office of a judge [...] in an international court to which the Republic of Armenia is a party shall also attach the documents on having previously worked in the mentioned post.”

b. The Law on ensuring the activities, service and social guarantees of officials (in force from 1 July 2014, hereinafter referred to as “the Law on Social Guarantees”)

Article 2. Conditions on providing pension to an official holding a public post

“1. Under this law the right to a pension shall be applicable to:

7. A public official who has served as a judge at an international court, to which the Republic of Armenia is a party, for at least one term upon reaching the age of 65.

[...]

4. In case of meeting the conditions defined by this law, the person holding a public post has the right to a pension under this law if he or she does not hold a public post or a public service post. According to this law, the post of a judge of an international court, to which the Republic of Armenia is a party, is also considered a public post.”

Relying on the regulations provided for above, the Government kindly asks the Secretariat to make the following amendments to the Tables:

1. Table no. 1 “Judges” – Under the domestic regulations the service in the international organisations counts for career advancement purposes and for pension rights, thus relevant amendments in columns no. 1 (recognition of service in international courts), no. 7 (service in the international organisations counts for career advancement purposes) and no. 8 (service in the international organisations counts for pension rights) should be made and subsequently the mentioned columns should be marked with “X” (see attachment 1).

2. Tables nos. 2 and 3 “Public servants” and “University professors” - Under the domestic regulations the service in the international organisations counts for career advancement purposes and for pension rights, thus the amendments in columns no. 1 (recognition of service in international courts), no. 7 (service in the international organisations counts for career advancement purposes) and no. 8 (service in the international organisations counts for pension rights) should be made relying on Article 80 §§ 2-3 of the Judicial Code and Article 2 § 1 (7) and § 4 of the Law on Social Guarantees as cited above (see attachment 2).

The Government notes that under the domestic legislation public servants and university professors cannot be appointed as a judge of the ECtHR through secondment procedure and consequently cannot receive contribution from the Government. Moreover, once appointed as judge of the ECtHR public servants resign from their former posts. Therefore, the relevant references in columns nos. 3 and 6 should be removed. Whereas the reference under column 8 should be amended as “X” without the words “if seconded, if contribution”.

AZERBAIJAN / AZERBAÏDJAN

On page 2, concerning judges, the following boxes were checked: recognition of service in international courts; resignation to work for international organisations; service in international organisations counts for career advancement purposes; Service in international organisations

counts for pension rights. Deletion of X in No Specific provisions concerning service in international courts.

On page 5, concerning public servants, the following boxes were checked: recognition of service in international courts; resignation to work for international organisations; service in international organisations counts for career advancement purposes; Service in international organisations counts for pension rights. Deletion of X in No Specific provisions concerning service in international courts.

On page 8, concerning university professors, the following boxes were checked: recognition of service in international courts; resignation to work for international organisations; service in international organisations counts for career advancement purposes; Service in international organisations counts for pension rights. Deletion of X in No Specific provisions concerning service in international courts.

BELGIUM / BELGIQUE

Mise à jour des tableaux reconnaissance - DH-SYSC-JC(2022)03 FR (Belgique)

1. Pour le personnel judiciaire

Il n'y a pas de changement dans le tableau.

2. Pour les agents publics

A priori il n'y a pas de changements dans le tableau pour autant que le ministère public ne soit pas couvert par le tableau concernant les agents publics. Dans le cas contraire, la case « Mise à disposition / mise en disponibilité / détaché par le gouvernement » pour les agents publics devrait être cochée.

3. Pour les professeurs d'université

Pour la Flandre :

Il n'existe pas de système de congé spécifique - payé ou non - pour les universités flamandes pour travailler dans une organisation internationale. Il n'y a pas non plus de possibilité de suspendre la titularisation pour cette raison.

Il existe deux façons d'accepter une mission auprès de la Cour européenne des droits de l'homme tout en conservant un droit de retour à l'université :

1) Par le biais du régime de cumul : Lors de la reprise d'une activité secondaire, l'affectation à l'université est automatiquement réduite. Dans ce cas, un professeur a le droit de reprendre le volume initial de son affectation pendant 8 années universitaires, consécutives ou non.

