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Election of judges to the European Court of Human Rights

List and curricula vitae of candidates submitted by the Government of Iceland

Communication

Secretary General of the Parliamentary Assembly



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1. List and curricula vitae of candidates submitted by the Government of Iceland

Extracts from the letter from the Prime Minister's Office, Reykjavik, Iceland, to Ms Despina Chatzivassiliou-Tsovilis Secretary General of the Parliamentary Assembly, 15 November 2022.

The Ministry of Justice received a letter from Iceland's Permanent Representative to the Council of Europe on 11 May 2021 requesting, with reference to a communication from the Parliamentary Assembly of the Council of Europe of 6 May 2021, that Iceland commence preparation to nominate Iceland's judge at the European Court of Human Rights, as the term of appointment of the current judge will expire on 31 October 2022. A request was submitted for Iceland to nominate three qualified candidates for prospective judges at the European Court of Human Rights and for Iceland's nominations, together with a description of the procedure by which the candidates were selected, to be sent to the Parliamentary Assembly no later than 5 May 2022.

The Ministry of Justice furthermore received a letter from Iceland's Permanent Representative to the Council of Europe on 12 May 2021, referring to a letter from the Chair of the Advisory Panel of Experts on Candidates for Election as Judge to the ECHR (hereafter referred to as "the Advisory Panel"), dated the same day, requesting that the Advisory Panel be sent the names and curricula vitae of the candidates, together with information on the procedure by which the candidates were selected, at the latest by 5 February 2022.

Parliamentary elections were held in Iceland on 25 September 2021. Under the new Presidential Decree of 28 November 2021, on the allocation of responsibilities among the ministries of Government Offices in Iceland, responsibility for human rights, including matters connected to the European Court of Human Rights, was transferred from the Ministry of Justice to the Prime Minister's Office. The Prime Minister's Office received the above communications for appropriate response with a letter from the Ministry of Justice of 1 December 2021, with reference to the Presidential Decree.

On 21 December 2021 a notice was placed on the website of the Prime Minister's Office, inviting persons who wished to be nominated by Iceland as candidates for the position of judge at the European Court of Human Rights to submit an application no later than 14 January 2022. Information on the ensuing domestic procedure (the advertisement procedure, the domestic evaluation committee, interviews etc.) is provided in the letter, dated 15 March 2022 and was sent to the Parliamentary Assembly on 29 March 2022.

Three applications were received. The evaluation committee's conclusion was that all three applicants were qualified for nomination by Iceland for the position of judge at the European Court of Human Rights. The list with the names of the three persons nominated by Iceland as candidates for the position of judge at the European Court of Human Rights was sent to the Advisory Panel on 4 February 2022 along with their respective curriculum vitae. The candidates, in alphabetical order, were: Ms Oddný Mjöll Arnardóttir, Judge of the Court of Appeal; Mr Jónas Þór Guðmundsson, Supreme Court attorney; Mr Stefán Geir Þórisson, Supreme Court attorney.

[...]

Iceland's final nominations were submitted to the Secretary General of the Parliamentary Assembly of the Council of Europe on 15 March 2022. The Committee on the Election of Judges to the European Court of Human Rights met on 7 June 2022 where Iceland's nominations were discussed and interviews with the candidates took place. Before the Committee made a decision on whether it would recommend the candidates, two of them, Mr Jónas Þór Guðmundsson and Mr Stefán Geir Þórisson, withdrew their applications.

A press release published on the website of the Prime Minister's Office on 22 June 2022, described the above course of events and stated that, in order for Iceland to submit a list of three candidates, applications would be invited again for the position. It was also noted that the applicant who had not withdrawn her application, Ms Oddný Mjöll Arnardóttir, Judge of the Court of Appeal, would retain her place on the list [...].

The names of the two persons nominated by Iceland to replace the absent candidates, in alphabetical order, are Ms Dóra Guðmundsdóttir, Senior Lawyer; and Mr Páll Þórhallsson, Director General at the Prime Minister's Office.

The process of their selection was as follows:

On 22 June 2022, a notice was placed on the website of Prime Minister's Office, inviting persons who wished to be nominated by Iceland as candidates for the position of judge at the European Court of Human Rights to submit an application to the Prime Minister's Office no later than 8 August 2022. The notice included information on the qualifications required to serve as a judge at the European Court of Human Rights, the

necessary linguistic competence and terms of employment. Furthermore, it stated that an evaluation committee would be appointed to assess candidates on the basis of the guidelines of the Committee of Ministers of the Council of Europe (CM (2012) 40). Additional notices were published on the public website of the Government of Iceland, in the Legal Gazette and in the newspapers Fréttablaðið, Morgunblaðið and Víðskiptablaðið. A separate notice was also sent to all law schools in Iceland, to all courts of law through the Judicial Administration and to the Icelandic Bar Association. The Prime Minister's Office also issued a general press release. The notices of the open position were discussed in mainstream and Internet news media.

Two applications were received from the two respective candidates who have now been put forward by Iceland to replace the two candidates that withdrew their application.

A five-person evaluation committee to assess the eligibility was appointed on 16 August 2022, comprised of two women and three men, to evaluate the qualifications and eligibility of the candidates. Nominations to the evaluation committee had been requested from the Supreme Court of Iceland, the Icelandic Bar Association, the Judicial Administration and the Ministry for Foreign Affairs. The Prime Minister appointed the evaluation committee's chair ex officia. The evaluation committee was comprised of: Mr Þorgeir Órylgsson (chair), former president of the Supreme Court; Dr Guðmundur Alfreðsson, professor; Ms Anna Jóhannsdóttir, lawyer and ambassador; Mr Arnar Þór Stefánsson, attorney; and Ms Björg Thorarensen, Justice of the Supreme Court.

The evaluation committee met five times. At its first meeting on 8 August 2022, the committee discussed the eligibility of its members with regard to possible grounds for disqualification. The conclusion was that no connections existed which could give cause for disqualification. On 19 August, all applicants were informed of the composition of the evaluation committee. The applicants were invited for an interview on 9 September 2022, and on that day Ms Dóra Guðmundsdóttir and Mr Páll Þórhallsson presented themselves for interviews on the premises of the Judicial Administration at Suðurlandsbraut 14. The committee then met that same day following the interviews. The committee met again on 12 August and again on 15 August. The committee assessed whether the applicants met the eligibility requirements for nomination as candidates for the position of judge at the European Court of Human Rights, as prescribed in Article 21 of the European Convention on Human Rights (ECHR), and qualifications for the office laid down in the Guidelines of the Committee of Ministers of the Council of Europe CM (2012) 40 of 29 March 2012.

Given that the applicant Oddný Mjöll Arnardóttir, who applied for nomination based on the advertisement on 21 December 2021, retains her place on the list, the committee did not consider it to be its task to include a reassessment of Oddný Mjöll Arnardóttir eligibility. Therefore, only the applicants Dóra Guðmundsdóttir and Páll Þórhallsson were evaluated in this instance. The evaluation committee also considered its role, based on the letter of appointment of 16 August 2022, to be limited to assessing whether the applicants Dóra Guðmundsdóttir and Páll Þórhallsson meet the eligibility criteria laid down in Article 21 of the ECHR for persons nominated as judges, and assessing their suitability to take up such a position in accordance with the aforementioned guidelines of the Council of Europe CM (2012) 40 of 29 March 2012. It follows that the evaluation committee's role is neither to rank the candidates nor to make a further comparison of their qualifications.

The questions presented to the applicants in the interviews aimed at determining how applicants fulfilled the requirements of Article 21 of the European Court of Human Rights, having regard to the aforementioned guidelines. Their proficiency in the official languages of the Court was specifically examined. The committee asked each applicant to sign a declaration, with reference to Article 21 of the European Convention on Human Rights, stating that they had not said, done or written anything which might harm the reputation of the Court, that they would not engage in any activity which was incompatible with the independence of judges at the European Court of Human Rights, their impartiality or the requirements made with regard to a full-time position as a judge at the Court and that they would not foreseeably be generally disqualified from hearing cases brought before the Court. Both applicants signed this declaration.

All the applicants were sent by e-mail on September 12 a draft of the committee's opinion on candidates to be nominated by Iceland as judges of the ECHR, where they were given the opportunity to express their comments. Comments and suggestions were received from all of the applicants and the committee reviewed them at its meeting on 15 September. Changes were made to the committee's opinion as deemed necessary.

The committee's conclusion was that both applicants, Ms Dóra Guðmundsdóttir and Mr Páll Þórhallsson, were qualified for nomination by Iceland for the position of judge at the European Court of Human Rights. Iceland's nominations were thereafter transmitted to the Advisory Panel for its opinion.

[...]

The names of the three persons nominated by Iceland in alphabetical order, are:

- Ms Oddný Mjöll Arnardóttir, Judge of the Court of Appeal;
- Ms Dóra Guðmundsdóttir, Senior Lawyer;
- Mr Páll Þórhallsson, Director General at the Prime Minister's Office.

The respective curricula vitae of the three applicants are attached.

Any requests for further information or clarification should be directed to Ran Ingvarsdottir, Deputy Director, Prime Minister's Office at the e-mail address: ran.ingvarsdottir@for.is

2. Opinion on persons applying to be nominated by Iceland for the position of judge at the European Court of Human Rights (cf. the advertisement of 22 June 2022 – Draft dated 15 September 2022)

2.1. The European Court of Human Rights and the Appointment of Judges to it

The seat of a judge at the European Court of Human Rights in Strasbourg will be vacant from 31 October 2022. The court deals with cases referred to it by individuals and contracting States due to alleged violations of provisions of the European Convention on Human Rights or its annexes. The treaty has been given legal effect in Iceland under Article 1 of Act No. 62/1994, on the European Convention on Human Rights (ECHR). The Court is composed of one judge from each state party to the Convention, cf. Article 20 of the Convention.

Under Article 22 of the European Court of Human Rights, the judges of the European Court of Human Rights shall be elected by the Council of Europe by a majority of votes from a list of three persons nominated by the contracting State. Pursuant to Article 23 the judge is to be elected for a nine-year term and may not be re-elected. According to the second paragraph of Article 21 of the Convention, candidates must be younger than 65 years old on the day the Council requests a list of three persons, cf. Article 22. The eligibility requirements of judges are discussed in Article 21 of the Convention.

The Committee of Ministers of the Council of Europe has set guidelines CM (2012) 40 of 29 March 2012, on the selection of judges for the European Court of Human Rights *Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights*). In accordance with Chapter III of those Guidelines, on 21 December 2021, the Prime Minister's Office published an advertisement inviting persons interested in being nominated by Iceland to the aforementioned list to serve as a judge at the European Court of Human Rights were given the opportunity to send their application to the Ministry no later than 14 January 2022. The advertisement also stated that a committee would be appointed to evaluate the applications of those interested in being nominated as candidate. The committee would deliver an opinion on the candidates and make a reasoned proposal as to which of them were considered the most qualified to be nominated. The government's nominations would be based on this proposal.

In response to the aforementioned advertisement, three persons applied to be nominated as judicial candidates by Iceland to the European Court of Human Rights: attorney Jónas Þór Guðmundsson, Court of Appeal judge Oddný Mjöll Arnardóttir and attorney Stefán Geir Þórisson.

The committee which was to assess the eligibility of applicants was comprised of professor Ragnhildur Helgadóttir, who was appointed without nomination and served as chair; lawyer and ambassador Anna Jóhannsdóttir, nominated by the Ministry of Foreign Affairs; attorney Arnar Þór Stefánsson, nominated by the Icelandic Bar Association; Supreme Court Judge Björg Thorarensen, nominated by the Supreme Court of Iceland; and professor Dr Guðmundur Alfreðsson, nominated by of the Judicial Administration. The committee's Terms of Reference were signed on 21 January 2022.

The evaluation committee's Terms of Reference requested that a draft of its reasoned conclusion be received by the Prime Minister's Office no later than 3 February 2022, and that the conclusion would then be presented to the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights, operating on behalf of the Council of Europe to assess whether the candidates nominated met the eligibility criteria laid down in Article 21 of the European Court of Human Rights. The evaluation committee's Terms of Reference also stated that if the Advisory Panel requested further information or explanations regarding the candidates, the Prime Minister's Office would request information from the committee. It also specified that the candidates that the committee proposed for nomination as judges should not be ranked among themselves and that they should not be subjected to further comparisons of qualifications. If the Advisory Panel made no objections concerning the candidates, the evaluation committee would be notified of this and asked to send its final conclusion to the Prime Minister's Office.

On 3 February 2021 the evaluation committee delivered to the Prime Minister's Office its draft opinion on the eligibility of the three persons who had, in response to the advertisement of 21 December 2021, applied to be nominated by Iceland as judges at the European Court of Human Rights. The conclusion of the evaluation committee was that all three candidates were eligible to be nominated by Iceland. Since the number of applicants was equal to the number of seats to be filled and there was no need to select from the group based on a competency assessment, the committee only assessed whether the applicants met the general eligibility criteria. The previously mentioned Council of Europe's Advisory Panel of Experts did not make any comment on that assessment by the evaluation committee.

The *Committee on the Election of Judges to the European Court of Human Rights* met on 7 June 2022, where Iceland's nominations were discussed and interviews with candidates took place. Before the committee made a decision on whether it would recommend the applicants, two of them, the attorneys Jónas Þór Guðmundsson and Stefán Geir Þórisson, withdrew their applications.

A press release published on the website of the Prime Minister's Office on 22 June 2022, described the above course of events and stated that, in order for Iceland to submit a list of three candidates, applications would be invited again for the position and the process expedited as much as possible. It was also noted that the applicant who had not withdrawn her application would retain her place on the list.

That same day the Prime Minister's Office published an advertisement on its website inviting persons interested in being nominated by Iceland to serve as judge at the ECtHR to send their application to the Ministry no later than 8 August 2022. The advertisement also stated that a five-member committee would assess the applications received. The committee would deliver an opinion on the candidates and make a reasoned proposal as to which of them were considered most qualified to be nominated; the government's nominations would be based on this proposal.

In response to the advertisement of 22 June 2022, applications were received from two individuals to be nominated by Iceland as judges at the European Court of Human Rights, from Dóra Guðmundsdóttir, Senior Lawyer, UK Foreign Commonwealth and Development Office, and Páll Þórhallsson, Office Director in the Prime Minister's Office.

On 16 August 2022, the Prime Minister appointed a committee to assess the applications received in response to the advertisement of 22 June 2022. The committee, hereafter referred to as "the evaluation committee" or "the committee", was comprised of Þorgeir Örylgsson, former president of the Supreme Court, appointed to the committee without nomination and who would serve as its chair; Anna Jóhannsdóttir, lawyer and ambassador, nominated by the Ministry of Foreign Affairs; attorney Arnar Þór Stefánsson, nominated by the Icelandic Bar Association; Supreme Court Judge Björg Thorarensen, nominated by the Supreme Court of Iceland; and professor Dr Guðmundur Alfreðsson, nominated by the Judicial Administration.

The committee's Terms of Reference, dated 16 August 2022, stated that in accordance with the Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights, CM (2012) 40, the Prime Minister has decided to appoint a committee of five to assess the eligibility and qualifications of the candidates to be nominated. It was also noted in the Terms of Reference that the applicant who had not withdrawn her application would retain her place on the list. The Terms of Reference also stated that the committee was to follow good administrative practice and the rules that apply to the selection of judges at the European Court of Human Rights. It was to invite all candidates for an interview and consult with the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights. In other respects, the committee itself was to determine how it conducted its work and what information it deemed necessary to obtain beyond that which the applicants submitted themselves. It was pointed out that, should the committee happen to obtain information which it considered to be to an applicant's disadvantage and which could affect the assessment of the applicant's qualifications, the committee should inform the applicant of its content and where it originated and give the applicant an opportunity to comment on this before the committee gave an opinion on the applicant's qualifications. During its evaluation and before delivering its final result to the Minister, the committee should ensure the parties enjoyed their right to object, cf. Article 13 of the Public Administration Act, No. 37/1993.

The above-mentioned Advisory Panel of Experts operating under the auspices of the Council of Europe, was established by a decision of the Council of Ministers of the Council of Europe (Resolution CM/Res of 10 November 2010) to follow up on the Declaration of the Interlaken Conference in February of that year (*the High Level Conference on the Future of the European Court of Human Rights in Interlaken in February 2010*). The role of the Advisory Panel is to provide advice to the governments of the member States of the Council of Europe regarding whether candidates for appointment to the post of judge meet the requirements of paragraph 1 of Article 21 of the European Court of Human Rights. The Advisory Panel consists of seven

independent experts, who in most cases are former European Court of Human Rights judges or current or former judges of the Supreme Court or Constitutional Court of a member State. The Advisory Panel bases its evaluation of the applicants on the documentation submitted to it by governments of member States and does not gather additional documentation; however, it can nevertheless direct specific questions to the member State for further information.

If the Advisory Panel considers all three candidates on the list of a particular government to meet the requirements to be elected as a judge at the ECtHR, the government is informed thereof. If, in the opinion of the Advisory Panel, one or more of the applicants, does not satisfy the requirements, reasons for this are given in the Panel's written response to the government. In such case, the government is expected to submit a new list, although it is not directly obliged to do so. Once the Parliamentary Assembly of the Council of Europe has received the government's list of candidates, the Advisory Panel submits to the Assembly its final written conclusion on the candidates. The Parliamentary Assembly's Committee on the Election of Judges to the European Court of Human Rights interviews the candidates and sends its proposal to the Assembly. A representative of the Advisory Panel, usually its chair, is invited to the meeting held by the committee to prepare interviews with the candidates, where the representative has the opportunity to explain the views of the Advisory Panel regarding the candidates.

