Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1429 (1999)[1]

National procedures for nominating candidates for election to the European Court of Human Rights

Parliamentary Assembly

1. Looking ahead to the entry into force of Protocol No. 11, the Assembly adopted Resolution 1082 (1996) on the procedure for examining candidatures for the election of judges to the European Court of Human Rights, in which it agreed to improve its own procedure for the selection of candidates.

2. In Order No. 519 (1996), it also instructed its Committee on Legal Affairs and Human Rights to examine the question of the qualifications and manner of appointment of judges to the European Court of Human Rights, with a view to achieving a balanced representation of the sexes.

3. In accordance with these decisions, the Assembly sent all candidates a model curriculum vitae, set up an ad hoc sub-committee, which interviewed the candidates, and then elected the judges in January 1998, April 1998 and June 1999.

4. However, it remains the case that the national procedures for selecting candidates, a matter on which the European Convention on Human Rights is silent, are not always satisfactory.

5. In the light of the replies provided by national delegations to a questionnaire, and of the experience gained on the occasion of the procedure for electing judges to the Court, the following observations may be made:

5.1. the method of selecting candidates varies considerably from one country to another;

5.2. in the majority of cases there are no rules governing the selection of candidates;

5.3. a substantial number of governments did not include a woman on their list of three candidates;

5.4. the candidates put forward did not always meet the criteria established by the Convention: either they lacked experience in human rights, had never held judicial office, or were not sufficiently fluent in at least one of the Council of Europe's two official languages.

6. In order to remedy these shortcomings and assist the governments of the member states in their procedures for selecting candidates for the next elections, the Assembly recommends that the Committee of Ministers invite the governments of the member states to apply the following criteria when drawing up lists of candidates for the office of judge in the European Court of Human Rights:

6.1. issue a call for candidatures through the specialised press, so as to obtain candidates who are indeed eminent jurists satisfying the criteria laid down in Article 21, paragraph 1, of the Convention;

6.2. ensure that the candidates have experience in the field of human rights, either as practitioners or as activists in non-governmental organisations working in this area;

6.3. select candidates of both sexes in every case;

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1. Assembly debate on 24 September 1999 (32nd Sitting) (see Doc. 8505, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Wohlwend; and Doc. 8525, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Aguiar). Text adopted by the Assembly on 24 September 1999 (32nd Sitting).

6.4. ensure that the candidates are in fact fluent in either French or English and are capable of working in one of these two languages;

6.5. put the names of the candidates in alphabetical order.

7. The Assembly also recommends that the Committee of Ministers invite the governments of member states to consult their national parliaments when drawing up the lists so as to ensure the transparency of the national selection procedure.