2) Par le biais d'un "détachement" : La Cour européenne peut conclure un accord avec l'université sur l'exercice de la mission d'un professeur auprès de la Cour européenne. Le professeur concerné doit également donner son accord. Il ne s'agit donc pas d'un détachement du gouvernement mais bien de l'université.

Dans ce cas, le professeur reste membre du personnel de l'université et les services à la Cour européenne sont de toute façon inclus dans le calcul de la pension.

En outre, un professeur a toujours le droit de démissionner de l'université pour travailler à la Cour européenne. Dans ce cas, toutefois, il n'a pas le droit de reprendre son affectation initiale à l'université.

Le service auprès des tribunaux internationaux peut être inclus dans la reconnaissance de l'ancienneté à l'université. C'est l'université elle-même qui en décide. L'université peut également décider si l'expérience auprès d'une cour internationale est incluse dans la progression de la carrière à l'université.

Pour la Wallonie :

Pas de changement.

CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

July 2023

We confirm that information previously provided on behalf of the Czech Republic by its former Government Agent Mr Vít A. Schorm remain valid, complete, and up-to-date.

CYPRUS / CHYPRE

August 2023

	Recognitio n of service in internatio nal courts <u>Total:</u>	Spec ial leav e / Unp aid leav e	Suspensio n of the mandate to work for internatio nal organisati on (1)	Second ment by domestic governm ent (2)	Resignatio n to work for internatio nal organisati on (3)	Right to regain former post after service in international organisation	Service in international organisations counts for career advancement purposes	Service in international organisations counts for pension rights (4)	No Specific provisions concerning service in international courts (5) <u>Total:</u>
Judges									
Cyprus									X

	Recognitio n of service in internation al courts <u>Total:</u>	Specia l leave / Unpai d leave	Suspensio n of the mandate to work for internatio nal	Second ment by domesti c governm ent (2)	Resignatio n to work for internatio nal organisati on	Right to regain former post after service in international organisation	Service in international organisations counts for career advancement purposes	Service in internati onal organisa tions counts	No Specific provisions concerning service in international courts (5) <u>Total:</u>
Public Servants									

Cyprus			organisati on (1)		(3)			for pension rights (4)	
	X	X		X		X	X	X, ¹ X if contri bution (unpai d leave)	
University Professors	Recognitio n of service in internatio nal courts <u>Total:</u>	Speci al leave / Unpai d leave	Suspension of the mandate to work for international organisation (1)	Second ment by domestic govern ment (2)	Resignat ion to work for internati onal organisa tion (3)	Right to regain former post after service in internation al organisatio n	Service in international organisations counts for career advancement purposes	Service in international organisations counts for pension rights (4)	No Specific provisions concerning service in international courts (5) <u>Total:</u>
	X subject to approval by the Universit y's bodies.	X				X dependin g on the terms of the unpaid leave granted to the academic staff member by the University 's bodies.	X subject to approval by the University's bodies	X if unpaid leave granted for public interest X if contribution (if unpaid leave granted for serious professional reasons)	X
Cyprus									

¹ This concerns the situation of secondments for which there is no contribution requirement in order for the service in an international organisation to count for pension rights.

JUDGES

No changes were made to the table.

PUBLIC SERVANTS

The Department of Public Administration and Personnel (under the Ministry of Finance of the Republic of Cyprus), provided information which falls within its remit and concerns only public/civil servants for whom the Public Service Laws 1990-2023 (Law no. 1/1990 as amended) apply. In accordance with the legislative framework applicable to the public service, in Cyprus, public/civil servants are able to serve in institutions of the European Union (EU) and in international institutions/organisations, based on the following legal procedures-

- (a) According to article 47(1)(f) of Public Service Law (Law no. 1/1990), secondment of a public/civil servant may be decided for the performance of special duties in an institution of the EU or in international institutions/organisations. According to Article 47(4) the secondment is decided by the Public Service Commission. The secondment shall be for a period of up to three years and can be renewed (Article 47(6) of Public Service Law (Law no. 1/1990)). The period of secondment of a civil servant counts as actual service and shall be taken into consideration for promotion and pension purposes.
- (b) According to Circulars no. 1560 and no. 1669, dated 20.11.2017 and 18.08.2021, respectively, referring to Regulation 21 of the Public Service (Grant of Leaves) Regulations of 1995-2017, public/civil servants may request to be granted unpaid leave to serve in institutions of the EU or in international institutions/organisations, for a maximum of eight years.