2.2. Considerations on which the evaluation committee bases its assessment – Basis for assessment

In view of what is stated in the evaluation committee's letter of appointment of 16 August 2022, that the applicant Oddný Mjöll Arnardóttir, who applied for nomination in response to the advertisement of 21 December 2021, should retain her place on the list, the committee does not consider its role to include a reassessment of Oddný Arnardóttir's eligibility¹. Therefore, only the applicants Dóra Guðmundsdóttir and Páll Þórhallsson will be evaluated. Their eligibility will be assessed on the same basis as those who applied for nomination according to the advertisement on 21 December 2021.

The committee also considers that its role, based on the letter of appointment of 16 August 2022, is limited to assessing whether the applicants Dóra Guðmundsdóttir and Páll Þórhallsson meet the eligibility criteria laid down in Article 21 of the ECHR for persons nominated as judges, and assessing their suitability to take up such a position in accordance with the aforementioned guidelines of the Council of Europe CM (2012) 40 of 29 March 2012. It follows that the committee's role is neither to rank the candidates according to their qualifications nor to make a comparison of their qualifications.

The general eligibility criteria for judges at the European Court of Human Rights are specified in Art. 21 of the ECHR, which states:

1. The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.
2. The judges shall sit on the Court in their individual capacity.
3. During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office. All questions arising from the application of this paragraph shall be decided by the Court.

It follows from the above that the eligibility of applicants to serve as a judge at the ECtHR can be assessed based on two types of considerations: on the one hand, by an assessment of whether the applicant fulfils requirements on eligibility to hold a high judicial office in his/her home country and, on the other hand, according to an assessment of whether the applicant is considered a jurisconsult of recognised competence.

According to Article 1 of Act No. 56/2016, on the Courts, the Supreme Court of Iceland is the highest court of the state and according to Article 2. of the Act the Court of Appeal is the appeal court for the entire country. A person who serves as a judge at the Court of Appeal is therefore generally considered to hold a higher judicial position in the meaning of Article 21 of the European Court of Human Rights. It follows that regarding the former consideration, i.e. whether the applicant meets the requirements for eligibility to hold a high judicial office, the committee considers that the applicant should, as appropriate in each case, be evaluated in the manner provided for in Article 13 or Article 21 of Act No. 56/2016, on the Courts.

1. For the assessment on Ms Oddný Arnardóttir's eligibility see extract from the Opinion of 3 February 2022 at the end of this Opinion.

Article 13 of the Act discusses the eligibility requirements of Supreme Court judges and Article 21 the eligibility requirements of judges of the Court of Appeal. The requirements in both Articles are the same except that Point 7 of the second paragraph of Article 13 of the Act makes it a condition that an applicant for the post of Supreme Court Judge has served as judge of the Court of Appeal, District Court Judge or professor of law for at least three years, while Point 7 of the second paragraph of Article 21 of the Act sets the condition that an applicant must have served as District Court Judge, professor or assistant professor of law for at least three years. Apart from this, the requirements are that the applicant: 1) has reached the age of 35; 2) has Icelandic citizenship; 3) is mentally and physically fit enough to hold office; 4) is legally competent and has never been deprived of custody of his/her estate; 5) has neither received a prison sentence for a criminal act committed after reaching the age of 18 years, nor conducted him-/herself in any manner which could undermine the trust that judges must enjoy in general; 6) has completed a professional degree or undergraduate course together with a master's degree in law, 7) has worked for at least three years as an attorney qualified to make representation before the Supreme Court, chief of police, District Commissioner, prosecutor, permanent secretary of a ministry, office director in a ministry dealing with judicial and procedural affairs or as parliamentary ombudsman, or has for a period of equal length served in another similar position conferring comparable legal experience. 8) is considered to be qualified to hold the position in light of his/her career and legal knowledge.

With regard to the requirement of the second paragraph of Article 13 and the second paragraph of Article 21 of the Act on the Courts, it be noted that these provisions have a model in the second paragraph of Article 4, of the previous Act on the Courts, No. 15/1998. Concerning the requirement of Point 7 of the second paragraph of Article 4 of Act No. 15/1998, the Explanatory Notes accompanying the bill, which would become the Act, state regarding Article 4 that the point was intended to expand somewhat the rules regarding the kind of work experience candidates for Supreme Court judges would have had to acquire to satisfy the requirements to be appointed to office. Point 4 of the first paragraph of Article 5 of Act No. 75/1973, which then applied to this, stipulated that a judge had to have held one of the positions listed there for at least three years. An exhaustive list of this kind was thought to be undesirable, in that it might exclude candidates who had solid work experience, but not in any of the areas listed there. It was therefore proposed in the conclusion of Point 7 of Article 4 of the bill, to add to the list in the Act that the requirement of work experience could be satisfied through other similar work which provided comparable legal work experience as that listed there.

Pursuant to Article 11 of the Act on the Courts, the Minister of Justice appoints five persons and an equal number of alternates to examine the qualifications of applicants for the office of Supreme Court Judge, Court of Appeal Judge, District Court Judge, as well as judge at the Court for Re-opened Cases. Article 12 of the Act states that the evaluation committee shall provide the minister with a written and reasoned opinion on candidates for judicial office. The evaluation committee's opinion is to decide which applicant is most qualified for the position and it may rank two or more candidates as equal. In other respects, the minister sets more detailed rules for the work of the committee. These Rules, currently No. 970/2020, discuss in Article 4 the considerations on which the committee is to base its assessment. The Article reads as follows:

“The evaluation committee's opinion shall decide which applicant or applicants are the most qualified for appointment to the judicial office in question. The evaluation committee shall take care to be consistent in its assessment to ensure non-discrimination. Its conclusion is to be based on an overall assessment, using objective considerations, of the merit of applicants having regard to their education and experience, integrity, competence and efficiency in their work, as described in detail in part here below:

1. *Education, career and scholarly expertise* In assessing education, career and scholarly expertise the evaluation committee shall bear in mind that it is desirable for an applicant to have diverse work experience in the legal field, such as experience of judicial work, litigation or other work as attorneys, work in public administration or scholarship. The basic assumption shall be that an applicant must possess general and broad legal expertise and education. Another consideration is whether the applicant has pursued postgraduate studies.
2. *Additional employment and involvement in associations and organisations* The Evaluation Committee should also consider an applicant's additional work, such as work on complaint committees or other related functions that are useful for prospective judges. Finally, extensive participation in associations or organisations may be considered.
3. *General competence* In assessing general competence, consideration should be given to whether applicants have shown independence, impartiality, initiative and efficiency in their work and whether they easily distinguish key points from issues of secondary importance. It is desirable that they have management experience. Applicants must have a good command of Icelandic and be able to express themselves readily both orally and in writing.

4. *Specific qualifications* It is important for applicants to have a good command of civil and criminal procedure and be able to comply with statutory provisions on the drafting of judgments and write them in proper language. They must be able to preside over court sessions with authority and fairness and deal with the cases entrusted to them both promptly and confidently.
5. *Mental capacity* Applicants must be able to get along well with others, both colleagues and others with whom they interact. Applicants are required to have a good reputation, both in their previous positions and outside of work, and their personal discipline should be in no way deficient.”

The Committee of Ministers of the Council of Europe has elaborated on the conditions in Article 21 of the ECHR in more detail in the aforementioned Guidelines CM (2012) 40, which were also accompanied by an *Explanatory Memorandum*. Section II of the Guidelines discusses considerations when selecting candidates for a position as judge.

Point 1 of Section II of the Guidelines reiterates the requirement that candidates for the post of judge should be of high moral character, cf. also paragraph 1 of Article 21 of the ECHR. In consideration of the explanations of this provision, the committee considers that the conduct of the candidates must indisputably accord with the trust and respect that the European Court of Human Rights must be shown.

Point 2 of the Guidelines requires candidates to possess either the qualifications required for appointment to high judicial office. or to be jurisconsults of recognised competence, cf. also paragraph 1 of Article 21 of the ECHR.

With regard to Point 2, the evaluation committee notes that the Advisory Panel of Experts issued a publication in October 2020 with information on its role in the selection of candidates and minimum qualifications set: The Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights – A short guide on the Panel’s role and the minimum qualifications required of a candidate. With regard to the explanations of the requirements in paragraph 1 of Article 21 of ECHR, that judges at the Human Rights Court must either meet the requirements for eligibility to hold high judicial office or be jurisconsults of recognised competence, the guidelines state that this does not, of course, exclude candidates who meet both conditions. It is also pointed out there that when governments of member States of the Council of Europe put forward lists with the names of candidates and thereafter the Parliamentary Assembly of the Council of Europe elects judges they are obliged to ensure that candidates are of mature professional experience and possess unquestionable qualifications for the exercise of a high judicial function on the international plane. In the opinion of the Advisory Panel, these conditions reflect in the broadest sense a requirement of professional experience of long duration at a high level. Knowledge of human rights is only one, albeit an important, component of the overall assessment carried out by the Advisory Panel.

Point 2 of the Advisory Panel's guidelines also states that although the two requirements in paragraph 1 of Article 21 of the Convention differ and are worded as alternative (“either... or”), it could nevertheless happen that the Advisory Panel may consider it sufficient to combine elements covered by each individual requirement alone. This means that even if a candidate does not meet one of the requirements if that condition is considered alone, a combination of judicial experience, on the one hand, and academic experience or other relevant legal experience, on the other hand, in an overall assessment can justify the selection of a candidate, usually on the basis that the candidate is a “jurisconsult of recognised competence”.

The Advisory Panel’s guide states that the requirement of eligibility for appointment to high judicial office applies to judges in the Supreme Court or Constitutional Court of the respective state, but not to judges of a court of first instance in the state unless they meet the requirement of jurisconsult. The requirement probably also applies to judges at the appeal court level, provided that they have “mature professional experience” and a strong CV in other respects, for example, with an impressive list of scholarly publications. On the other hand, the Advisory Panel is of the opinion that the fact that a judge has sat on the highest national court does not in itself mean that such person is automatically considered to satisfy the requirements for judges at the European Court of Human Rights.

As far as the condition of being a “jurisconsult of recognised competence” is concerned, the instructions state that this is rather an antiquated term for an expert in law. It refers to a person who has extensive knowledge of the law but is not necessarily a practising lawyer or judge. The qualifying phrase, that the person is “of recognised competence”, refers to something that is above and beyond legal expertise, even a great deal of expertise. In anticipation of the establishment of the Advisory Panel, the then president of the ECtHR, Jean-Paul Costa, gave the definition that in order to be considered a jurisconsult of recognised competence, the person must have extensive experience of legal work and/or in teaching law. Extensive experience in teaching law would generally entail the publication of significant academic works, and one important factor providing an indication of such extensive experience is the length of time a candidate has held the relevant position.

Following on from this, the guide states that the Advisory Panel considers that the condition of "recognised competence" is met when the person in question has been a professor at a university of standing for many years and has published important works, including writings concerning rules on the protection of human rights and their relationship with the constitutional functions of States.

The guide states that the selection of persons other than academics can be considered, e.g. active attorneys, prosecutors, ombudsmen, diplomats, legal advisors of governmental and non- governmental organisations and legal professionals in the public and private sectors in general. This is especially true when they have, during their career, their work acquired professional intimacy with issues related to human rights and the functioning of courts. It is always a condition, however, that they possess the mature professional experience expected of "jurisconsult of recognised competence". Most, if not all, of the candidates that the Advisory Panel did not consider to satisfy the requirement of "jurisconsults of recognised competence" were in fact excellent academics or experts learned in the law, and without any doubt in good standing with their professional peers. Nevertheless, they were at relatively early stages in their careers and had not yet acquired the necessary length or breadth of experience. In this regard, it must be kept in mind that paragraph 1 of Article 21 of the ECHR concerns the selection of international judges, whose role it is to adjudicate in complex and sensitive cases brought against States, and not the selection of qualified experts, for example, for an intergovernmental committee.

Furthermore, the Advisory Panel's guide also states that, although experience in the field of the Convention law or rules relevant to it, is a very material factor in the evaluation carried out, it is nevertheless possible to acquire the ability to judge issues on the basis of the ECHR in many other ways than by working with such issues on a day-to-day basis. A person who has been a professor in European law or international law, for example, would generally be considered qualified to judge issues that fall under the jurisdiction of the European Court of Human Rights, even if the person has not specialised in human rights or fundamental rights. The same would apply to a professor of constitutional law. However, professors in these and other disciplines would need to have engagement with issues related to human rights during their professional career. Finally the guide states on this aspect that the Advisory Panel may also take into account whether a candidate has, in addition to academic experience (or other experience not considered academic) advised on or appeared in cases involving human rights law or constitutional issues, or been a member of national or international supervisory bodies in the field of human rights.

Point 3 of the guidelines makes the requirement that a candidate must, as an absolute minimum, be proficient in one official language of the Council of Europe, English or French, and should also possess at least a passive knowledge of the other. In the committee's estimation, this condition requires a good command of either English or French, not least legal language, and that candidates for the post of judge must be able to speak and write that language and conduct a legal debate in it. With regard to the other language, the Panel is of the opinion that the candidate must be able to read and understand it and have sufficient knowledge to be able to play a full part in the work of the Court.

Point 4 of the guidelines requires candidates to have knowledge of national and international law. Practical legal experience is also considered desirable. The explanatory notes on this criteria state that even though this criterion does not take precedence over Article 21 of the ECHR, extensive expertise in these areas is an indirect requirement to be appointed as candidate and the choice between persons who are otherwise on an equal footing could be based on this. To the extent that assessment of these points is not part of the assessment provided for in Articles 13 and 21 of the Act on the Courts, No. 50/2016, it is sufficient for the evaluation committee to describe how it considers the candidates to meet these conditions, as the committee does not consider its role to include a comparison of the qualifications of those who the committee has deemed eligible to be nominated as candidates.

Point 5 of the guidelines sets a requirement concerning the age of candidates. In relation to this point, it is worth mentioning that the rule that the term of office of judges expires when they reach the age of 70 has been repealed from the Convention. This was done by Annex 15 to the Convention, which was enacted in Iceland with Act No. 118/2015. Applicants for judicial positions at the ECtHR must now, cf. Paragraph 2 of Art. 21 of the Convention, be younger than 65 years old on the day the Council requests a list of three persons, cf. further Art. 22 of the Convention.

Point 6 of the guidelines sets the requirement that judges do not undertake any work that is incompatible with the independence and objectivity of the Court or with the demands of a full- time office.

Point 7 stresses that a candidate should not be nominated if this would foreseeably result in frequent or long-lasting recusals and the need to appoint an *ad hoc* judge.

Point 8 states that the list should generally include candidates of both genders.

The evaluation committee believes that, in addition to an assessment based on the above-mentioned points, it is authorised to consider whether the applicant has otherwise acquired a reputation as a juriconsult of recognised competence, cf. Point 2 of the Guidelines. It should also be borne in mind that when assessing the suitability of persons applying to be nominated by Iceland as judges at the ECtHR, it should be taken into account that the Convention imposes certain obligations of confidentiality and loyalty on the governments of the participating countries. As a result contracting States must only nominate judges for the European Court of Human Rights who have the ability to work in an international environment, are competent to actively participate in the handling of cases and influence their resolution, and are otherwise entitled to enjoy, on the basis of their work and conduct, the undisputed trust and respect which must be shown to the Court.

2.3. Applicants and procedure of the evaluation committee

As previously described, the committee that was to evaluate applications received in response to the advertisement of the Prime Minister's Office of 22 June 2022 was appointed on 16 August 2022. The deadline for applications expired on 8 August 2022, and, as mentioned above, applications were received from the two previously mentioned applicants, namely Dóra Guðmundsdóttir, Senior Lawyer, UK Foreign Commonwealth and Development Office, and Páll Þórhallsson, Office Director in the Prime Minister's Office. They submitted information on their career on the forms prepared by the Council of Europe for candidates as judges.

The committee held its first meeting on 18 August 2022, where a decision was taken on the eligibility of the committee members. The conclusion was that there were no grounds for disqualification. On 19 August, the applicants were informed of the persons who had been appointed to the evaluation committee. At its meeting on 18 August 2022, the committee prepared a schedule for its work and discussed individual issues that would need to be addressed in its opinion. The committee held interviews with the applicants on 9 September 2022, when both applicants presented themselves for an interview at the National Courts Administration, Suðurlandsbraut 14, Reykjavík. The committee met directly after the interviews and then again on 12 and 15 September. At the last-mentioned meeting it completed its final review.

As stated, the evaluation committee held four meetings as well as the interviews to prepare its opinion, which it bases on the existing applications, the documentation accompanying the applications and interviews with the applicants.

In accordance with previous practice, the committee requested that the applicants sign a statement with reference to Article 21 of the ECHR, cf. Act No. 62/1994, to the effect that the person in question had not said, done or written anything that could damage the reputation of the Court; that the person in question would not take part in any activity which is incompatible with the independence of a judge of the European Court of Human Rights, his/her impartiality or the demands of a full-time office; and that the person in question would not in general be foreseeably ineligible to sit on cases handled by the Court. Each applicant also declared that they were mentally and physically fit to hold the position, were legally competent and had never been deprived of the right to manage their own estate, nor had they been convicted of a criminal action considered disgraceful in the public opinion, or conducted themselves in a manner which would undermine the trust which judges generally must enjoy, cf. provisions of Articles 13 and 21 of Act No. 50/2016, on the Courts. Both applicants signed a statement to this effect.

