

Recommendation 809 (1977)¹

Qualification of candidates for the European Court of Human Rights

Parliamentary Assembly

The Assembly,

1. Considering the importance of the European Court of Human Rights for the protection of fundamental freedoms in Europe ;
2. Considering the weighty responsibilities which devolve upon the judges of the Court ;
3. Considering that candidates for the office of judge in the Court are put forward by the Members of the Council of Europe in accordance with Article 39 of the European Human Rights Convention ;
4. Considering that the convention, unlike the regulations in force in most member states, does not specify an age-limit for judges of the Court ;
5. Considering that, in the recent past, judges elected to the Court have on several occasions died without completing their nine-year term of office ;
6. Considering that candidates must be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence (Article 39, paragraph 3, of the convention) ;
7. Regretting that the candidates put forward have sometimes been civil servants and other persons who, by the very nature of their functions, were not independent of governments ;
8. Considering that this prejudices the principle of separation of powers and reduces its choice among the three candidates ;
9. Considering, furthermore, that under Rule 4 of the Rules of Court, a judge may not exercise his functions while he is a member of a government or while he holds a post or exercises a profession which is likely to affect confidence in his independence,
10. Recommends that the Committee of Ministers invite the governments of the member states :
 - to put forward candidates below the age of 70 ;*
 - to ask every candidate to give a formal undertaking that he will, if elected, retire from the office of judge during the year in which he reaches the age of 75 ;*
 - not to put forward candidates who, by the nature of their functions, are dependent on government, without an assurance that they will resign their functions on election to the Court.*

1. Assembly debate on 29 April 1977 (6th Sitting) (see [Doc. 3950](#), report of the Legal Affairs Committee). Text adopted by the Assembly on 29 April 1977 (6th Sitting).