According to Regulation 14 of the Public Service (General) Regulations of 1991-2022 the unpaid leave period for the afore-mentioned purposes shall count as actual service and it is taken into consideration for promotion purposes but not for increment, pensions and annual leave calculation purposes, in the case where the total leave period throughout the year exceeds 15 days. However, the unpaid leave period will be able to be converted to leave for reasons of public policy and can be taken into account as service for pensions purposes if the public/civil servant contributes for this period a specific percentage of his annual pensionable earnings.

- (c) Public/civil servants may apply to the Public Service Commission for resignation or for an early retirement from the public service in accordance with Article 52 and 53 of the Public Service Law respectively, so as to work in institutions of the EU or in international institutions/organisations. There is no right in case of resignation or early retirement to regain former post after service in international organisations/institutions.

UNIVERSITY PROFESSORS

Academic staff members employed by the University of Cyprus and the Open University of Cyprus may apply for unpaid leave:

- (of up to 1 academic year which may be renewed for one more academic year upon a new request) for the purposes of (a) working at another university, or (b) research, or (c) serious professional reasons or (d) for serious personal or medical reasons; or
- for purposes of public interest, the duration of such unpaid leave shall be determined according to the nature of the public interest. No specific reference is made for work in international institutions, courts or bodies.

Other private universities have their own regulations.

A. Information provided by the **University of Cyprus**:

- It is estimated by the University of Cyprus that an appointment to the position of the judge of the European Court of Human Rights could be considered honorable and for the Public Interest.
- According to **Rule 2 of the University of Cyprus Rules 4.7 for Leave of Absence without Pay for Academic Staff** issued in accordance with **Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/90 – as amended)**, an academic staff member may apply for leave without pay for purposes of public interest, the duration of which shall be determined according to the nature of the relevant public interest.
- According to **Rule 3 of the same Rules** an academic staff member may be granted unpaid leave, subject to approval by the University's Department (Departmental Council), the Council of the relevant School (Faculty), the Senate and with the agreement of the University's Council.
- According to **Rule 4 of the same Rules** leave without pay shall count for the purposes of pension, gratuity, lump sum or increments when granted under **Rule 2**, for purposes of public interest.
- According to the proviso of **Rule 5** the period [up to two (2) years] during which the academic staff member is on leave without pay shall count towards the time required for the advancement of an academic staff member. It shall be noted that the academic staff member may request an exception from the Senate.

B. Information provided by the **Open University of Cyprus**:

- Open University of Cyprus uses by analogy the **University of Cyprus Rules 4.7 for Leave of Absence without Pay for Academic Staff** issued in accordance with **Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/90 – as amended)**.
- According to **Rule 3 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff** issued in accordance with **Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 – as amended)**, academic staff members may be granted unpaid leave, subject to approval by the University's Department (Departmental Council), the Council of

the relevant School (Faculty), the Senate and with the agreement of the University's Council.² Such unpaid leave may be granted (a) for a period up to one (1) academic year, *inter alia*, for serious professional reasons (which may be renewed for one more academic year, upon a new request under Rule 10),³ or (b) for public interest purposes,⁴ both of which may include working for international institutions or courts. The duration of the unpaid leave under the public interest exception may be determined in accordance with the nature of such public interest.⁵ Therefore it is possible for academic staff members to take unpaid leave for the purposes of being appointed/elected as judges in international courts, subject to approval by the University's bodies. After having completed their mandate, academic staff members may return to their previous post depending on the terms of the unpaid leave the academic staff member was granted by the University's bodies.