The applicants, including Oddný Mjöll Arnardóttir, were sent a draft of the evaluation committee's opinion on 12 September 2022 and given the opportunity to comment on the draft. Comments and suggestions were received from all applicants and the committee took decisions on these at its meeting on 15 September 2022. Modifications were made to the committee's opinion as deemed necessary.

2.4. General Information on the applicants

The following gives an account of the education and work experience of the candidates, while the assessment and conclusions of the qualification committee is provided in the next section.²

2.4.1. Dóra Guðmundsdóttir

Dóra Guðmundsdóttir was born on 15 July 1965 and is therefore 57 years old. She began studying philosophy at the University of Iceland, then completed a master's degree in law at the same school in 1990. In her master's thesis, she examined judicial review power, comparing the power of Icelandic courts and courts in other Nordic countries to assess whether laws were compatible with the constitution. Her thesis also

2. See Section 2.6 for a presentation of Oddný Mjöll Arnardóttir.

discussed theories about the role of courts in this connection. In 1992-1993, Dóra studied European law and the internal market, international human rights protection, procedural rules – rules of evidence, intellectual property rights and law and ethics at the University of Copenhagen in Denmark. In 1993-94, she studied and obtained a master's degree in European methodology at the European Academy of Legal Theory in Brussels, Belgium with emphasis on legal methodology, the European legal system and European human rights protection. Her final thesis dealt with comparative construction and references to European "consensus" (*The methodology of consensus in the jurisprudence of the ECHR*). In 1994- 95, she studied at the University of British Columbia in Canada, focusing on international law, international human rights protection, law and society, legal methodology and artificial intelligence and in critical analysis, earning a master's degree (LL.M). Her final thesis dealt with the methodology of the European Court of Human Rights and criticism directed at it at the time. (*Problems of Legitimacy regarding the European Convention on Human Rights: Formalism, fuzziness or lack of theory?*).

Dóra was admitted to the bar in Iceland as a District Court attorney in 1999 and was a Registered European Lawyer in the United Kingdom in 2018-2020.

From 1990 to 1992, Dóra was a judges' associate at Reykjavík City Court. There she presided over the Court and exercised judicial authority in cases in absentia as well as cases where a defence was presented. She assisted Court judges in a large number of cases, including cases where the protection of human rights was tested, e.g. cases concerning access to personal information i medical records, and freedom of expression cases where the provisions of the Icelandic Constitution were tested in libel suits.

In 1995-1996, Dóra was an assistant lawyer at the Registry of the EFTA Court in Luxembourg and from 1996 to 1999 she was an assistant judge (référéndaire) at the same court. During that time, she worked on case preparation, including case reports where the Icelandic judge was the reporter. She prepared and wrote drafts of the judgments and opinions of the court in cases concerning various areas of EEA law, for example company law, state aid, free movement and the state's liability for damages under the EEA Agreement (case E-9/1997, Erla María Sveinbjörnsdóttir). She was appointed *ad hoc* judge at the EFTA Court in 2001, nominated by Iceland. As the appointment was renewed for another three years in 2004, she served as *ad hoc* judge until 2007. She was summoned as *ad hoc* judge in case E-1/02 EFTA Surveillance Authority v. Norway, which concerned the legitimacy under EEA law of reserving academic positions exclusively for females at the University of Oslo.

From 2000 to 2017, Dóra was an adjunct professor and expert at the University of Iceland and the University of Bifröst. She taught European law and EEA law in a master's programme in Icelandic and English and organized courses and study materials. She has also prepared a number of courses and lectures on European law and EEA law, including courses and materials intended for judges and attorneys.

After Dóra concluded her work for the EFTA Court, she worked as a freelance expert in the field of European and EEA law. During this time, she wrote opinions on and worked on cases in the aforementioned field, in some cases testing the ECHR. Her clients were both private and public entities (the Icelandic state). She was, among other things, on the litigation team of the Ministry of Foreign Affairs in the case E-16/11, EFTA Surveillance Authority v Iceland (Icesave), worked on the preparation of arguments before the EFTA Court and worked for the Attorney General's Office in preparing written and oral arguments in case E-15/12, Wahl, which concerned a request for an advisory opinion from the EFTA Court on rules on foreigners and the right to enter the country. In addition, she has given opinions and worked on applications to the ECtHR, for example regarding the application of the Union of University Graduates against the Icelandic state concerning an alleged violation of freedom of association and other projects where rights and human rights have been tested. Among other things, she has worked for the Ministry of the Interior on drafting legislation to amend the Act on Foreign Nationals regarding the status of asylum seekers and international protection, in order to adapt Icelandic legislation to EU directives on the status of asylum seekers, and drafted an opinion for the Ministry of Education on religious education in Icelandic compulsory schools and the impact of the ECtHR's judgment in Folgerø and Others v. Norway, No. 15472/02, ECtHR (Grand Chamber), 29 June 2007.

Dóra has worked as a lawyer for the UK Government Legal Department since 2017, from 2017 to 2019 as a lawyer and since 2019 as senior lawyer. During that time, she worked for the Department for Exiting the European Union (2017-2019), and subsequently in the Cabinet Office Europe Legal Advisors (2019-2022) and the Foreign, Commonwealth and Development Office since 2022. Dóra represents the United Kingdom at the European Court of Justice (UK Agent) and in that role has plead cases and prepared pleadings with clients and their counsels. Recent cases concerning topics related to human rights have dealt with personal data protection and intellectual property rights, including a preliminary ruling case on personal data protection against Facebook which tested standard contractual terms, supervisory powers of the authorities and the protection of personal data in the transfer of data to the United States (EU-US privacy shield) (Case C-311/18

Data Protection Commissioner v Facebook Ireland Ltd and Maximilian Schrems). Also a preliminary ruling case where the legality of data gathering and data transfer by security authorities was tested (Case C-623/17 Privacy International v Secretary of State for Foreign and Commonwealth Affairs). That case tested whether the rules of the European Union on personal data protection applied to this activity, as well as whether an exemption on the grounds of national security should apply.

Dóra's main work in the Department for Exiting the European Union and at the Cabinet Office Europe Legal Advisers has been as a consultant, in which capacity she has given a legal opinion on a number of issues related to the UK's Withdrawal Agreement with the European Union. She has given an opinion on matters concerning agreements between the UK and the EU regarding the UK withdrawal and the drafting of the withdrawal agreement and later the Protocol on Ireland and Northern Ireland. As well as other areas of European Union law, the subject areas cover energy, climate and environment, including provisions of free trade agreements where States undertake not to deviate from or reduce environmental protection and the protection of workers. She has also given an opinion, for instance, on provisions concerning migration and on compatibility with World Trade Organization (WTO) rules concerning supervision of plant and animal health etc. In addition, she has given an opinion on matters concerning the protection of human rights, e.g. with regard to the UK's contribution to funding for refugees under agreements with Turkey and on specific provisions of the Withdrawal Agreement on citizen's rights. Furthermore, she has given advice and opinions and worked on legislation and the preparation of parliamentary proceedings for both the UK House of Commons and the House of Lords, and worked on the preparation of arguments concerning the Protocol in cases where the UK is the defendant.

During her career, Dóra has researched the development of human rights protection and methodology used in national law, as well as researching and publishing material on European constitutional law and human rights protection. She has published in both Icelandic and English. In an article published in the Icelandic journal *Timarit lögfæðinga* in 1994 ("Um lögtöku Mannréttindasáttmála Evrópu og beitingu í íslenskum rétti") [On the enactment of the European Convention on Human Rights and its application under Icelandic law], she explained the influence of prevailing ideas on methodology. The article was published when ECHR was enacted and discussed the effects of enacting the Convention through general legislation and not by amendment to constitutional provisions or with legislation equivalent to the constitution. The article also contains an overview of ECtHR methodology and the interpretation and clarification of provisions of the Convention.

Dóra's research has mainly focused on European integration and European culture. She has conducted research and published articles on the fundamentals of European law and EEA law and the impact of these legal systems on the law of member States, including the role of member State courts and co-operation between international courts and member State courts. In her research and academic work, she has focused on studying the structure of the European Union and the EEA Agreement as independent legal systems. She has studied the role of the courts (especially the role of the European Court of Justice and Court of Human Rights) and examined legal methodology and reasoning as well as consultation theories as the basis for the methodology of both courts. She published, for example, an article on the role of the member States' courts in implementing EU and EEA law and their basis for this role in 2000 ("Getur dómstólum borið skylda til...?" Um hlutverk dómstóla aðildarríkja við framkvæmd réttar Evrópusambandsins og dómstóla sammingsaðila við beitingu EES-réttar") [Can courts have an obligation to...? On the role of the courts of member States in the implementation of European Union law and the courts of contracting parties in the application of EEA law]. She also researched the non-discrimination principle of EU law, both the prohibition of discrimination based on nationality (Jafnræðisreglan og áhrif hennar á lagareglur um frjálsa för innan Evrópska efnahagssvæðisins) [The principle of non-discrimination and its effect on rules on free movement within the EEA] and the prohibition of discrimination on the basis of status in other respects, including sexual orientation (Rammtilskipun Evrópusambandsins í íslenskum rétti: mismunun á grundvelli kynhneigðar) [Framework Directive of the European Union in Icelandic law: discrimination on the basis of sexual orientation]. She has furthermore studied basic constitutional principles and the role of the courts in implementing and complementing constitutional provisions. For example, she wrote an article following judgments by the Supreme Court of Iceland in the so-called Organisation of the Disabled cases, which dealt with the interpretation of the human rights provisions of the Icelandic Constitution by the courts. She has studied the concept of citizenship in EU law and its origin in EU rules on the free movement of persons, and has also studied human rights protection in the context of EU citizenship. In an article published in the Common Market Law Review in 2015, she further discussed theories of judicial consultation and cooperation in an integrated legal system.

In recent years, Dóra has once again studied the provisions of the ECHR and the case law of the Court and compared it with the methodology of the European Court of Justice. She has examined theories of margin of appreciation in both legal systems and has researched and published the results of research on the interpretation of the Charter of Fundamental Rights of the European Union in a respected European journal. She took part in a research project with Oddný Mjöll Arnardóttir on theories of margin of appreciation and the publication of the results of a comparative study analysing the judicial practice of both courts. In an article in 2017 on the practice of the ECtHR (Mannréttindadómstóllinn. Nálægðarreglan og fullveldi sammingsaðila) [European Court of Human Rights. Subsidiarity and sovereignty of contracting States], she further examined the effect of the principle of subsidiarity and theories of the limited power of the courts to review legislation.

During her career, Dóra has worked on the publication of legal works and texts, peer-reviewed articles and other material, supervised and evaluated the work of master's students in law in various legal fields, especially EU law, EEA law and human rights. She has lived and worked in Iceland and Europe, most recently in the UK, for more than 25 years.

2.4.2. Páll Þórhallsson

Páll Þórhallsson was born on 24 September 1964 and is therefore 57 years old. He obtained an intermediate examination (*Zwischenprüfung*) in 1987 after studying political science and philosophy for four semesters at the universities of Heidelberg and Munich. In 1995 he graduated with a BA degree in philosophy and political science from the University of Iceland, where his final thesis was entitled "Hinn dyggðum prýddi blaðamaður" [The virtuous journalist]. That same year, he graduated with a candidate's degree in law from the University of Iceland, where his final thesis was entitled: "Tjáningarfrelsi og æruvernd. Íslenskar réttarreglur um meiðyrði í ljósi 10. gr. Mannréttindasáttmála Evrópu" [Freedom of expression and protection of repute. Icelandic legal rules on libel in light of Article 10 of the ECHR]. In 1996, Páll was admitted to the bar as District Court attorney and in 1998 he graduated with a master's degree (*Diplôme d'études approfondies*) in comparative human rights law from Robert Schuman University in Strasbourg, where his final thesis was entitled "Innleiðing Mannréttindasáttmála Evrópu í íslenskan rétt" [Transposing the European Convention on Human Rights into Icelandic law].

From 1987 to 1995, Páll worked as a journalist on the Icelandic daily *Morgunblaðið*, writing foreign news, commentary and discussion of court cases. He continued to work at the newspaper as a freelancer until 2005, often covering events in Iceland from the perspective of the Council of Europe and human rights. From 1988 to 1989 he was a board member and the latter year chairman of the Association of Icelandic Students Abroad and in 1990 he was chairman of the Icelandic Youth Association. From 1995 to 1997, he was an associate in the legal firm A&P Lögmenn, where his main tasks were the preparation of documents for submission to the court and court representation on behalf of clients, both in civil cases, criminal cases and cases related to administrative law. Quite a number of cases concerned basic human rights such as freedom of expression, privacy and property rights.

From 1999 to 2005, Páll worked as an expert at the communications directorate, DG II, of the Council of Europe Secretariat. There he was the secretary of expert committees in the field of legislation on the Internet, copyright and related rights. He also worked on co-operation programs in the South Caucasus and was responsible for the department's website. In addition, he temporarily acted as the head of the department when the Director General retired. Páll participated in the formulation of the principles of freedom of expression and various cooperation projects in the member States. He organised a number of courses in Armenia and Azerbaijan, which were then new member States, to increase awareness of the European Convention on Human Rights, particularly freedom of expression. Furthermore, he organised larger events such as a conference in Warsaw on the human rights aspects of Internet legislation and a ministerial meeting on media freedom in Kiev.

Between 2005 and 2009, Páll was a lawyer at the Prime Minister's Office. He was secretary of the constitutional committee and the expert committee that assisted it. He also worked on the simplification of laws and regulations, as well as providing legal advice to the Prime Minister. From 2006 to 2008 he chaired the committee on simplification of the legal framework and in 2009 he was a member of the committee appointed to negotiate with the British and the Dutch on the Icesave issue. From 2009 to 2013, he was a member of a working group and later a coordination committee on ethics in public administration and also a member of a legal group in connection with Iceland's application for EU membership. In 2005-2006 he was secretary of the Complaints Committee on Information Affairs, which resolves disputes between the administration and individuals regarding access to data. In 2014, Páll was elected by Alþingi to sit on a committee to assess the qualifications of judge candidates. In 2019, he prepared instructions for ministries on their dealings with the Attorney General's Office, which represents the state in civil litigation. From 2005 to

2019, he was a part-time expert at the University of Reykjavík, where he taught Icelandic and European media law, enactment of legislation and constitutional law. He was responsible for approx. 20 complete semester courses, especially at master's level, and for a first-year course in constitutional law for four consecutive years. He also supervised a large number of master's and bachelor's theses.

From 2009 to 2019, Páll was Director of the Legislative Affairs Office in the Prime Minister's Office. There he directed a team of up to 12 employees, lawyers and specialists in Icelandic. There he worked on "improved legislation", i.e. quality control of legislation and promotion of quality legislative practices. The office's responsibilities also included constitutional reform, administration of public lands, administrative law and information law, extensive international cooperation on "improved legislation" (OECD) and ethics in the public service, and measures to deal with corruption (OECD and the Council of Europe). In 2015 and 2016, he was also the head of the cultural heritage office for two extended periods. From 2008 to 2019, he was a board member of the Icelandic Bar Association. From 2010 to 2014, he was director of the Government Offices' School (the first one), which handles the training of ministry employees. In 2012, he was a member of a group of experts tasked by Alþingi's Constitutional and Supervisory Committee with preparing a bill for a new constitution based on the work of the Constitutional Council. From 2015 to 2019, he was chairman of the Ministerial Consultation Forum on Legislative Affairs, and from 2016 to 2018, a member of the board of the OECD Committee on Law and Regulation. In the years 2014 to 2016, he was chairman of a constitutional committee, where all political parties in Alþingi were represented. Its work led to a bill that the Prime Minister submitted to Parliament on resources, environmental protection and referenda. Between 2007 and 2022, Páll was Iceland's alternate representative in GRECO. There he represented Iceland in the Third Evaluation Round (Transparency of party funding) and the Fifth Evaluation Round (Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies). He was also a representative in the evaluation team for Norway in the Third Evaluation Round. In 2020, he chaired the government's co-ordination team for Covid-19 border screening. In 2021, he was the chairman of a group of experts to evaluate the sale of Míla ehf. (an Icelandic telecommunications infrastructure company) to Ardian (a French investment fund) and chairman of the qualification committee for the appointment of the presidential secretary.

Between 2020 and 2022, Páll was a counsellor at Iceland's Permanent Commission to the European Union in Brussels, Belgium. He represented Iceland in Integrated Policy Crisis Response (IPCR), where measures in response to Covid-19 have been co-ordinated in the EEA region. He also worked on constitutional and interministerial issues in addition to those that are generally the remit of the Prime Minister's Office, not least gender equality. Furthermore, he edited a newsletter on EU issues. Since 2020, he has been a director of the Reykjavík Forestry Association.

Since 2014, Páll has chaired the Government Offices Steering Group on implementation of the EEA Agreement, and since 2021 he has represented Iceland in the EU's task force regarding the implementation of the rules on the Internal Market. Since 2022, he has been the head of the Constitutional and Administrative Affairs department in the Prime Minister's Office, as well as the deputy of the Permanent Secretary. He leads a team of 16 people that includes lawyers, as well as other employees. The department is responsible for secretarial services for the Minister and the cabinet, constitutional reform, integrity in public service, media relations, international relations, administrative law and information law, as well as other related duties.

