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How to remedy potential conflicts of interest of judges at the European Court of Human Rights?

Restoring the integrity of the European Court of Human Rights

The systemic problem of conflicts of interests between NGOs and judges of the European Court of Human Rights

Reply to Written question[1]: Written question No. 747 (Doc. 15095), Written question No. 748 (Doc. 15096) and Written question No. 749 (Doc. 15098)
Committee of Ministers

1. The Committee of Ministers has examined the questions submitted by the Honourable Parliamentarians. Given their similarity, the Committee provides a single reply to the three questions.

2. It is noted at the outset that the member States have underlined the extraordinary contribution of the Convention system, including the Court, to the protection of human rights in Europe in every Declaration adopted on the reform of the Court from the start of the reform process in 2010; those declarations recognise its independence and the need to maintain and preserve it. The Rules and procedures relating to the election of judges are there to guarantee the independence and impartiality of the Court.

3. In its work to secure the long-term future of the Court, the Committee has affirmed that its judges must enjoy the highest authority in national and international law. In 2010, to ensure the impartiality and quality of the Court, with the unanimous support of member States, the Committee of Ministers established an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (CM/Res(2010)26) to advise on the suitability of candidates that member States intend to put forward for office. The Assembly has a defined role in electing the judges under Article 22 of the European Convention on Human Rights. The procedures of the Committee of Ministers and of the Parliamentary Assembly ensure fairness and transparency throughout, so that the best candidates are proposed for election.

4. As part of the follow-up to the Copenhagen Declaration, the Committee of Ministers considered the entire process of selecting and electing judges to the Court. It did so in co-operation with the Parliamentary Assembly and relying on detailed reports from its Steering Committee on Human Rights which observed that the Strasbourg Court's outstanding impact in Europe and beyond must in great part be attributed to the authority and wisdom of numerous judges who have served on its bench. The Committee adopted, in January 2019, decisions (see CM/Del/Dec(2019)1333/4.1) recalling its priority of preserving the independence of the Court. It encouraged the Parliamentary Assembly in its work ensuring the transparency and effectiveness of its procedures to elect judges.

5. The Committee will continue to evaluate the effectiveness of the current system for the selection and election of the Court's judges. Most recently, it has called upon all Convention actors to continue to guarantee the highest standard of qualifications, independence and impartiality of the Court's judges. It has agreed to consider further means to ensure due recognition for judges' status and service on the Court and providing

1. Adopted at the 1400th meeting of the Ministers' Deputies (31 March 2021).

additional safeguards to preserve their independence, including after the end of their terms. It will again evaluate by the end of 2024, in light of further experience, the effectiveness of the current system for the selection and election of the Court's judges.[2]

6. On the specific issue of recusal, it is noted that Rule 28 of the Rules of Court provides for a judge's inability to sit, and their withdrawal and exemption from proceedings, if for any reason, their independence or impartiality may legitimately be called into doubt. Reflection on the rules and procedures on recusal is a matter that comes under the competence of the Court in the context of its procedure for amending the Rules of Court.

7. The Committee has regularly reaffirmed its deep and abiding commitment to the European Court of Human Rights as a cornerstone of the system for protecting the rights and freedoms set forth in the European Convention on Human Rights. It recently did so in its Declaration on the 70th anniversary of the Council of Europe when it also affirmed its commitment to securing the independent functioning of the judiciary and to continuously reinforcing the authority of the rule of law.

2. See also the Contribution to the evaluation of the Interlaken Declaration adopted by the Steering Committee on Human rights (CDDH) at its 92nd meeting (26-29 November 2019).