- In accordance with the abovementioned Rules and Regulations and particularly **Rule 5** of the **Rules 4.7 for Leave of Absence without Pay for Academic Staff**, the procedure for the professional advancement of an academic staff member who is on leave without pay shall be suspended throughout the duration of the leave. It shall be initiated on the first day the academic staff member returns to duty.⁶ The period [up to two (2) years] during which the academic staff member is on leave without pay shall count towards the time required for the advancement of an academic staff member. It shall be noted that the academic staff member may request an exception from the Senate.⁷ The time spent in international courts or bodies could be a factor that may be taken into account in internal promotion procedures but its impact will depend on University's bodies (and/or the electoral committee in case of promotion).
- Pension or other retirement benefits for Public University Professors and Associate Professors, state employees and employees of the public sector are defined according to the date of their employment and status (i.e. permanent or non-permanent staff).
- In accordance with **Rule 4** of the abovementioned Rules and Regulations, the unpaid leave of a member of the academic staff shall not count for the purposes of pension, gratuity, lumpsum payments or increments, except where the unpaid leave is granted for the purposes of public interest.⁸ According to Circular 1669

² Rule 3 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

³ Rule 1 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

⁴ Rule 2 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

⁵ Rule 2 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

⁶ Rule 5 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

⁷ Rule 5 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

⁸ Rule 4 of the Rules 4.7 for Leave of Absence without Pay for Academic Staff, issued in accordance with Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/1990 - as amended).

dated 18/08/2021 University Professors or University Associate Professors may have their years of service spent in international organisations counted as pensionable service in the domestic pension scheme, provided they keep contributing to the latter during their period of international service in case of unpaid leave granted for serious professional reasons.

The **University of Cyprus Rules 4.7 for Leave of Absence without Pay for Academic Staff** issued in accordance with **Regulation 7(6) of the University of Cyprus (Academic Staff) Regulations of 1990 to 2018 (R.A.A. 153/90 – as amended)** are also attached to the present document as they should be read in conjunction with the abovementioned information provided by both Universities.

DENMARK / DANEMARK

Deletion of mark regarding judges in the box service in international organisations counts for career advancement purposes.

Addition of mark regarding public servants in the box no specific provision concerning service in international organisations.

ESTONIA / ESTONIE

In relation to the updated information, we would also like to note that general provisions on civil service are also applied to the situations in question.

On page 5, concerning public servants, the following boxes were checked: recognition of service in international courts; special unpaid leave; Suspension of the mandate to work for international organisation; Secondment by domestic government resignation to work for international organisations if seconded or on leave; service in international organisations counts for counts for career advancement purposes – if seconded ; Service in international organisations counts for pension rights – if seconded.

FINLAND / FINLANDE

On page 4, (concerning public servants) the box “Right to regain former post after service in international organisation” has been checked.

FRANCE / FRANCE

Veillez noter qu'il n'y a pas eu de changement sur ce tableau depuis sa publication s'agissant de l'Etat français.

LATVIA / LETTONIE

Information about Latvia on the recognition of service as a judge of the European Court of Human Rights

Judges	Recogniti on of service in internatio nal courts	Specia l leave / Unpai d leave	Suspensi on of the mandate to work for internati onal organisat ion	Secondme nt by domestic governme nt	Resignatio n to work for internatio nal organisati on	Right to regain former post after service in internatio nal organisati on	Service in internatio nal organisati ons counts for career advancem ent purposes	Service in internatio nal organisati ons counts for pension rights	No Specific provisio ns concern ing service in internati onal courts
Latvia			X (1)	X (2)		X (3)	X (4)		

(1) Article 34, paragraphs 2 and 3, of the *Law on the Constitutional Court* read as follows:

“(2) A judge of the Constitutional Court shall have the right to perform official duties in an international court or represent the Republic of Latvia, by holding office in an international institution, if it does not contradict the Law on Prevention of Conflict of Interest in Activities of Public Officials, and the Constitutional Court has agreed to fulfilment of such office. The consent shall be given by taking a respective decision in a secret ballot with an absolute majority vote of all court members.

(3) The Constitutional Court may suspend the term of office of such judge of the Constitutional Court, who is fulfilling official duties in an international court or is representing the Republic of Latvia, by holding office in an international institution, for the time period when the judge holds the relevant office, but not longer than for three years. The term of office of the Constitutional Court judge shall not be extended by the time period for which his or her term of office was suspended.”

(2) Article 86¹ of the *Law on Judicial Power* reads as follows:

“(1) A judge with his or her consent and the permission of a chairman of a court may be appointed for work in a court (also courts of higher instance) in the post that is not the post of a judge, in the Ministry of Justice, the Courts Administration, an international court, an

international organisation, or another institution in the framework of an international project (hereinafter – another authority) for a specific period of time.