Páll's area of responsibility in the Prime Minister's Office have included numerous aspects of the judicial system. All government-initiated legislative amendments, including those relating to courts and procedural law, have been scrutinized by his department from 2010 to 2021, when that task was transferred to the Ministry of Justice. The Attorney General and two rulings committees, i.e. the Complaints Committee on Information Affairs and the Wilderness Board, have been part of his administrative responsibilities since 2009. While these are independent committees and positions, it is nevertheless the responsibility of the Prime Minister's Office to ensure that their operating conditions are suitable. As a lawyer and head of department in the Prime Minister's Office, he has been responsible for many issues related to human rights. For example, in 2009 he chaired a working group that drafted a bill for compensation for victims of ill-treatment in residential care homes. Ten years later, he represented the state in settling a complex case that was widely covered in the media, involving individuals who had been convicted and served long sentences for serious crimes of which they were later acquitted. The Attorney General, who represents the Icelandic state before the European Court of Human Rights, is part of the remit of Páll's department. From time to time, therefore, he takes part in internal discussions concerning the position taken by Iceland in major cases that have come before the Court. As head of department in the Prime Minister's Office, he has led efforts to review the legislative process so that bills are assessed for compliance with the Constitution and international law,

including human rights obligations. From 2014 to 2018, he sat on two committees, serving as vice-chair of the latter, which drafted several bills affecting freedom of expression and information, including whistleblower protection and the decriminalization of libel, largely inspired by the work of the Council of Europe.

For 17 years, Páll has been professionally responsible for preparing constitutional reforms. During his professional career, he has followed ECtHR case law and published, for example, three years in a row (for the years 1999, 2000 and 2001) an annual overview of the most important judgments of the Court in the legal journal *Úlfjótur*. Later he was responsible for courses in constitutional law. Freedom of expression has been his core subject, both as a journalist and later in the communications department of the European Council, in the Prime Minister's Office and finally as a teacher and scholar. Since 1995, he has also held a number of lectures on freedom of expression, for example on the annual Law Day.

2.5. Assessment of applicants

The following is the assessment of the evaluation committee of the applicants Dóra Guðmundsdóttir and Páll Þórhallsson based on those perspectives described in detail in Chapter 2.³

2.5.1. High moral character of applicants

The applicant, Dóra Guðmundsdóttir, stated that she did not consider anything in her career or conduct to be of such a nature that she would not be considered of high moral character, in the meaning of Paragraph 1 of Art. 21 of the ECHR, neither with regard to her private life nor the performance of the work she has carried out. The same applies to the applicant Páll Þórhallsson. He stated that he did not consider anything in his career or conduct to be of such a nature that he would not satisfy the requirement to be considered of high moral character, in the meaning of Paragraph 1 of Article 21 of the ECHR.

In the committee's opinion nothing has come to light to indicate that the applicants Dóra Guðmundsdóttir and Páll Þórhallsson do not meet the said conditions. On the contrary, it is the opinion of the committee that both applicants enjoy good repute as lawyers and that their conduct indisputably corresponds with the respect and trust that must be shown to the European Court of Human Rights and its judges.

2.5.2. Eligibility to hold higher judicial positions – a jurisconsult of recognised competence

As recounted in Section 2.0, it is possible according to Paragraph 1 of Article 21 of the ECHR, the eligibility of applicants to serve as a judge at the ECtHR can be assessed based on two types of considerations: on the one hand, by an assessment of whether the applicant fulfils requirements on eligibility to hold a high judicial office in his/her home country and, on the other hand, according to an assessment of whether the applicant is considered a jurisconsult of recognised competence.

An assessment of whether the candidate fulfils the condition of being qualified to hold a higher judicial office, in the sense of Paragraph 1 of Article 21 of the ECHR, is determined by whether the person fulfils, as appropriate, the requirements stated in Articles 13 or 21 of the Act on the Courts, No. 50/2016. A more detailed explanation of these requirements is provided in Chapter 2.

Chapter 4.0 recounts the education and professional career of the applicant *Dóra Guðmundsdóttir*. When these are compared with the requirements of the second paragraph of Article 21 of Act No. 50/2016, which is considered to be relevant here and concerns the assessment of eligibility to serve as a judge of the Court of Appeal, it is clear that the applicant fulfils conditions in Points 1 to 6 of the paragraph. Point 7 of the paragraph sets the requirement that to be appointed to the office of judge of the Court of Appeal an applicant must have worked for at least three years as a District Court Judge, attorney before the Supreme Court, professor or associate professor of law, Chief of Police, District Commissioner, prosecutor, Permanent Secretary of a Ministry, office director in a ministry responsible for the courts and judicial procedure, or Parliamentary Ombudsman. Dóra has neither held these positions nor, within the meaning of Point 7, any other similar position that provides comparable legal experience. According to this, Dóra Guðmundsdóttir does not, in the opinion of the committee, fulfil the conditions of the first paragraph of Article 21 of the Human Rights Convention, on eligibility to hold a higher judicial office in Iceland, assessed in light of the conditions of the second paragraph of Article 21 of Act No. 50/2016, on the Courts.

3. For the assessment of the evaluation committee of Ms Oddný Arnardóttir see extract from the Opinion of 3 February 2022 at the end of this Opinion

The next step is to examine whether Dóra satisfies the requirement to be considered a jurisconsult of recognised competence, in the sense of Paragraph 1 of Article 21 of the ECHR. The reference points of view of the Council of Europe's Advisory Panel of Experts when assessing that requirement are outlined in Chapter 2. In this connection, it is right to reiterate what was previously stated, that although the requirements in Paragraph 1 of Article 21 of the ECHR are worded as alternative ("either... or"), it could nevertheless happen that the Advisory Panel may consider it sufficient for the requirement of jurisconsult to combine elements covered by each individual requirement alone. This implies, according to the Advisory Panel's guidelines, that even if a certain judge candidate does not meet the requirements according to the one condition when the requirements according to it are evaluated alone, the combined judicial experience, on the one hand, and academic or other relevant legal experience, on the other, in an overall assessment can result in a specific candidate being considered to satisfy the eligibility requirements of Paragraph 1 of Article 21 of the ECHR, on the basis that the person is a jurisconsult of recognised competence.

After completing her law studies at the University of Iceland, Dóra Guðmundsdóttir began working as a judge's associate at Reykjavík City Court, where she worked for over two years, exercising independent judicial authority in cases in absentia as well as assisting judges in resolving cases where a defence was presented. She was a judges' assistant at the Registry of the EFTA Court in Luxembourg for four years, an *ad hoc* judge at the same court for six years, taking a seat in the court as such.

Regarding Dóra's appointment as *ad hoc* judge at the EFTA Court, it should be noted that Paragraph 1 of Art. 30 of the agreement between the EFTA states on the establishment of Surveillance Authority and the Court, which is published in the *Official Journal* of the EU L 344 31.1.1994, p. 3, those persons who are indisputably independent of others and who fulfil the requirements to serve in the highest judicial office in their home states or who have gained a special reputation as lawyers shall be selected for the office of judge. This is worded in the English version of the agreement that the person concerned [shall] "*possess the qualifications required for appointment to highest judicial office in their respective countries or be jurisconsults of recognised competence.*" It follows from the provisions of Paragraph 4 of Article 30 of the agreement that *ad hoc* judges at the EFTA Court have to meet the same eligibility requirements as permanent judges. Due to the fact that Dóra did not meet the eligibility criteria to be appointed to the highest judicial office in Iceland, when she was appointed *ad hoc* judge at the EFTA Court in 2001, she was appointed by the EFTA states as *ad hoc* judge on the basis of having earned a special reputation as a lawyer (jurisconsult of recognised competence).

It should also be noted that Dóra has a 17-year career as adjunct professor and part-time specialist at two Icelandic universities, the University of Iceland and the University of Bifröst. During her academic career, Dóra has conducted research and written scholarly articles and book chapters on legal issues, primarily in the field of European law, human rights and constitutional law, as her professional career and publications demonstrate. It should also be noted that since 2017 Dóra has worked as a lawyer for the UK government (Government Legal Department) and most recently as a senior lawyer, first at the Department for Exiting the European Union, subsequently in the Cabinet Office Europe Legal Advisors and most recently in the Foreign, Commonwealth and Development Office. Finally it should be mentioned that Dóra is a UK Agent before the Court of Justice of the European Union and in that capacity has pleaded cases and prepared pleadings with clients and their counsels pleading the cases.

In view of everything recounted here, it is the committee's opinion that Dóra Guðmundsdóttir's cumulative experience of domestic and international judicial work, academic activities and legal work in Iceland and in the UK public administration, together with her activity in scholarly research and publications in the legal field, results in the overall assessment that she satisfies the requirements for being considered a jurisconsult of recognised competence, in the sense of Paragraph 1 of Art. 21 of the ECHR. She is therefore, in the committee's opinion, qualified to serve as a judge at the European Court of Human Rights, cf. also for consideration the requirement of Point 8 of the second paragraph of Article 21 of Act No. 50/2016.

Chapter 4 recounts the education and professional career of the applicant *Páll Þórhallsson*. When his career is compared with the requirements of Points 1 to 7 of the second paragraph of Article 21 of Act no. 50/2016, which is considered to be relevant here and concerns the assessment of eligibility to serve as a judge of the Court of Appeal, it is clear that the applicant fulfils conditions in Points 1 to 6 of the paragraph. Point 7, as previously mentioned, makes it a requirement that the applicant has served for at least three years as a District Court Judge, attorney before the Supreme Court, professor or associate professor of law, Chief of Police, District Commissioner, prosecutor, Permanent Secretary of a Ministry, Office director in a ministry responsible for the courts and judicial procedure, or Parliamentary Ombudsman. The applicant Páll has not held the positions listed there.

In light of Páll Þórhallsson's career, the next step is to examine whether he fulfils the condition of having for the same length of time, that is three years at least, held another similar position that provides similar legal experience to one of the jobs listed in Point 7 of the second paragraph of Article 21 of the Act on the Courts.

Among the requirements of Point 7 of the second paragraph of Article 21 of the Act on the Courts is that an applicant for the post of judge of the Court of Appeal must have worked for at least three years as an office director in a ministry that deals with matters of courts and legal procedure. Courts and legal procedure are under the jurisdiction of the Ministry of Justice, cf. Points 3 and 4 of Article 2 of the Presidential Decree on the allocation of responsibilities among the ministries of Government Offices in Iceland, No. 6 of 31 January 2022. Páll has not worked in that ministry. On the other hand, for ten years, i.e. 2009-2019, Páll held the position of Director of the Office of Legislative Affairs in the Prime Minister's Office, and since 2022 he has held the position of Director of the Office of Constitutional and Administrative Affairs in the same ministry and is also the deputy Permanent Secretary of the ministry. In the Office of Legislative Affairs, Páll directed the work of a team of up to 12 persons. The office's areas of focus included administrative and information law, constitutional reform, administration of public lands, and legislative reform. The Office of Legislative Affairs also took part in extensive international co-operation through OECD and the Council of Europe in the field of "better regulation", ethics in public service and anti-corruption activities. It should also be noted that the applicant's area of responsibility in the Prime Minister's Office in 2010-2021 included numerous elements that concern the courts and legislation on legal procedure. In addition, it should be pointed out that matters concerning the Attorney General's office, the Wilderness Committee and the Complaints Committee on Information Affairs have been the responsibility of the applicant in the Prime Minister's Office. The Office of Constitutional and Administrative Affairs, where the applicant directs a team of 16 persons, is responsible *inter alia* for legislation on public administration and information law, constitutional reform, integrity in the public service and international relations.

Taking into account all that has been discussed here, it is the committee's opinion that Páll Þórhallsson fulfils the requirement in Point 7 of the second paragraph of Article 21 of Act No. 50/2016, of having for three years at least – and in practice for much longer – served as an office director in the Prime Minister's Office, as well as in a position similar to that of an office director in a ministry that deals with matters of courts and legal procedure, and that his position as office director in the Prime Minister's Office has given him similar legal experience to what he would have received from an office director's position in the Ministry of Justice. Accordingly, it is the committee's assessment that the applicant Páll Þórhallsson fulfils the requirements in Points 1 to 8 of the second paragraph of Article 21 of Act No. 50/2016 to be appointed to position of judge of the Court of Appeal and thus qualified to hold a higher judicial position in the sense of Paragraph 1 of Article 21 of the ECHR.

2.5.3. Language skill

The guidelines CM (2012) 40 of 29 March 2012, on the selection of judges for the Human Rights Court, state that, as a minimum, judge candidates must have a good oral and written command of one of the two official languages of the court, i.e. English or French, and some understanding of the other. This is discussed in more detail in Chapter 2 above.

The applicant *Dóra Guðmundsdóttir* has completed a master's degree, LL.M, from the University of British Columbia in Canada, where the studies were conducted in English, worked for four years as a judge's assistant at the EFTA Court in Luxembourg, where the working language is English, has lived in the UK for over two decades and has worked there as a lawyer in the public service for around five years. Her ability to speak and write English cannot therefore be questioned. She maintains that she has good reading comprehension of French, writes French well and speaks it acceptably. The evaluation committee verified this and can confirm the applicant's own assessment. Accordingly, the applicant Dóra meets the requirement of guidelines CM (2012) 40, of having a good command of both written and spoken English and some understanding of French.

The applicant *Páll Þórhallsson* states that he reads, writes and speaks English very well. The evaluation committee verified this in an interview with the applicant and can confirm the applicant's own assessment. The applicant, who completed a master's degree in comparative law from the Université Robert Schuman Strasbourg where study was conducted in French, and was an expert in the media department, DG II, at the Council of Europe in Strasbourg for six years, states that he reads French very well and writes and speaks it well. The evaluation committee verified this in an interview with the applicant and can confirm the applicant's own assessment. Accordingly, Páll satisfies this requirement of the guidelines CM (2012) 40 concerning language skills.

2.5.4. Knowledge of national law

According to Point 4 of the guidelines CM (2012) 40, judge candidates are required to have knowledge of national law and practical experience in legal work is considered desirable.

As far as knowledge of national law is concerned, it should be noted that the applicant *Dóra Guðmundsdóttir* has completed a candidate's degree in law from the Faculty of Law of the University of Iceland. Her master's thesis examined judicial review powers, where she compared the powers of Icelandic courts and those of courts in other Nordic countries to assess whether laws were compatible with the constitution. She worked for about two years as a judges' assistant at Reykjavík City Court, exercising judicial authority in cases *in absentia*, served for 17 years as adjunct professor and part-time expert at the University of Iceland and the University of Bifröst and has written journal articles and book chapters on Icelandic law. Dóra has also provided legal advice to private and public entities in Iceland. Therefore, Dóra is considered to have a good knowledge of Icelandic national law.

The applicant *Páll Þórhallsson* has completed a candidate's degree in law from the Faculty of Law of the University of Iceland. His final thesis concerned freedom of expression and protection of reputation and Icelandic legal rules on libel in light of Art. 10 of the ECHR. He worked as an associate at one of the largest law firms in Iceland for two years, where he handled, among other things, litigation in both civil cases, criminal cases and cases regarding administrative law and fundamental rights such as freedom of expression, privacy and property rights. During his 17 years as lawyer and office director in the Prime Minister's Office he has acquired extensive experience and expertise in many areas of Icelandic national law, including in the field of constitutional and administrative law, and has in addition written journal articles and book chapters on Icelandic law. Therefore, Páll Þórhallsson is considered to have a good knowledge of Icelandic national law.

2.5.5. Knowledge of international law

According to Point 4 of the Council of Europe guidelines CM (2012) 40, judge candidates are required to have knowledge of international law and practical experience in legal work is also considered desirable.

As far as knowledge of international law is concerned, it should be noted that *Dóra Guðmundsdóttir* completed an LL.M degree from the University of British Columbia in Canada focusing, among other things, on international law and international protection of human rights. She also completed a master's degree from the European Academy of Legal Theory in Brussels, Belgium, in European methodology with a focus on, among other things, the European legal system and European human rights protection, in addition to studying European law and international human rights protection at the University of Copenhagen. With regard to work experience in the field of international law, as mentioned above, Dóra worked as judges' assistant at the EFTA Court in Luxembourg and as *ad hoc* judge at the same court for a period, taking her seat on the court as such. Dóra has been UK Agent before the Court of Justice of the European Union, where cases have *inter alia* tested rules on human rights protection, and has provided the UK Government with advice and opinions on matters concerning international law and its special areas, including human rights. Dóra has also carried out research and university teaching in Iceland in fields of international law and, as her publication record shows, has written articles and book chapters on international law topics. She is therefore considered to possess good theoretical expertise and practical experience of legal work in the field of international law.

As mentioned above, *Páll Þórhallsson* completed a master's degree in comparative human rights law from the Université Robert Schuman Strasbourg, where his final thesis dealt with the incorporation of the European Convention on Human Rights in Icelandic law. He worked for six years as an expert at the Media Department, DG II, of the Council of Europe in Strasbourg and during his 17-year career in the Prime Minister's office he has been involved in a variety of issues related to international law and its specialised fields. He has also written journal articles and book chapters on international law topics. He is therefore considered to possess good theoretical expertise and practical experience of legal work in the field of international law.

2.5.6. Practical experience of legal work

From what is stated in the assessment of the evaluation committee in Points 5.4 and 5.5 above, the applicants *Dóra Guðmundsdóttir* and *Páll Þórhallsson* have considerable practical experience of legal work in the field of national and international law and reference is made to that discussion.

2.5.7. Requirement of being able to serve half a term

Point 5 of the Council of Europe's guidelines sets a requirement concerning the age of candidates. Both of the applicants Dóra Guðmundsdóttir and Páll Þórhallsson, are 57 years old. In view thereof, this requirement does not come into consideration when assessing their eligibility to serve as judge at the ECtHR.

2.5.8. Prohibition against incompatible work

Point 6 of the Council of Europe's guidelines sets the requirement that judge candidates may not undertake any work that is incompatible with the independence and objectivity of the Court or with the demands of a full-time office. Both candidates, Dóra Guðmundsdóttir and Páll Þórhallsson, have stated that they would, if elected, resign from all incompatible positions. They also signed a declaration stating that they would "not engage in any activity incompatible with the independence of judges of the European Court of Human Rights, their impartiality or the demands of a full-time office at the Court". The evaluation committee considers this condition to be satisfied as far as both candidates are concerned, and in other respects refers to the discussion in Point 5.9 below.

2.5.9. Negative eligibility rule

Finally, Point 7 of the Council of Europe guidelines stresses that a candidate should not be nominated if this would foreseeably result in a frequent and/or long-lasting need to appoint an *ad hoc* judge. The applicants Dóra Guðmundsdóttir and Páll Þórhallsson both signed a statement to the effect that it should not be necessary to appoint *ad hoc* judges to replace them often or for a lengthy period. In light of what has been recounted here, the committee does not consider this negative eligibility rule to affect the eligibility of the two candidates.

2.6. Conclusion of the evaluation committee

With reference to all of the above, it is the conclusion of the qualification committee that the applicants Dóra Guðmundsdóttir and Páll Þórhallsson are eligible to be nominated by Iceland as judges at the European Court of Human Rights.

Extract from the Opinion of 3 February 2022 concerning Ms Oddný Arnardóttir's eligibility:

Oddný Mjöll Arnardóttir was born on 16 January 1970 and is therefore 52 years old. She graduated with a law degree from the Faculty of Law at the University of Iceland (*summa cum laude*) in 1994 and completed a doctorate in law from the University of Edinburgh in 2002. Her doctoral dissertation was entitled "Equality and Non-Discrimination in the European Convention on Human Rights; Towards a Substantive Approach".

Oddný Mjöll was admitted to the bar as District Court attorney in 1995. In 1993 she was a law student, lawyer and attorney (associate) at the legal office Málflutningsskrifstofa Borgartún 24 until 1995. In the summer of 2001, she was the director of Reykjavík Academy and in the summer of 2001 [sic] director of the Institute of Human Rights at the University of Iceland. She was an attorney (partner) at law firm Lögmannsstofan Skeifan from 2002 to 2004. From 2004 to 2006, she worked as an attorney (partner) at the law firm Acta lögmannsstofa.

From 1999 to 2000, Oddný Mjöll was an adjunct professor at Bifröst University and in 2005 a sessional lecturer at Reykjavík University. From 2006 to 2012, she was a professor in the field of human rights at Reykjavík University. She was director of doctoral studies at the Faculty of Law from 2010 to 2012. From 2012 to 2018, Oddný Mjöll was a professor in the field of human rights at the University of Iceland; however, during the autumn term of 2014 she was a visiting professor at the University of Copenhagen. In the spring of 2015 and in the autumn of 2017, she was on a research stay at the European University Institute. She also arranged international doctoral student courses at Reykjavík University and the University of Iceland in 2009 and 2015 and has been a guest lecturer in doctoral student courses at foreign universities and taught courses for other parties in Iceland and abroad. She has taught and supervised a good number of master's students in the fields of international, European and constitutional human rights protection and related fields, as well as organising a number of conferences. She has also been an opponent in the doctoral defences of four students at foreign universities and has been a member of many evaluation and selection committees assessing the qualifications of staff at domestic and foreign universities and applicants for doctoral studies.

Oddný Mjöll was appointed a judge to the Court of Appeal in June 2017. Since January 2018, she has also held the position of research professor at the University of Iceland. Since 2021, she has been a judge at the Court for Re-opened Cases. Oddný Mjöll has been an ad hoc judge at the European Court of Human Rights since May 2014 and has sat as judge in three cases (2017, 2019). She has also served as ad hoc judge at the Supreme Court of Iceland in six cases (2018).

Oddný Mjöll was a member of the Legal Committee of the Icelandic Bar Association from 2003 to 2005 and in 2004 she was appointed an ad hoc member of the Equal Rights Complaints Committee and took a seat in one case. From 2003 to 2006, she served as an expert in the field of human rights on the National Bioethics Committee.

In 2010 she taught a course for the Icelandic Bar Association on discrimination directives of the European Union and from 2000 to January 2018 she taught a course for lawyers taking bar exams for District Court attorney status. In 2010, she was also appointed by the Prime Minister to a working group on the administration's response to the report of the parliamentary Special Investigation Commission (SIC). The working group made proposals to the Prime Minister and the government on possible responses to issues raised in the SIC report that focused specifically on the administration and the working practices of Government Offices. In 2012, she was appointed to an expert group under the auspices of the Althingi's Constitutional and Supervisory Committee which was tasked with reviewing the Constitutional Council's proposals for a new constitution and converting these into a bill of legislation. She was responsible for Articles 5-36 of the bill (scope, human rights and nature), Article 112 (obligations under international agreements) and the Explanatory Notes to those provisions.

From 2005 to 2006, Oddný Mjöll was chair of the board of the Icelandic Women Lawyers' Association. Oddný Mjöll was a member of the Electoral Commission for the Reykjavík South Constituency for six years from 2007 to 2013. In 2014, she sat on two three-member election committees to decide on the validity of municipal elections in Langanesbyggð and in Reykjavík. In 2011 Oddný Mjöll was a lecturer in the course "Current Reflections on EU Equality and Non-Discrimination Law", held at the Academy of European Law, Trier. In November 2009, she organised and taught a course on European Union equality directives for the Icelandic Bar Association. From May 2015 until January 2018, she was the appointed chair of the opinion committee for applications for registration of religious organisations or organisations with non-religious convictions. Oddný Mjöll was a member of the working group of the School of Social Sciences at the University of Iceland on studies in English from November 2014 to January 2018, chair of the professional council of the School of Social Sciences at the University of Iceland from 2015 to 2017 and a member of the professional council (2014 to 2015), a member of the board of the University of Iceland Research Fund 2015 to 2017, a member of the professional council of the humanities and social sciences at the Icelandic Research Centre 2007 to 2009. She was also a member of the research council of Reykjavík University from 2007 to 2008. She was a member of the committee on the granting of leave to appeal before the Court of Appeal 2018 to 2019. She was also a member of a working group that reviewed the rules on oral evidence and playback of recordings before the Court of Appeal in criminal cases in 2020 and in 2021 she led a working group on the writing of the rules of the Court for Re-opened Cases.

In her work as a judge of the Court of Appeal, Oddný Mjöll deals with cases in all areas of law, many of which concern the protection of human rights. In this connection, it could be pointed out that in recent years cases have increasingly made reference to the European Convention on Human Rights and the judgments of the ECtHR in case law. Since being appointed a judge of the new Court for Re-opened Cases (in January 2021) Oddný Mjöll has also ruled on requests for re-opening, many of which are based on alleged violations of the right to a fair legal process. She was also the Deputy Chair of the Immigration Appeals Board for one year after its establishment (in January 2015), during which time she ruled on a number of cases concerning immigrants and asylum seekers.

Oddný Mjöll has been a professor of human rights and a research professor at Icelandic universities for 16 years. Her main subjects were international and European human rights protection, but in addition she has taught courses on research methods, labour law and more. Her research focuses on international, European and constitutional human rights protection; in recent years she has focused on research on the principle of subsidiarity and the relationship between European human rights protection, European law and national law. Her other main research areas are non-discrimination rules, health law and the rights of people with disabilities. She has also participated in and directed a number of international research projects and teams. Her research in the field of international and European human rights is well known, as well as being cited extensively, as can be seen, for example, from the 630 citations of her work on the database www.scholar.google.com.

Since 1998, she has taken an active part in public debate on human rights in Iceland and internationally. This is reflected, for example, in the fact that she has delivered 75 conference presentations and lectures, provided advice to the government and the Althingi, and participated in work on behalf of the United Nations and the Council of Europe. As an example of the above, in 2018 she delivered a speech entitled “European Supervision”, at the High-Level Expert Conference: Implementing the Copenhagen Declaration, which was held in Copenhagen by the Danish government during its presidency of the Council of Europe. The conference comprised a follow-up on the reform work of the ECtHR and the Intergovernmental Conference in Copenhagen 2018. She was also a participant in the “Expert Group Meeting on the Role of the Judiciary in Advancing the Rights of Persons with Disabilities”, held in Geneva by the UN High Commissioner for Human Rights and the UN Special Envoy for the Rights of Persons with Disabilities in November 2018. She also gave a public lecture entitled “The Discrimination Grounds and Recent Developments under Article 14 ECHR: Innovation or Business as Usual?”, delivered in an annual lecture series in memory of Tove Stang Dahl at the University of Oslo in June 2017. She also advised the Ministry of the Interior on bills to amend the Foreign Nationals Act from April 2015 to January 2016, the Ministry of Social Affairs on bills intended to transpose the EU's Gender Equality Directives (2000/78/EC and 2000/43/EC) in May 2013), and was a member of the Foreign Ministry's Consultative Group on Iceland's human rights policy in February 2007. In addition, she has provided a number of opinions to parliamentary committees and advised on the opinions drafted by the Icelandic Human Rights Centre on bills.

Oddný Mjöll was chairperson of the board of the Institute of Human Rights at the University of Iceland for four years (2013 to 2017). The Institute was established by the University of Iceland, the Icelandic Bar Association and the Icelandic Association of Judges and is directed by their representatives. The Institute's role is to promote research and education in the field of human rights. Previously, she was also the chair or member of the board of the Icelandic Human Rights Centre for five years (2007 to 2012). The Centre is an independent institution promoting human rights in Iceland through research and education. The Centre also has a supervisory role comparable to national human rights organisations, although it has not been registered as such under the United Nations' Paris rules. At the beginning of her career, Oddný Mjöll worked as an attorney for over six years. In this work, she dealt with various issues testing the protection of human rights and thus gained valuable experience in the process of such cases.

From 2004 to 2020, Oddný Mjöll was involved in various types of editorial work and peer reviews. As an example, she was a member of the editorial board of the Icelandic journal Mannréttindadómstóll Evrópu – dómareifanir (European Court of Human Rights – summaries of judgments) from 2005 to 2008. In 2012, she was also appointed to the evaluation committee for grant applications to the EU research program and has been a member of the steering group of four international research networks. Furthermore, she was a member of the peer review committee of the Icelandic legal journal Lögrétta from 2004 to 2006 and 2007 to 2008 and in addition has provided peer reviews for various domestic and foreign magazines and article collections.

Oddný Mjöll is the author of two scholarly publications: The Principle of Subsidiarity, Scope for Assessment and the Relationship between the European Court of Human Rights and the National Court (2018) and Equality and Non-Discrimination under the European Convention on Human Rights (2003). She has also edited four collections of articles. She is the author of 45 articles and book chapters and has two works in progress, including a book chapter in a festschrift in honour of Róbert Spanó, President of the ECtHR.

Extract from the Opinion of 3 February 2022: Assessment of Applicants

Applicants' high moral character

Oddný Mjöll did not consider anything in her career or her conduct of such nature that she was not considered of high moral character or that was incompatible with the independence and neutrality of a judge.

Eligibility to serve in high judicial office

Oddný Mjöll applied for a position as Supreme Court judge in the summer of 2020 and was, in an opinion of 30 October 2020⁴, considered qualified for the job and equally qualified as were those appointed to the office. She therefore fulfils the conditions for eligibility to hold a high judicial office. The committee has examined the documents that accompanied the application and sees no reason other than to rely entirely on the earlier opinion.

4. <https://www.stjornarradid.is/library/04-Raduneytin/Domsmalaraduneytid/Ums%20d%20c3%b3mnefndar%20dags.%2030.%20okt%20c3%b3ber%202020.pdf>

Language skills

Oddný Mjöll has written a major share of her scholarly writings in English, in addition to completing her doctorate from the University of Edinburgh. She clearly fulfils the conditions for good command of one language of the Court. It was revealed that she had a knowledge of French and answered a question in French, and furthermore that she had some understanding of the Court's judgments in French. She also declared her readiness to attend a French course to reinforce her knowledge, should she be elected judge.

Knowledge of national law

[...] Oddný Mjöll, [has] recently been assessed by specifically appointed evaluation committees as qualified to serve as Supreme Court judges in Iceland. Oddný Mjöll has been a judge at the Court of Appeal since 1 January 2018 and is also a judge at the Court for Re-opened Cases; prior to that she was a professor at domestic universities and practising attorney for several years.

Knowledge of international law

When asked about her knowledge and experience in the field of international law, Oddný Mjöll Arnardóttir referred to her special expertise and experience related to human rights protection as part of international law. It is also clear from the applicant's research and scholarly writings that she has very extensive knowledge of the workings of the ECtHR as an international court and of the reform process which the Court's organisation has undergone over the past two decades.

With regard to her knowledge and experience in the field of international human rights, it is worth mentioning that Oddný Mjöll's doctoral dissertation dealt with Art. 14 of the European Convention on Human Rights, and in her studies and later in various positions as an attorney, scholar and judge, both at the Court of Appeal and as an ad hoc judge at the ECtHR, she has become acquainted with all the articles of the Convention, its implementation and related reform work.

Practical experience of legal work

Oddný Mjöll is currently a judge of the Court of Appeal and a judge at the Court for Re-opened Cases and has served ad hoc at both the ECtHR and the Supreme Court, in addition to having worked as an attorney for over six years

Condition of being able to serve half a term

Given the age of the applicants, this is not a question.

Prohibition against incompatible work

The Guidelines also stipulate that a candidate for the post of judge should not engage in any activity incompatible with the independence or impartiality of the Court or with the demands of a full-time office. All the candidates have stated that, if elected, they would resign from all incompatible jobs. They also signed a declaration stating that they would "not engage in any activity incompatible with the independence of judges of the European Court of Human Rights, their impartiality or the demands of a full-time office at the Court". The committee therefore considers that this condition is met, but also refers to the discussion of item i) below.

Negative eligibility rule

The Guidelines finally stress that a candidate should not be nominated if this would foreseeably result in a frequent and/or long-lasting recusals and the need to appoint an ad hoc judge.

Oddný Mjöll mentioned when asked that she would withdraw from any case she had adjudicated at the Court of Appeal came before the Court.

The candidates all signed, as previously stated, a statement to the effect that they knew of nothing that would foreseeably result in frequent and/or long-lasting recusals and the need to appoint an ad hoc judge to replace them. In the light of the above, the committee considers that this negative eligibility rule does not affect the eligibility of any applicant.

Appendix 1 – Oddný Mjöll ARNARDÓTTIR

1. Curriculum vitae

I. Personal details

Name, forename: Arnardóttir, Oddný Mjöll

Sex: Female

Date and place of birth: 16 January 1970, Reykjavík

Nationality: Icelandic

II. Education and academic and other qualifications

2002 Ph.D. (jurisprudence), the University of Edinburgh.

- Thesis title: 'Equality and Non-Discrimination in the European Convention on Human Rights; Towards a Substantive Approach'.
- Recipient of numerous postgraduate study grants, including the University of Edinburgh Postgraduate Studentship, the British Chevening Scholarship and the Nato Science Fellowship.

1995 Licensed as a district court attorney in Iceland.

1994 Cand. Jur. (combined B.A. and master's degree in law), the University of Iceland.

- Summa Cum Laude.
- Recipient of two awards for outstanding academic performance.
- Vice-president of Orator, the law students' association (1991-1992).
- Orator Oratorum, winner of the annual law students' debate (1990).

1989 Upper secondary school diploma, Laugarvatn College, Iceland.

- Summa Cum Laude.
- Awards for outstanding academic performance in various subjects.

III. Relevant professional activities

a. Description of judicial activities

June 2017 – present: Judge at the Icelandic Court of Appeals (Landsréttur).

- Member of the Court's committee on leaves of appeal (2018-2019).
- Member of drafting committee on revised Rules of Court on Direct Assessment of Evidence in Criminal Cases (2020).

Jan. 2021 – present: Judge at the Icelandic Court on Reopening of Judicial Proceedings (Endurupptökudómur).

- Chair of drafting committee on Rules of Court (2021).

May 2014 – present: Ad Hoc Judge at the European Court of Human Rights.

- Appointed in three cases (2017, 2019).

2018: Ad Hoc Judge at the Icelandic Supreme Court.

- Appointed in six cases (2018).

Jan. 2015 – Jan. 2016: Vice-Chairperson of the Icelandic Immigration and Asylum Appeals Board.

June 2014: Member of special administrative tribunals on the legitimacy of local elections in two municipalities in Iceland.

2004: Ad Hoc Member of the Gender Equality Complaints Committee (administrative tribunal).