(2) An order on appointing a judge for work in another authority for a specific period of time shall be issued by the Minister for Justice. An order on appointing a judge of the Supreme Court for work in another authority for a specific period of time shall be issued by the Chairman of the Supreme Court after the consent of a chairman of the relevant department has been received.

(3) A judge may be appointed for work in another authority for a time period which does not exceed two years. During this period, the judge may not perform the duties of a judge in the court from which he or she has been appointed for work in another authority. [..]

(5) Work in another authority shall be counted in the total length of the service of a judge.”

(3) Article 7, paragraph 1, of the *Law on the Constitutional Court* reads as follows:

“(1) The term of office of a Constitutional Court judge shall be ten years from the day on which he or she, according to Article 5 of this Law, has commenced fulfilment of duties of office of a Constitutional Court judge, except for the cases specified in Article 11, paragraphs 3 and 4 of this Law. If a person has resigned from the office of a Constitutional Court judge in order to perform official duties in an international court or to represent the Republic of Latvia by holding office in an international institution, and if not more than 10 years have passed from resignation from the office of a Constitutional Court judge, the person may be repeatedly approved for the remaining term of office.”

(4) Article 53, paragraph 3, of the *Law on Judicial Power* reads as follows:

“(3) A person who had served as a judge of the Constitutional Court, an international court or a supranational court may apply for the post of a judge of a regional court.”

Article 54, paragraph 3, of the *Law on Judicial Power* reads as follows:

“(3) A person who had served as a judge of the Constitutional Court, an international court or a supranational court and had received a favourable opinion from the General Meeting of Judges of the Department of the Supreme Court may apply for the post of a judge of the Supreme Court.”

**Public
Servants**

Recognition of service in international courts	Special leave / Unpaid	Suspension of the mandate to work for international	Secondment by domestic government	Resignation to work for international	Right to regain former post after service in international	Service in international organisations counts for career	Service in international organisations counts for	No Specific provisions concerning service in
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Latvia

	leave	organisation		organisation	organisation	advancement purposes	pension rights	international courts
			X (1)	X (2)	X (3)			

(1) Article 37¹ of the *State Civil Service Law* reads as follows:

“A civil servant, upon his or her consent, may be appointed for service for a specific period of time in the interests of the State in an international organisation where the Republic of Latvia is a Member State or with which the Republic of Latvia collaborates, or in an institution of such organisation’s Member State abroad. In such a case, the right to hold the previous or equivalent position shall be ensured for a civil servant after his or her return. A State institution that has appointed a civil servant for service is entitled to withdraw him or her.”

(2) Article 41, paragraph 1, of the *State Civil Service Law* reads as follows:

“(1) State Civil Service relations shall be terminated:

1) if a civil servant is dismissed from his or her civil service position by a decision of the head of an institution, but the head of an institution by a decision of a minister, and the Director of the State Chancellery and the Head of the Cross-Sectoral Coordination Centre by a decision of the Prime Minister:

[..] n) on a voluntary basis due to the fulfilment of professional duties in an international organisation where the Republic of Latvia is a Member State or with which the Republic of Latvia collaborates, or in an institution of such organisation’s Member State. [..]”

(3) Article 34, paragraph 2, of the *State Civil Service Law* reads as follows:

“(2) If the State civil service relations with a civil servant are terminated pursuant to Article 41, paragraph 1, subparagraph n of this *Law*, within one year after the termination of employment relationship in the relevant organisation or in an institution of such organisation’s Member State, an authority [a domestic authority] without announcing an open competition has the right to offer this person the previous or equivalent position if there is a vacant position and the person conforms to the specified requirements. In addition to the abovementioned, the inclusion of a civil servant for the disposal of the Ministry of Foreign Affairs or for the supervision of the Ministry of Foreign Affairs shall be determined by the Diplomatic and Consular Service Law.”

Article 37¹ of the *State Civil Service Law* reads as follows:

“A civil servant, upon his or her consent, may be appointed for service for a specific period of time in the interests of the State in an international organisation where the Republic of Latvia is a Member State or with which the Republic of Latvia collaborates, or in an institution of such organisation's Member State abroad. In such a case, the right to hold the previous or equivalent position shall be ensured for a civil servant after his or her return. A State institution that has appointed a civil servant for service is entitled to withdraw him or her.”

Article 15, paragraphs 4 and 6, of the *Diplomatic and Consular Service Law* read as follows:

“(4) Diplomats who have been approved for work in international organisations in which the Republic of Latvia holds membership and in institutions of these organisations may be included under the supervision of the Ministry of Foreign Affairs for a period of up to five years based on a decision taken by the Attestation Commission. If a diplomat is approved for work in the European Union institutions, the Attestation Commission may decide upon determining a supervision period for the whole period the diplomat is employed in the European Union institutions. If the Attestation Commission takes a decision that the work of a diplomat in an international organisation is in the interests of the diplomatic and consular service, the diplomatic passport shall be preserved for a diplomat under supervision in accordance with the *Law on the Diplomatic Passport*. [..]

(6) Diplomats with whom civil service relations in the diplomatic and consular service have been terminated and who are not included under supervision of the Ministry of Foreign Affairs may be added to the reserve of the Ministry of Foreign Affairs pursuant to a decision taken by the Attestation Commission. In such a case the right to restore the diplomatic rank after appointment to a corresponding position shall be preserved to the person. Diplomats included in the reserve of the Ministry of Foreign Affairs may apply for the vacant positions within the scope of internal competitions organised by the Ministry of Foreign Affairs.”

University Professors	Recognition of service in international courts	Special leave / Unpaid leave	Suspension of the mandate to work for international organisation	Secondment by domestic government	Resignation to work for international organisation	Right to regain former post after service in international organisation	Service in international organisation counts for career advancement purposes	Service in international organisation counts for pension rights	No Specific provisions concerning service in international courts
									X
Latvia									

REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA

Concerning the Republic of Moldova, please be kindly informed on the conformity of the information provided in the table, according to the national legislation in force.

PORTUGAL

Following your email of 16 June 2023, on the reviewing of the information regarding each member State's conditions on the recognition of service rendered by former judges of the European Court of Human Rights, I hereby inform you that the original information regarding Portugal in those tables does not need to be updated.

However, I would like to clarify that in table 1 (on the recognition of service rendered by JUDGES) the space relating to "service in international organisations counts for career advancement purposes" – which is now highlighted in yellow - should remain marked with an X, because in Portugal the length of service rendered in international organisations DOES in fact COUNT for the purposes of career progression. I draw your attention to this point so that this mark is not erased in relation to Portugal.

SAN MARINO

San Marino has no specific provisions concerning service in international courts for the categories of Judges, Public Servants and University Professors.

With regard to University Professors, a recent Delegated Decree (No. 90 of 1 June 2023) enhanced the internationalization of the San Marino University by setting up a special office (Internationalization Office) in charge of monitoring the international mobility, both incoming and outgoing, of professors and administrative staff.

With regard to Judges and Public Servants, there are precedents of similar cases, very rare and therefore dealt with ad hoc administrative measures.

SERBIA / SERBIE

Confirmation of information on the table.

SLOVENIA / SLOVÉNIE

Comments submitted on page 5 of the table concerning «public servants»

suspension of the mandate to work for international organisation : According to the Public Employees Act (Article 152.b), the head of the authority and a public employee may mutually agree on the suspension of the rights and obligations arising from the employment relationship. During the period of the suspension of rights and obligations arising from the employment relationship, the public employee may enter into employment with another employer in accordance with the agreement.

secondment by domestic government : Seconded National Experts (SNEs) are qualified civil servants who bring their expertise to the foreign institution for a fixed period of time. At the end of their period of secondment, SNEs take the experience acquired back to the public administration in their home countries.

resignation to work for international organisation : According to the Public Employees Act (Article 152.b), the head of the authority and a public employee may mutually agree on the suspension of the rights and obligations arising from the employment relationship. During the period of the suspension of rights and obligations arising from the employment relationship, the public employee may enter into employment with another employer in accordance with the agreement.

Right to regain former post after service in international organisation: Applicable in case of mutual agreement between the head of the authority and a public employee on the suspension of the rights and obligations arising from the employment relationship for the time spent in other organization, and in case of seconded national experts.