- Appointed in one case (2004).

b. Description of non-judicial legal activities

Jan. 2018 – present: Research Professor, University of Iceland.

July 2012 – Jan. 2018: Professor of Human Rights Law, University of Iceland.

- Visiting Professor at iCourts Centre of Excellence for International Courts, University of Copenhagen (fall 2014).
- Research visits at the European University Institute (spring 2015 and fall 2017).
- Supervisor and co-supervisor of two Ph.D. students (University of Iceland, European University Institute).
- Opponent for four Ph.D. students (Maastricht University, Radboud University, Lund University, European University Institute).
- Organiser and lecturer at an international Ph.D. course on 'Methods of Human Rights Law Research', University of Iceland (2015).
- Lecturer at a Ph.D. course on 'Research Methodologies in Legal Human Rights Scholarship', European University Institute (2015).
- Chair of Assessment Committee and member of the Management Board for the Joint Ph.D. programme with the University of Copenhagen (2013-2017).
- Member of Committee on Research Education (2016-2017).
- Teaching and supervision of numerous masters' dissertations in International, European and Constitutional Human Rights Law and related fields.
- Organiser of numerous research conferences.

Jan. 2006 – June 2012: Professor of Human Rights Law, Reykjavík University.

- Research visit, University of Copenhagen (spring 2009).
- Supervisor of one Ph.D. student (Reykjavík University).
- Lecturer at an international Ph.D. course on 'The Essence of Biomedical Law', Uppsala University (2011).
- Lecturer at an international Ph.D. course on 'Should States Ratify Human Rights Conventions', University of Oslo/University of Iceland (2010).
- Organiser and lecturer at an international Ph.D. course on 'Human Rights Approaches to Research in Biomedical Law', Reykjavík University (2009).
- Director of Doctoral Studies, Reykjavík University School of Law (2010-2012).
- Chairperson of the School of Law Research Council (2006-2008), Member of the Research Council (2008-2012).
- Teaching and supervision of numerous masters' dissertations in International, European and Constitutional Human Rights Law and related fields.
- Organiser of numerous research conferences.

May 2015 – Jan. 2018: Chairperson of the Advisory Committee on Registered Religious or Belief Associations in Iceland.

Jan. 2000 – Jan. 2018: Lecturer at the Bar Admissions Program in Iceland.

Oct. 2013 – Oct. 2017: Chairperson of the Board of the University of Iceland Human Rights Institute.

June 2012 – Nov. 2012: Member of the Group of Experts appointed by the Constitutional and Supervisory Committee of the Icelandic Parliament to prepare a Constitutional Bill based on the work of the Constitutional Council.

- Responsible for the Group's work on Articles 5 – 36 (field of application, human rights and nature), Article 112 (state obligations under international law), and the accompanying Explanatory Report.

May 2007 – May 2012: Chairperson of the Executive Board of the Icelandic Human Rights Centre (2010-2012), Vice-chairperson (2008-2010) and Member of the Board (2007). Advisor to the Board (2012-2016).

Sept. 2011: Lecturer, 'Current Reflections on EU Equality and Non-Discrimination Law', Academy of European Law, Trier.

Jan. 2010 – May 2010: Member of the Advisory Committee appointed by the Prime Minister of Iceland on the public administration's reactions to the findings of the Special Investigation Commission on the downfall of the Icelandic banks.

- Identification of how the findings of the Investigation Commission impacted the executive branch of government and formulation of suggestions for reform.

Nov. 2009: Organiser and lecturer at a course on the EU Framework Equality Directive and the EU Race Directive, the Icelandic Bar Association Continuing Education Program.

Nov. 2004 – Aug. 2006: Partner Attorney at Acta Law Firm, Iceland.

Aug. 2005 – Jan. 2006: Lecturer, Reykjavík University, Iceland.

2003 – 2006: Member (as human rights expert) of the Icelandic National Bioethics Committee.

2003 – 2005: Member of the Icelandic Bar Association Law Commission.

Sept. 2002 – Nov. 2004: Partner Attorney at Lögmansstofan Skeifunni Law Firm, Iceland.

Aug. 1999 – Aug. 2000: Adjunct Lecturer, Bifröst University, Iceland.

Dec. 1993 – April 1996: Assistant, Associate Lawyer and Associate Attorney at Málflutningsskrifstofa Borgartúni 24 Law Firm, Iceland.

c. Description of non-legal professional activities

Nov. 2014 – Jan. 2018: Member of Working Group on Courses in English at the University of Iceland School of Social Sciences.

Oct. 2014 – Oct. 2017: Chairperson of the Expert Council for Research at the University of Iceland School of Social Sciences (2015-2017). Member of the Expert Council (2014-2015).

Oct. 2015 – Oct. 2017: Member of the Board of the University of Iceland Research Fund.

July 2007 – July 2009: Member of the Expert Council for Research in Social Sciences and Humanities for the Icelandic Research Fund.

Aug. 2007 – Aug. 2008: Member of the Reykjavík University Research Council.

March 2005 – March 2006: Chairperson of the Icelandic Women Lawyers Association.

Fall 2001: Director, the University of Iceland Human Rights Institute.

Summer 2001: Director, the Reykjavík Academy.

IV. Activities and experience in the field of human rights

As a judge at the Icelandic Court of Appeals I adjudicate cases in all fields of law, many which have human rights implications. The European Convention of Human Rights, as incorporated in domestic legislation, and the judgments of the European Court of Human Rights are increasingly referred to in Icelandic judgments as a source of law and/or inspiration for the interpretation of domestic law. Since my appointment to the new Icelandic Court on Reopening of Judicial Proceedings (January 2021) I have also adjudicated requests for

reopening, many of which are based on claims of violations of the right to a fair trial. Upon the establishment of the Icelandic Immigration and Asylum Appeals Board (January 2015) I also served as its Vice-Chairperson for one year and adjudicated many cases on immigration and asylum.

I have been a Professor of Human Rights Law and a Research Professor at Icelandic Universities for 16 years. My main areas of teaching were International and European Human Rights Law, but I also taught courses in fields such as research methods and labour law. My research is focused on International, European and Constitutional Human Rights Law, with special emphasis in recent years on subsidiarity and the interactive constitutional relationship between the Convention system, EU law and domestic law. Other key areas of research include non-discrimination law, health law and the rights of persons with disabilities. I have also participated in and managed several international research projects and teams. My research is relatively well-known and widely cited in the field of International and European Human Rights Law as evidenced for example by 630 citations on www.scholar.google.com.

Since 1998, I have participated actively in public discourses on human rights law in Iceland and abroad. This is evidenced for example by 75 conference papers and lectures given, by many consultancies for the legislative and executive branches of government in Iceland, and by participation in work conducted under the aegis of the UN and the Council of Europe. Examples of the abovementioned include:

- Conference paper called ‘European Supervision’ given at the ‘High-Level Expert Conference: Implementing the Copenhagen Declaration’, held by the Danish Chairmanship of the Council of Europe, Copenhagen (November 2018).
- Participant in ‘Expert Group Meeting on the Role of the Judiciary in Advancing the Rights of Persons with Disabilities’, convened by the UN High Commissioner for Human Rights and the UN Special Rapporteur on the Rights of Persons with Disabilities, Geneva (November 2018).
- Public lecture called ‘The Discrimination Grounds and Recent Developments under Article 14 ECHR: Innovation or Business as Usual?’, given as the Tove Stang Dahl Memorial Lecture, University of Oslo (June 2017).
- Conference paper called ‘Erga Omnes through the Backdoor: Res Interpretata and the Role of the Margin of Appreciation in Giving Domestic Effect to the Judgment of the ECtHR’, given at the ‘Conference on Margin of Appreciation and Democracy: Human Rights and Deference to Political Bodies’, University of Copenhagen (April 2016).
- Consultancy for the Ministry of Internal Affairs on draft Bills for Amendments to the Foreign Nationals Act (April 2015 – January 2016).
- Conference paper called ‘Rethinking the Two Margins of Appreciation’, given at the ‘Conference on the Global Challenge of Human Rights Integration: Towards a User’s Perspective’, Ghent University (December 2015).
- Consultancy for the Ministry of Social Affairs on draft Bills intended to implement the EU Equality Directives (2000/78/EC and 2000/43/EC) into Icelandic law (May 2013).
- Keynote lecture called ‘Discrimination as a Magnifying Lens: Scope and Ambit under Article 14 and Protocol 12’, given at the conference ‘Shaping Rights: the Role of the European Court of Human Rights in Determining the Scope of Human Rights’, Ghent University (March 2012).
- Conference paper called ‘Strengthening National Human Rights Systems’, given at the ‘11th annual conference of the Association of Human Rights Institutes: Reforming Human Rights Institutions, Progress and Status’, Reykjavík University (September 2010).
- Keynote lecture called ‘The Concept of Equality Reflected in the UN Disability Convention’, given at the conference ‘Protecting and Promoting the Rights of Persons with Disabilities in Europe: Towards Full Participation, Inclusion and Empowerment’, Council of Europe, Strasbourg (October 2008).
- Member of a group convened by the Ministry of Foreign Affairs to advise on a draft human rights policy for Iceland (February 2007).
- Numerous consultancies for parliamentary committees in Iceland and advisory input on the submissions of the Icelandic Human Rights Centre to parliamentary committees.

I served as the Chairperson of the Board of the University of Iceland Human Rights Institute for four years (2013-2017). The Institute was founded by the University of Iceland, the Icelandic Bar Association and the Icelandic Judges’ Association and is governed by its representatives. Its role is to conduct, facilitate and disseminate research in the field of human rights. Previously, I was also the Chairperson and a Member of the

Executive Board of the Icelandic Human Rights Centre for five years (2007-2012). The Centre is an NGO aimed at promoting human rights in Iceland through legal reform, research and dissemination of research results. It also performs the monitoring role of a National Human Rights Institution, although it is not accredited as such under the UN Paris Principles.

In the beginning of my professional career, I practiced law for over six years. During that time, I was involved in numerous cases with human rights implications.

V. Public activities

a. Public office

None.

b. Elected posts

June 2007 – July 2013 Elected member of the Electoral Commission for the Reykjavík-South Constituency.

c. Posts held in a political party or movement

None.

VI. Other activities

2004 – 2020: Editorial work and peer-review.

- Co-editor of 'Retfærd', the Nordic Journal of Law and Justice (2016-2020). Member of editorial board (2008-2016).
- Editor of 'Mannréttindasáttmáli Evrópu dómareifanir', which publishes summarised translations of selected judgments of the European Court of Human Rights (2017). Member of editorial board (2005-2008).
- Member of the Committee of reviewers for 'Lögrétta Law Review' (2007-2008, 2004-2005).
- Peer-review for numerous international and domestic journals.
- Evaluator for research grants in the field of human rights law, the EU Seventh Framework Programme (2012).
- Evaluator for numerous research grants in Iceland (2007-2018).
- Member of evaluation boards for academic promotions in Iceland and abroad (2006-2019).

VII. Publications and other works

Author of two monographs.

Editor of four anthologies.

Author of 45 articles and book chapters.

Two research works in progress, including a book chapter for a forthcoming anthology in honour of Robert Spano, President of the European Court of Human Rights.

- Oddný Mjöll Arnardóttir, Subsidiarity, Margin of Appreciation and the Relationship between the European Court of Human Rights and Domestic Law (Codex, 2018) (in Icelandic).
- Oddný Mjöll Arnardóttir, 'Res Interpretata, Erga Omnes Effect and the Role of the Margin of Appreciation in Giving Domestic Effect to the Judgments of the European Court of Human Rights' (2017) 28 European Journal of International Law, 819-843.
- Oddný Mjöll Arnardóttir, 'The 'procedural turn' under the European Convention on Human Rights and presumptions of Convention compliance' (2017) 15 International Journal of Constitutional Law, 935.
- Oddný Mjöll Arnardóttir, 'Rethinking the Two Margins of Appreciation' (2016) 12 European Constitutional Law Review, 27-53.

- Oddný Mjöll Arnardóttir and Dóra Guðmundsdóttir, ‘Speaking the Same Language? Comparing Judicial Restraint at the ECtHR and the ECJ’, in Oddný Mjöll Arnardóttir and Antoine Buyse (eds.), *Shifting Centres of Gravity in Human Rights Protection: Rethinking Relations between the ECHR, EU and National legal Orders* (Routledge, 2016), 161-188.
- Oddný Mjöll Arnardóttir, ‘The Differences that Make a Difference: Recent Developments on the Discrimination Grounds and the Margin of Appreciation under Article 14 ECHR’ (2014) 14 *Human Rights Law Review*, 647-670.
- Oddný Mjöll Arnardóttir, ‘Discrimination as a Magnifying Lens: Scope and Ambit under Article 14 and Protocol 12’ in Eva Brems and Janneke Gerards (eds.), *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights* (Cambridge University Press, 2013), 567-599.
- Oddný Mjöll Arnardóttir, ‘The Rights of Persons with Disabilities in the Context of Health Care’ in Brigit Toebe, Mette Hartlev, Aart Hendricks and Janne Rothmar Herrmann (eds.), *Health and Human Rights in Europe* (Intersentia, 2012), 249-271.
- Oddný Mjöll Arnardóttir, ‘A Future of Multidimensional Disadvantage Equality?’ in Oddný Mjöll Arnardóttir and Gerard Quinn (eds.), *The UN Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives* (Martinus Nijhoff, 2009), 41-66.
- Oddný Mjöll Arnardóttir, *Equality and Non-Discrimination under the European Convention on Human Rights* (Martinus Nijhoff, 2003).

VIII. Languages

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	fair	very good	good	fair
a. First language: Icelandic.....	x	..	..	x	..	..	x	..	..
b. Official languages: – English	x	..	..	x	..	..	x	..	..
– French	..	..	x	..	..	x	..	..	x
c. Other languages: Danish.....	..	x	..	..	x	..	..	x	..
German.....	..	..	x	..	..	x	..	..	x
Norwegian/Swedish.....	..	..	x	..	..	x	..	..	x

IX. In the event that you do not meet the level of language proficiency required for the post of judge in an official language [the second], please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court

I fulfil the requirement of passive knowledge of French. If I am elected a judge on the Court, I nevertheless intend to take French classes.

X. Other relevant information

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court

I confirm that I will take up permanent residence in Strasbourg if elected a judge on the Court.

Appendix 2 – Dóra GUÐMUNDSDÓTTIR

2. Curriculum Vitae

I. Personal details

Name: Guðmundsdóttir, Dóra

Sex: Female

Date and place of birth: 15 July 1965, Reykjavík, Iceland

Nationalities: Icelandic, British (dual nationality)

II. Education and academic and other qualifications

1994-1995: LL.M. University of British Columbia, Canada (International law; international human rights law; Law, society and state; Legal reasoning and artificial intelligence; Current legal problems)

1993-1994: Master's Degree in Legal Theory. European Academy of Legal Theory, Brussels, Belgium (Legal theory; Foundations of EU legal order; Human rights)

1992-1993: Post-graduate study. University of Copenhagen, Denmark (EU law and free movement rights; International human rights law; Law of evidence; Intellectual property rights; Law and morals)

1985-1990: Cand. Jur. Law Degree, University of Iceland

I completed my secondary education in Reykjavík, Iceland, completing my college degree from the faculty of natural sciences with additional credits offered by the faculty of social sciences. After a year studying philosophy, I studied law to a master's degree level, graduating from the University of Iceland in 1990 with a first class degree (I) 7.89. The topic of my dissertation was constitutional review of legislation in Icelandic law, as compared to other Nordic legal systems, with an emphasis on the legitimacy of judicial review and judicial activism.

Professional Qualifications

- Advocate (lögmaður) Iceland (1999)
- Registered European Lawyer, Solicitors Regulatory Authority, United Kingdom (2018-2020)

III. Relevant professional activities

2022-present: Senior Lawyer, Government Legal Department United Kingdom on loan to Legal Directorate Foreign Commonwealth and Development Office (FCDO), United Kingdom

2017-2022: Lawyer/ Senior Lawyer, Government Legal Department United Kingdom

- Senior Lawyer, Cabinet Office Europe Legal Advisors (2019-2022)
- Lawyer, Department for Exiting the European Union (2017-2019)

2000-2017: Consultant/ Legal Expert and Researcher

- Lecturer/ Researcher University of Iceland and University of Bifröst

2001-2007: Ad hoc Judge EFTA-Court Luxembourg, appointed by Iceland

1996-1999: Legal secretary (référéndaire) EFTA-Court Luxembourg

1995-1996: Research Lawyer EFTA-Court Luxembourg

1990-1992: Junior Assistant Judge, District Court of Reykjavík, Iceland

a. Description of judicial activities

When I graduated from the Law Faculty at the University of Iceland in February 1990, I immediately took up a position as a junior assistant judge at the City Court of Reykjavík, Iceland. This was a lower instance court for the district of Reykjavík prior to the reorganisation of the judiciary in Iceland in 1992. That reorganisation came

about as a result of an application against Iceland before the European Commission on Human Rights and settled before the European Court of Human Rights (ECtHR) in 1990 (Jón Kristinsson against Iceland). The Commission found the system of administration of justice where junior assistants carried out executive and policing functions along with judicial activity in breach of Article 6 of the European Convention (ECHR).

As a junior assistant judge, I conducted open hearings at initial stages of litigation and presided over some contentious litigation as well as dealing with non-contentious issues. I also assisted senior judges at the City Court in a variety of more complex litigation, including human rights cases such as a case involving the right of access to medical information and cases relating to freedom of speech (libel). At this time the European Convention of Human Rights had not been incorporated into domestic law and was considered to have interpretative effect in domestic law falling short of being directly applicable or having a decisive effect in judicial decisions.

Following further studies in international law, including human rights law, in Denmark, Belgium and Canada, I took up a position with the EFTA-Court in Luxembourg, first as a research lawyer with the Court's Registry and subsequently as a legal secretary (référénaire) in the Cabinet of the Icelandic Judge, Mr Thór Vilhjálmsson. In my three year role as a legal secretary I drafted summaries of pleadings (Reports for the Hearing, submitted by a reporting judge). I also drafted opinions and judgments of the Court and assisted with research in relation to cases of a wide variety of EEA law, including labor law, state aid law, free movement law and state liability under the EEA Agreement (Case E-9/1997 Erla María Sveinbjörnsdóttir).

In 2001, I was appointed an ad hoc Judge at the EFTA-Court for a period of three years, subsequently renewed for another three year term in 2004. As an ad hoc Judge at the EFTA-Court, I followed developments in EEA-law and the EFTA-Court's practice. I was on the panel of judges that decided Case E-1/02 EFTA Surveillance Authority v Norway, a case concerning the legitimacy of earmarking academic positions exclusively for women under equality provisions of the EEA-Agreement.

b. Description of non-judicial legal activities

Since 2017 I have worked in the UK Civil Service as a lawyer and senior lawyer in the Government Legal Department (GLD), first for the Department for Exiting the European Union and subsequently in the Cabinet Office Europe Legal Advisors and the Foreign, Commonwealth and Development Office.

Litigation

I am a UK Agent before the Court of Justice of the European Union (CJEU) and have worked with counsel and clients preparing litigation before the CJEU. This includes recent litigation on data protection issues as well as competition law cases involving intellectual property rights (patents).

Human rights related cases include:

- Case C-311/18 Facebook Ireland and Schrems – a preliminary reference on standard contract clauses for transferring data, powers of supervisory authorities, safeguards by data controllers and EU-US privacy Shield;
- Case C-623/17 Privacy International v Secretary of State for Foreign and Commonwealth Affairs – a preliminary reference concerning a public authority's gathering and transmission of traffic and location data in the context of national security services and availability of national security exemption in that context under EU law;
- Case C-591/16 P Lundbeck v Commission and associated cases (UK intervening in an appeal) -long running competition law cases where the Commission's decision was challenged before the General Court and subsequently before the CJEU. The cases involved alleged 'pay for delay' contracts between pharmaceutical companies and 'generics' providers and involved alleged patent law infringements as a defence to alleged competition law breaches; and
- Case C-201/19 P Servier and others v Commission and associated cases (UK intervening in an appeal) – similar litigation to Lundbeck v Commission between different parties.

Advisory work

In my work for the Department for Exiting the European Union and Cabinet Office Europe Legal Advisers, my primary role has been advisory. In that capacity, I have advised extensively on legal issues relating to the United Kingdom's withdrawal from the European Union (Withdrawal Agreement).

I have advised on negotiations between the United Kingdom and European Union on parts of the Withdrawal Agreement and, subsequently, the Protocol on Ireland and Northern Ireland, an integral part of that Agreement. In this role I have advised on a variety of EU law issues, including energy, climate change and environmental legislation, as well as both environmental and labor law non-regression commitments in free trade agreements and in relation to the UK EU Trade and Cooperation Agreement. I have advised on provisions on mobility of persons and compatibility with international law (WTO); agreements on mutual recognition of professional qualifications; single market regulations on goods and services; sanitary and phytosanitary rules and controls for agricultural goods, medicines and procurement rules. I have also advised on other discrete issues which concern fundamental rights, including advising on UK's contributions for Facility for Refugees in Turkey under the Withdrawal Agreement and selected provisions of the Citizens' rights provisions of the Withdrawal Agreement.

During negotiations and subsequently in my current role, my work has principally involved advising clients and ministers on EU single market rules made applicable under the Protocol on Ireland and Northern Ireland. In addition to advising on EU rules on goods, energy, state aid and procedural rules, I have advised in respect of 'no diminution' of human rights under the Protocol.

I have also advised on the impact of and interaction between the Protocol provisions and other international law obligations of the United Kingdom, and the direct applicability of Withdrawal Agreement and Protocol provisions in domestic law. This work included consideration of various issues relating to the application of the Withdrawal Agreement and the Protocol in domestic law and I have also supported Ministers in taking legislation through Parliament and preparing bills for legislative scrutiny in the House of Commons and House of Lords.

I have also worked on domestic litigation on Withdrawal Agreement and Protocol issues, where the British Government is a defendant.

Consultant/ legal expert and researcher

Prior to my work for the UK Civil Service, I worked in a self-employed capacity advising on EU and EEA law, including advising on litigation and litigation strategy for public sector and private clients. This included work in the capacity as a legal expert in EU/EEA law, including human rights law, in the following cases before the EFTA Court:

- as a member of a litigation team for the Ministry of Foreign Affairs, Iceland in EFTA-Court Case E-16/11 EFTA Surveillance Authority v Iceland ('Icesave');
- with the Office of the Attorney General (Civil affairs), Iceland in a case before the EFTA-Court, preparing pleadings in a case where an Advisory Opinion was sought from the EFTA-Court on right of entry under the EEA Agreement (restricting the right of entry of a member of Hells Angels) (Case E-15/12 Wahl);
- with the Office of the Attorney General (Civil affairs) in a case before the EFTA-Court arguing equal treatment in taxation for economically inactive persons under the EEA Agreement (Case E-26/13 Gunnarsson). I provided advice to the Office of the Attorney General on litigation strategy before the EFTA-Court and subsequently before the Supreme Court in Iceland.

I advised on an application to the European Court of Human Rights for the Association of Academics (BHM) against Iceland in respect of freedom of association and collective bargaining under Article 11 ECHR and I have provided legal opinions on matters of EEA and Icelandic law, e.g. in relation to winding-up of credit institutions in a case pending before the Paris Court of Appeal (LBI hf. v Giraux).

Other work where rights and human rights issues have featured include advising:

- the Icelandic Parliament 's committee on financial matters on the Icesave agreement between the Icelandic Deposit Guarantee Fund and the Icelandic State on the one hand and the Dutch and British Governments on the other;
- the Ministry of the Interior on aspects of EEA-law when it was considering amending legislation on the rights of foreigners (Act on Aliens);
- the Ministry of the Interior in drafting a bill amending legislation on the status of refugees and international protection to bring Icelandic law into conformity with EU Asylum Directives;
- a government appointed committee on investment by an EEA-based company in a geothermal energy company incorporated in Iceland;

- the Ministry of Education on religious education in primary schools and compliance with ECHR with regard to *Folgerø and Others v. Norway*, No. 15472/02, ECtHR (Grand Chamber), 29 June 2007; and
- the Ministry of Business on limits applicable to bank secrecy.

Academic work

Prior to working for the UK Civil Service, I held academic positions at two Universities in Iceland between 2000-2017 where I taught European Union law and EEA law at Master's level, creating and organising courses and teaching materials in EU and EEA law in English and in Icelandic. I have also conducted seminars and given presentations on EU and EEA law, including for judges and law practitioners.

I have researched and published a variety of work on the fundamental aspects of EU and EEA law and its interaction with domestic legal systems, the role of domestic courts and cooperation between international courts and domestic courts. Throughout my academic career my work has centred on constitutional aspects of EU and EEA law as systems neither ascribing fully to the characteristics of international law or domestic law but combining elements of both. I have researched and analysed the role of courts (including CJEU and ECtHR), legal reasoning and judicial dialogue. A particular focus of research has been my work on Union citizenship and its roots in EU free movement law. I have also researched the relationship between Union citizenship and the protection of fundamental human rights in the EU and EEA, publishing articles and book chapters on these issues, including research on the interpretation and application of the Charter of Fundamental Rights of the European Union (the Charter).

Early in my academic career I researched the methodology of the European Court of Human Rights, including references to 'consensus' in the Court's case law. My master's dissertation at the European Academy of Legal Theory in Brussels was on the *methodology of consensus in the jurisprudence of the ECHR*. The references to a 'consensus' or a 'common denominator' between the member States in the Convention system has been criticised as vague and sometimes not based on clear and comprehensive methodology when it comes to the comparison between state parties and their practices.

My Master's thesis at the University of British Columbia, under the supervision of professor Joel Bakan, was titled *Problems of Legitimacy regarding the European Convention on Human Rights: Formalism, fuzziness or lack of theory?* The thesis analysed some of the criticism of the Court's practice at that time, considering in particular alleged formalism and restrictive judicial reasoning in the Court's practice. In recent work I have revisited issues and literature on the Court's contribution to human rights protection in Europe. Here I have researched and published further work on the doctrine of the margin of appreciation in the jurisprudence of the Court (and the CJEU), critically assessing different theories about the legitimacy of international courts and the balance between local and international judicial decision-making in the name of subsidiarity and margin of appreciation (see publications below).

Extensive research projects in my academic career include EU citizenship rights and fundamental human rights. Examples of other research projects involving rights include:

- Margin of appreciation in ECHR and CJEU – a comparative approach (see publications below)
- Charter of Fundamental Rights of the European Union – rights and principles (see publications below)
- Analysis of the 2000 EU Equality Directives and their voluntary implementation in Iceland (EU Progress grant) (see publications below)
- Country Report for the Council of Europe on discrimination on grounds of sexual orientation
- Comparison and analysis of constitutional provisions on referendums (Icelandic)

Other comprehensive research projects and reports include:

- Status Report on the Application by Iceland to join the European Union with a group of expert economists and lawyers for the Ministry of Foreign Affairs, Iceland (chapters on the single market, labour law and social policy)
- Developing a proposal for constitutional provisions on referendums as one of three specialists reporting as an expert group for the Prime Minister's Office, Iceland
- Conducting an independent audit for the Supervisory Board of the Central Bank of Iceland on the Central Bank's administration of currency restrictions, with a team organised by the Law Institute, University of Iceland

c. Description of non-legal professional activities

N/A

IV. Activities and experience in the field of human rights

Reference is made to section III above.

Throughout my career I have contributed to the development of human rights and convention practice in Iceland as well as contributing to research and academic debate on issues of European constitutional law and fundamental rights protection. My work has been published both in Icelandic and in English (see list below in VII).

At the start of my career as a junior assistant judge at the City Court of Reykjavík, I worked on a number of cases where convention rights were considered. At that time the ECHR was not incorporated in domestic law. Adhering to a dualist doctrine to explain the relationship between international and domestic law, at the time the predominant view was that convention rights were not available to claimants to argue before domestic courts but that the convention could be considered when interpreting domestic law and constitutionally protected rights. In an influential article published in 1994 (*Incorporation and application of the European Convention of Human Rights in Icelandic law*), I argued for the need to review and revise prevalent methodology in order to ensure the effective protection of convention rights in the domestic system. Drawing comparatively on theory and practice in Denmark, I argued for a revision of traditional methodology which would allow for international law, including ECHR provisions and practice, to be integrated as a necessary factor into judicial reasoning. The article was published in 1994, the year that the ECHR was incorporated in domestic law in Iceland. In the article I examined the likely effect of incorporating the convention by enacting general legislation (and not a constitutional statute) and accounted for the methodology of ECtHR, explaining how it would necessarily influence and interact with jurisprudence and legal approaches in Iceland at the time.

During further studies in international law and EU law, I researched the Court's methodology, including the doctrine of consensus as a factor in the Court's methodology, suggesting that the doctrine might become more important in conjunction with increasing political integration in Europe (through the European Union) and, at the same time, that methodologically there were considerable difficulties in applying the doctrine in a coherent and comprehensive way. Allowing contracting parties a margin of appreciation in areas where a consensus cannot be established may be a reasonable methodological position but a difficult balance may have to be struck between lack of consensus between Council of Europe state and the parties to the Convention on the one hand and effective protection of rights on the other.

When teaching fundamentals of EU and EEA law, subsequent to working at the EFTA Court, my research focussed on broader issues of European identity and citizenship, and also on the methodology of both CJEU and the EFTA Courts in their cooperation with the national judiciary. I considered in detail the necessary cooperation between the national judiciary and international courts and the importance of dialogue, including requirements of sound legal reasoning as a basis for a theory of judicial dialogue. In an article published in Icelandic, I explained the foundations of the role of national courts in applying EU law (and parallel EEA law) in domestic systems (*Role of national courts in implementation of EU and EEA law in national legal systems*). Further articles written at that time contributed to the academic debate on equality and non-discrimination in EU and EEA law, both the prohibition of discrimination on grounds of nationality (*The principle of equality and its impact on free movement law in the EEA*) and prohibition of discrimination based on other grounds, including sex and sexual orientation (*The Framework Directive and Icelandic Law: Sexual Orientation Discrimination*).

In addition to research on equality rights, constitutional issues have been at the core of my academic contribution, including in particular legitimacy of judicial review of legislation. I addressed issues arising from international and domestic courts' interpretation of fundamental human rights in an article analysing a controversial Supreme Court decision in Iceland. The decision concerned a disabled person's entitlement to minimum financial assistance and the extent to which it enjoyed constitutional protection. The article highlighted persistent methodological approaches in Iceland, arguably based on political constitutionalism. I found that this prevalence of 'limited judicial review of legislation' explained both the minority view in the case and the legal community's critical reception of the majority decision in the case. In contrast to the minority's view, the majority decision found that when interpreted in light of international human rights obligations (including the European Social Charter), a rule limiting financial subsistence allowance for disabled people with reference to spousal income was not compatible with a constitutionally protected right to minimum financial assistance, taken together with the constitutional protection of equal treatment between men and women. Applying a theory of constitutional rights to analyse the case, I argued that the majority view was

consistent and further, that when constitutional provisions are considered to provide for substantive rights, the majority's examination of the issue was not only methodologically correct but also in line with interpreting domestic law in light of international obligations (*Constitutional principles and protection of individual rights*).

More recently I have revisited the Convention and ECtHR jurisprudence in academic work, in particular the methodology of 'margin of appreciation' on the one hand and interaction with CJEU case law on the other. I have also researched and published contributions relating to the Charter of Fundamental Rights of the European Union.

In a research project, culminating in work co-written with Oddný Mjöll Arnardóttir, I considered case law from both CJEU and ECtHR through the lens of the doctrine of the margin of appreciation. The objective was to examine whether and to what extent comparison could be drawn between the Convention system on the one hand and the EU system and the jurisprudence of the CJEU on the other. While some parallels may be drawn, I found that theories conceptualising the EU/ EEA and Convention system as an integrated system with the respective national system, emphasising 'limited and shared jurisdiction' between national and international courts (CJEU and ECtHR) were a more appropriate basis for a methodology that would allow for synergy in jurisprudence and judicial dialogue.

Separately, in a further article on the margin of appreciation and 'subsidiarity' in the Convention system, I argued that influences from political constitutionalism – which have partly underpinned the recent institutional and methodological changes in the Convention system (*Brighton declaration and Protocol 15*) should be counterbalanced with reference to other doctrines and theories, including considerations based on legal constitutionalism, where the role of courts is recognised in interpreting and giving meaning to constitutional provisions and subjecting the legislature's decisions to scrutiny by domestic and international courts. I considered a number of alternatives to the rise of the formal margin of appreciation doctrine, such as theories of judicial dialogue, and theories considering formal cooperation between courts and where the ECtHR allows domestic courts a wide margin of appreciation and even full scope to determine Convention issue where it is shown that domestic courts have appreciated and applied the ECtHR methodology (*the responsible domestic court doctrine*).

In 2015 I published an article in the *Common Market Law Review*, based on further research on the methodology based on 'limited and shared jurisdiction' in the integrated legal system in Europe. The article also focussed on the historic distinction between civil and political rights (first generation rights) on the one hand and economic, social and cultural rights (second generation rights) on the other. The Charter combines both 'generations' of rights in a single text which is binding on the institutions and bodies of the Union and Member States when implementing EU law or where situations otherwise come within scope of EU law. In the article I examined signs of CJEU case law drawing a distinction between 'rights' and 'principles' as foreseen in Article 51 of the Charter, in particular in the then case law. I argued that the case law could alternatively be explained by application of EU law specific doctrines of lack of horizontal effect and associated exclusionary effects in national law (as opposed to a distinction drawn between rights and principles where only rights can be relied on by individuals to enforce their Charter rights). The article then developed a methodology for deciding Charter cases, again inspired by a principle of limited and shared jurisdiction in an integrated legal system, comprising EU law, national law and the European Convention on Human Rights (ECHR).

Drawing on the Convention system, I suggested that CJEU could also draw parallels with the margin of appreciation doctrine under the ECHR in formulating a doctrine of judicial restraint, separating normative elements from systemic elements such as formal boundaries between jurisdictions (national and international) and conflict rules; competence issues (EU competences vs national competences) and conditions for dialogue between courts cooperating in a system of limited and shared jurisdiction. It was suggested that the CJEU could also draw on ECtHR case law when determining rights and their protected core with reference to issues similar to those that have been identified with reference to a 'normative' margin of appreciation. The ECtHR case law recognising interaction and permutation of civil and political rights on the one hand and economic, social and cultural rights on the other could also form a basis for further dialogue between the two Courts and domestic courts. The article suggested that such a methodology would be more constructive for effective human rights protection than a conceptual distinction between rights and principles.