Additional comments:

With regard to the question of whether pension rights in Slovenia take into account the length of service in an international organisation (Council of Europe) based in Strasbourg, we would like to supplement the table with the following content:

According to the *Gardella v Italy* judgment (C-233/12), of the Court of Justice of the European Union, the period completed with an international organisation must be aggregated with the period completed in the framework of compulsory pension and invalidity insurance in Slovenia and taken into account for the purposes of fulfilling the statutory conditions for entitlement to a pension, if the insured person does not qualify for a Slovenian pension at the time of his or her retirement by taking into account only the period completed in Slovenia.

Given that the Republic of Slovenia does not have a specific international (social) agreement with the Council of Europe, according to which the institution would take into account pensionable service completed with the Council of Europe when granting rights, the period of pensionable service is the period of service acquired with an international organisation established in one of the EU Member States, must be added to the period completed under compulsory pension and invalidity insurance in Slovenia and taken into account in fulfilling the statutory conditions for entitlement to a pension, if the insured person does not qualify for a Slovenian pension on retirement by taking into account only the period completed in Slovenia.

SWEDEN / SUÈDE

On page 5, (concerning public servants) we have removed the “x” in the box “Right to regain former post after service in international organisation”. Consequently, there are no specific provisions for public servants from Sweden who join the Court.

After having reviewed the information concerning Sweden, we have made the following amendments in the attached table. Concerning judges, we have added an “X” to the column “Special leave/unpaid leave”, and an “X” to the column “Secondment by domestic government (2)”.

SWITZERLAND / SUISSE

Vérification faite, les informations concernant la Suisse sont encore correctes et complètes.

TÜRKİYE

On page 3, concerning judges, the box “Service in international organisations counts for pension rights” has been checked.

On page 6, concerning public servants, the box “Right to regain former post after service in international organisation” has been checked.

On page 9, concerning university professors the box “Right to regain former post after service in international organisation” has been checked.

RELEVANT LEGISLATIVE PROVISIONS

LAW NO. 3201 ON EVALUATION OF THE PERIOD SPENT ABROAD BY TURKISH CITIZENS WITH REGARD TO SOCIAL SECURITY MATTERS

Article 1: Objective and scope

The documented insured periods which the Turkish citizens and those, who were Turkish citizens by birth but then lost their citizenship upon permission to renounce citizenship, spent abroad as Turkish citizens after having attained the age of eighteen and the unemployment period up to one year that the citizens spent between or during the insured periods as well as the periods spent abroad as a housewife, shall be assessed on their requests in terms of their social security matters in accordance with the provisions of this Law if the premiums have not been paid to the social security institutions.

Article 3 Institutions to be applied

Individuals mentioned in Article 1 of this Law as well as the Turkish citizen right holders of those who deceased while working abroad or after their permanent return to home country shall benefit from rights enshrined in this Law by applying to the Social Security Institution.

LAW NO. 2802 ON JUDGES AND PROSECUTORS

Article 50: Appointment abroad and financial rights:

Judges and prosecutors, upon their consent, may be appointed by the Ministry to representations abroad, international courts or organisations.

Period of appointments to be made pursuant to the first paragraph shall not exceed three years. This period may be extended for a maximum of three years, if necessary.

Judges and prosecutors who will take office in international courts or organisations may be granted unpaid leave for a period of up to twenty-one years, subject to renewal every three years, with the approval to be given in accordance with the procedure set forth in the first paragraph. If these judges and prosecutors, who wish to return to their professions, apply to the High Council of Judges and Prosecutors within fifteen days after the end of their office, they shall be appointed by the Council to an appropriate position within thirty days from the date of application. If they make an application outside this time-limit, they shall be considered to have resigned from the profession and provisions of Article 40 shall be applied in respect of them. The period spent in these offices shall be deemed to have passed in the profession of judge and prosecutor, taken into consideration in the advancement in degree (*derece*) and grade (*kademe*) and deducted from the compulsory service stipulated in Article 49.

Only payment of a foreign salary which is paid to career diplomats of the Ministry of Foreign Affairs, who are on permanent duty in the countries they go and receive a salary with the same grade and degree, as well as payments to be transferred without the application of an equal coefficient shall be made to those, who are appointed with the approval of the Minister to representations abroad, international courts or organisations, within the framework of the same procedures and principles; no other payment, including a domestic salary, shall be made for this duty. However, the judges and prosecutors appointed abroad within the scope of this Article shall benefit from the foreign rental contribution stipulated in the central administration budget law of the relevant year under Article 10 of the Law no. 6245 on Allowances dated 10 February 1954 and Articles 16, 17 and 18 of the Law no. 6004 on Establishment and Duties of the Ministry of Foreign Affairs, within the framework of the same procedures and principles.

LAW NO. 657 ON CIVIL SERVANTS

Article 68: Principles and procedures of advancement in degree:

A) In order to be promoted to a higher degree:

- a) There must be a vacant position with a higher degree,
- b) The person must have worked at least 3 years in his/her degree and 1 year in the 3rd grade of this degree, and
- c) The person must have obtained the qualifications required for the duty for which the relevant position has been designated.

B) Except for the Education and Training Services Class and the Health Services and Auxiliary Health Services Class, appointments to the positions with the 1st, 2nd, 3rd and 4th degrees of classes may be made from the lower degrees according to the procedure of appointment, without any requirement for period of time spent in the advancement to a higher degree.

However, in order for such an appointment to be made; the person concerned must have obtained higher education and served

- a) at least 12 years for the 1st degree positions with an additional indicator of 5300 or above,
- b) at least 10 years for the 1st and 2nd degree positions with an additional indicator of less than 5300, and
- c) at least 8 years for the 3rd and 4th degree positions.

For those who have obtained higher education of less than four years, two years shall be added to these periods of time. In the calculation of these periods, whole of the periods during which a person has worked in institutions falling within the scope of Article 2 of the Decree-Law no. 217 dated 8 June 1984 as well as whole of the periods during which the individual has worked as a Member of the Legislative Power, as a municipal, as a member of the city council and provincial council, in funds established by law, as a regular soldier, as a reserve non-commissioned officer and reserve officer including the periods spent during education, and in international institutions; in respect of the periods a person has worked in private institutions or as self-employed after obtaining higher education; the whole period for those who will be appointed to the positions of undersecretary and deputy undersecretary of affiliated and related institutions of the Prime Ministry and ministries as well as the general directors and heads, namely the positions of top executives, and three-quarters of the periods, not exceeding six years, for those who will be appointed to other positions shall be taken into consideration.

Article 77: Serving in a foreign country or international organisation:

Civil servants who will take office in the official institutions of foreign countries or in international organisations with the consent of their institutions may be granted unpaid leave during their civil service with the approval of the Minister (which is subject to renewal every three years) for up to ten years for service in official institutions of foreign countries and up to twenty-one years for service in international organisations.

The relation of civil servants, who obtain leave in accordance with the preceding paragraph, to their position shall be preserved, and their pension rights for the periods spent in office in foreign countries or international organisations shall be reserved, provided that the provisions of Article 31 of the Law no. 5434 are complied with.

Where these persons wish to return to their positions, their requests shall be assessed if there is a vacant position, taking into account the provisions of this Law concerning exams and passing an exam, and each year of the period of service they have spent in foreign countries or international organisations shall be taken as basis for an advancement to a higher grade and every three years shall be taken as basis for an advancement to a higher degree.

LAW NO. 2547 ON HIGHER EDUCATION

Article 39: Appointment within and outside the country

Those, who receive scholarships or salaries from sources abroad, may be granted leave with or without pay, for the period that they work abroad, by the decision of the University Administrative Board and in accordance with the principles determined by the Council of Higher Education.

Article 20 of Law no. 2914 on Higher Education Staff stipulates that Law no. 657 on Public Servants is applicable to staff at higher education institutions if Law no. 2914 does not include a specific provision. Given the absence of an explicit provision on academic staff working at international organisations, the abovementioned rules for public servants apply to academics working at international level.

UNITED KINGDOM / ROYAUME-UNI

The box relating to the suspension of the mandate to work for international organisations in relation to judges was checked in the table.

Comment:

Under s.18 of the Human Rights Act 1998, a domestic judge is allowed to retain their judicial office for the time of their term on the European Court of Human Rights, without performing any of the associated duties. “Right to regain former post after service in international organisation” is ticked for the same reason. It should be noted that this measure applies specifically to the ECtHR.