V. Public activities

a. Public office

Please see above on my experience in the field of human rights as a part of professional activity in the judiciary, in public office, and in my academic career.

b. Elected posts

Ad hoc Judge EFTA Court 2001-2007

c. Posts held in a political party or movement

N/A

VI. Other activities

Throughout my career I have held positions in and contributed to publishing of legal material, I have reviewed legal texts for publication and supervised written dissertations in EU law and international law, including fundamental human rights.

VII. Publications and other works

Publications

- Mannréttindadómstóllinn. Nálægðarreglan og fullveldi samningsaðila (*The European Court of Human Rights. Subsidiarity and Members 'sovereignty'*). Fullveldi í 99 ár. Safn ritgerða til heiðurs dr. Davíð Þór Björgvinssyni sextugum. Reykjavík, Hið íslenska bókmenntafélag 2017 (167-189).
- With Oddný Mjöll Arnardóttir: „Speaking the same language? Comparing judicial restraint at the ECtHR and the ECJ“. *Shifting Centres of Gravity in Human Rights Protection. Rethinking relations between the ECHR, EU and national legal orders*. Ritstj. Oddný Mjöll Arnardóttir og Antoine Buyse. Rutledge 2016 (163-188).
- A Renewed Emphasis on the Charter's distinction between Rights and Principles: Is a doctrine of judicial restraint more appropriate? 2015 52(3) *Common Market Law Review* (685-720).
- Fyrsta skilyrði skaðabótaskyldu í ESB- og EES-rétti: réttindi einstaklinga (*Conditions for state liability in EU and EEA law: rights of individuals*). Afmælisrit: Viðar Már Matthíasson sextugur. Reykjavík 2014 (89-122).
- Case E-3/11 Sigmarsson v The Central Bank of Iceland, Judgement of the EFTA Court of 14 December 2011. 2012 49(6) *Common Market Law Review* (2019-2038).
- Framework Directive and Icelandic Law: Sexual Orientation Discrimination. *Equality into Reality. Action for Diversity and non-Discrimination in Iceland* (eds. Evelyn Ellis and Kristin Benediktsdóttir) Reykjavík 2011 (333-371).
- Stjórnarskrárbundnar meginreglur og stjórnarskrárvarin réttindi (*Constitutional principles and protection of individual rights*). Guðrúnarbók, Reykjavík 2006 (133-158).
- Jafnræðisreglan og áhrif hennar á lagareglur um frjálsa för innan Evrópska efnahagssvæðisins (*The principle of equality and its impact on free movement law in the EEA*). Lögberg- Rit Lagastofnunar Háskóla Íslandes (ritstj. Stefán Már Stefánsson o.fl.) Reykjavík 2003 (187-228).
- Getur dómstólum borið skylda til...? Um hlutverk dómstóla aðildarríkja við framkvæmd réttar Evrópusambandsins og dómstóla samningsaðila við beitingu EES-réttar (*Role of national courts in implementation of EU and EEA law in national legal systems*). Afmælisrit Þór Vilhjálmsson sjötugur. Reykjavík 2000 (111-148).
- Um lögtöku Mannréttinasáttmála Evrópu og beitingu í íslenskum rétti (*Incorporation and application of the European Convention of Human Rights in Icelandic law*). Tímarit lögfræðinga 1994 44(3) (151-190).

VIII. Languages

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	moyen	very good	good	fair
a. First language:									
(Icelandic)	x	..	..	x	..	..	x	..	..
b. Official languages:									
– English	x	..	..	x	..	..	x	..	..
– French	..	x	..	..	x	..	..	..	x

c. Other languages:									
– Danish	..	x	..	..	x	..	..	x	..

XI. In the event that you do not meet the level of language proficiency required for the post of judge in an official language [the second], please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court

I have a good knowledge of written French and intend to follow intensive language classes in French

X. Other relevant information

I have lived, studied and worked in Iceland and across Europe, including in the United Kingdom, for over 25 years. This experience has provided me with insights into societal and cultural aspects of different societies and legal systems in Europe while maintaining my personal and professional connection with my country of origin. I have worked on legal issues, including within the judiciary; in academic research, publishing in Icelandic as well as English. I have maintained my knowledge of the legal system in Iceland as well as acquiring expertise in its interdependencies with EEA law, EU law and the Convention system. Through academic activity and professional work, I have also gained substantial knowledge of other legal systems, in particular in the United Kingdom. I am currently employed in the public sector in the United Kingdom but I have not held a judicial position in the United Kingdom and it is not likely that it would be necessary to call in ad hoc judges due to my prior involvement in any issue either in Iceland or the United Kingdom.

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court

I confirm that I will take up permanent residence in Strasbourg if elected a judge.

Appendix 3 – Páll ÞÓRHALLSSON

3. Curriculum vitae

I. Personal details

Name, forename: Þórhallsson, Páll

Sex: Male

Date and place of birth: 24 September 1964, Reykjavík, Iceland

Nationality: Icelandic

II. Education and academic and other qualifications

1998: “Diplôme d’études approfondies” (DEA) in comparative human rights protection from Robert Schuman University in Strasbourg. Diploma Thesis: “The Incorporation of the ECHR into the Icelandic Legal Order”

1996: Licensed as a district court attorney in Iceland

1995: Cand. Jur. from the University of Iceland. Diploma Thesis: “Freedom of Expression and Libel Law in the Light of Article 10 of the ECHR”

1995: B.A. in Philosophy and Political Science from the University of Iceland. Diploma Thesis: “The Virtuous Journalist”

1987: Intermediary test (Zwischenprüfung) following 4 semesters of study in Political Science and Philosophy at the Universities of Heidelberg and Munich

III. Relevant professional activities

a. Description of judicial activities

2019: Drafted guidelines for the Ministries on their relations with the State Attorney, the office which represents the State in civil court cases (<https://www.stjornarradid.is/efst-a-baugi/frettir/stok-frett/2019/12/04/Leidbeiningar-um-verklag-i-samskiptum-raduneyta-og-stofnana-vid-rikislogmann>).

2014-2015: Elected by Parliament to be a member of the Committee to evaluate candidates for judicial office

2005- 2006: Secretary to the Information Committee that rules on access to information disputes between individuals and public authorities. This is an independent committee which issues binding rulings (approximately 30 per year at that time) following a written procedure where both parties have their say. The Secretary drafts decisions which are then discussed and decided upon by the 3 member Committee.

1995-1997: Associate at A&P Lögmenn, law firm in Reykjavík

- Preparation of legal briefs to be presented in court
- Representation of clients in court, both in civil, administrative and criminal cases
- Several cases involved fundamental rights, such as freedom of expression, right to privacy or property rights.

Several aspects of the judicial system have fallen within my remit at the Prime Minister’s Office. All legislative amendments, initiated by the Government, including those who deal directly with the courts and law of procedure, have been scrutinised by my office from 2010 until 2021 (when this function was moved to the Ministry of Justice).

The State Attorney and two organs, which issue binding rulings, namely the Information Committee and the Committee on Public Land Ownership (óbyggðanefnd), have been under my administrative responsibility since 2009. Those are independent organs, but nevertheless it is the PMOs responsibility to provide the framework for proper functioning.

b. Description of non-judicial legal activities

2022- Director of Constitutional and Administrative Affairs, Prime Minister's Office, Deputy to the Permanent Secretary

- Supervise a team of 16, lawyers and other staff members
- Secretary services for the Minister and the Cabinet of Ministers
- Constitutional reform
- Integrity in public office
- Media relations
- International relations
- Administrative Law and Law on Access to Official Documents
- Other related duties

2020-2022: Counsellor in Iceland's Permanent Mission to the European Union, Brussels

- Represented Iceland in the IPCR (Integrated Policy Crisis Response), where Covid-19 related measures have been co-ordinated across the EEA
- Worked on constitutional and transversal issues and those falling within the remit of the PMO, in particular equality between men and women
- Edited a newsletter on EU-matters: <https://www.stjornarradid.is/sendiskrifstofur/sendirad-islands-i-brussel/evropusamstarf/>

2005-2019: Part-time lecturer at the University of Reykjavik in Icelandic and European Media Law,

- Legislative Process and Constitutional Law
- Responsible for approximately 20 full scale semester courses in total, mainly at Master's level.
- Responsible for the 1st year course in Constitutional Law, 4 years in a row.
- Supervisor of numerous Master's and B.A. dissertations.

2009-2019: Director of Legislative Affairs, Prime Minister's Office

- Supervised a team of up to 12, lawyers and linguists
- "Better regulation", i.e. legislative quality control and promotion of good regulatory practices
- Constitutional reform
- Management of publicly owned land
- Administrative Law and Law on Access to Official Documents
- Extensive international cooperation in the field of "better regulation" (OECD), ethics in public service and anti-corruption activities (OECD and the CoE)
- In 2015 and 2016, I was for two longer periods, also the director for cultural heritage.

2005-2009: Lawyer, Prime Minister's Office

- Secretary to the Constitutional Committee and the assisting Expert Group
- Simplification of legislation and regulations
- Legal advice to the Prime Minister

1999-2005: Administrative Officer, Media Division, DG II, Council of Europe

- Secretary to expert groups in the field of Internet regulation, copyright and neighbouring rights
- Cooperation programmes in the South Caucasus
- Responsible for the website of the Division
- Replaced the Head of Division *ad interim* when the position was vacant

c. Description of non-legal professional activities

1987-1995: Journalist at Morgunblaðið, daily newspaper in Iceland

- Foreign news
- News analysis
- Court reporting
- Continued freelancing until 2005, often analysing events in Iceland from a Council of Europe and human rights perspective

IV. Activities and experience in the field of human rights

As a lawyer and Director in the Prime Minister's Office, I have been responsible for many human rights related matters. For example, in 2009 I chaired a working group which drafted a bill of law on compensation to childhood victims of abuse in residential institutions. Ten years later, I worked on a highly mediated and complex case settlement between the State and persons who had served long sentences for serious crimes of which they were later acquitted. The State Attorney, who is also Iceland's Agent before the European Court of Human Rights, falls within the remit of my office. I am therefore, from time to time, involved in an internal discussion on the approach to be taken on Iceland's behalf in the more important cases before the Court.

In my capacity as Director in the Prime Minister's Office, I have been instrumental in revising the legislative drafting process to include an assessment of the conformity of draft legislation with the constitution and international law, including human rights obligations. In general, the legislative process has become more transparent, inclusive and evidence based, which I believe is in line with Council of Europe core values.

The Law on Access to Official Documents falls under the responsibility of my office. From 2014-2018, I was a member of two committees, and vice-chair of the latter, which drafted several bills pertaining to freedom of expression and information, including on the protection of whistleblowers and decriminalisation of defamation, largely inspired by the work of the Council of Europe.

As an administrative officer in DG II, Council of Europe, for six years, I took part in standard setting in the field of freedom of expression and in various cooperation activities in member States. I organised numerous seminars in Armenia and Azerbaijan intended to raise awareness about the European Convention on Human Rights, and in particular freedom of expression, in those, at the time, new member States. I also organised bigger events, such as a Conference in Warsaw on the human rights aspects of Internet regulation and a Ministerial Conference on freedom of the media in Kyiv.

Constitutional reform has been my professional responsibility for 17 years. I have done my best to use my knowledge and contacts from the Strasbourg years, both as student in comparative human rights protection and as an administrative officer at the CoE, to enrich the Icelandic discussion on human rights and constitutional reform in general.

Throughout my career, I have followed the case-law of the European Court of Human Rights. To give an example, I published 3 years in a row (covering 1999, 2000 and 2001) an annual review of the most important cases in Icelandic law journal *Úlfjótur*. Later, I kept up to date in preparation for the courses I gave in Constitutional Law. Freedom of expression has been the core topic for me, both as a journalist and then later in the Media Division at the Council of Europe, in the Prime Minister's Office and finally through my teaching and academic writing. From 1995, I have also given numerous lectures on freedom of expression, for example in the annual conferences of the Icelandic national lawyers' association.

V. Public activities

a. Public office (other than mentioned in Chapter III)

2014 -: Chairman of the Government's Steering Group on the implementation of the agreement on the European Economic Area

2021-: Iceland's representative on the EU's Single Market Enforcement Task Force

2021-: Chairman of a recruitment panel for the post of Secretary General to the President of the Icelandic Republic

2021: Chairman of the Group of experts to evaluate the sale of Míla ehf. (Icelandic telecommunications infrastructure company) to Ardian (French investment fund)

2020: Head of the Government's Coordination Team for Covid-19 screening at the borders

2007-2022: Substitute representative of Iceland in GRECO

- Represented Iceland in rounds III (transparency of party funding) and V (preventing corruption and promoting integrity in central governments)
- Member of the evaluation team for Norway in round III

2014-2016: Chairman of the Icelandic Constitutional Committee

- All political parties in Parliament were represented
- Resulted in a bill presented by the Prime Minister in Parliament covering natural resources, protection of the environment and referendums

2016-2018: Member of the Bureau of the OECD Regulatory Policy Committee

2015-2019: Chairman of the legislative coordination group of the Icelandic Ministries

2012: Member of the Group of Experts appointed by the Constitutional and Supervisory Committee of the Icelandic Parliament to prepare a Constitutional Bill based on the work of the Constitutional Council

2010-2014: Director (the first one) of the School of Central administration which provides training to staff members of the Icelandic Ministries

2009: Member of a committee established to negotiate with the United Kingdom and the Netherlands on the Icesave issue

2009-2013: Member of the working group for legal issues in relation to Iceland's application for EU membership

2009-2013: Member of a working group and later coordination committee on ethics in public administration

2006-2008: Chairman of the committee for simplification of laws and regulations

b. Elected posts

c. Posts held in a political party or movement

VI. Other activities

2020-present Member of the board of the Reykjavík Forestry Association

2008-2019 Member of the board of the Association of Icelandic Lawyers

1990 Chairman of the Icelandic Youth Association

1988-1989 Board member, and during the 2nd year chairman, of the Association of Icelandic Students Abroad

VII. Publications and other works

- "The 2016 Bill of the Constitutional Committee: three proposals for reforming the 1944 Constitution" – in Ágúst Þór Árnason and Catherine Dupré (ed.), *Icelandic Constitutional Reform – People, Processes, Politics*, Routledge 2021, 171-184
- "The freedom of expression of public officials – ethical and legal considerations", in Hafsteinn Dan Kristjánsson (ed.), *25 years of Administrative Law*, Reykjavík 2019, 541-568 [in Icelandic]
- "Constitutional development in Europe", in *The Report of the Constitutional Revision Committee, 1st volume*, February 2011, 316-345 [in Icelandic]
- "Freedom of expression", in Björg Thorarensen (ed.), *The European Convention on Human Rights, Principles, practice and impact on Icelandic Law*, 2nd edition, Reykjavík 2017, 353-392 [in Icelandic]
- Principles, practice and impact on Icelandic law, 2nd edition, Reykjavík 2017, 353-392 [in Icelandic]

- “Freedom of political debate and the Council of Europe“, in *IRIS Special on Political Debate and the Role of the Media*, European Audiovisual Observatory, Strasbourg 2004, 53-59
- “The Freedom of Expression Regime in Europe: Coping with the Net“, in *Spreading the Word on the Internet*, OSCE, Vienna 2003, 71-79
- “Freedom of the Media and the Internet“, in *From Quill to Cursor*, OSCE, Vienna 2003, 49-56
- “The Icelandic Law on a Central Data Base in the Healthcare System“, *Europäische Grundrechtszeitschrift* Heft 5-6 1999,170-173 [in German]
- “Article 27 [cultural rights]“, in G. Alfredsson and A. Eide (ed.), *The Universal Declaration of Human Rights*, Kluwer Law International 1999 (with Mr Ragnar Adalsteinsson), 575-596
- “The incorporation of the ECHR“, *Úlfjótur* XLIV, 2. vol. 1994,157-169 [in Icelandic]

VII. Languages

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	fair	very good	good	fair
a. First language:									
Icelandic	x			x			x		
<i>(Please specify)</i>									
b. Official languages:									
- English	x			x			x		
- French	x				x			x	
c. Other languages:									
....Danish.....	x				x			x	
....German.....	x				x			x	

IX. In the event that you do not meet the level of language proficiency required for the post of judge in an official language [the second], please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court

X. Other relevant information

It is challenging to summarise 35 years of public (or societal) service, first as a journalist and then as a lawyer in a law firm at the Council of Europe and in the Prime Minister’s Office.

Above, I mention various duties that I have been entrusted with which were certainly related to my post, but not necessarily a part of it.

I believe that the list demonstrates that I have been solicited to take on very challenging tasks in the legal and administrative field, by Governments of different political leanings: How to solve the current constitutional stalemate?

How to strike a balance between Covid-19 measures and freedom of movement?

How to compensate victims of abuse in residential institutions or victims of miscarriage of justice? How to restore trust in Government following the economic crisis in 2008? to name but a few.

Perhaps this can be explained by my professional skills, acquired though studies in 3 countries and work experience home and abroad, solid knowledge of both Icelandic and International Law, objectivity and diplomacy, as well as my personal integrity and the trust that I enjoy throughout the legal and political community in Iceland.

Through my work, I believe I have demonstrated leadership qualities, innovative spirit, vision and a constant willingness to improve the way Governments function and interact with the citizens. My approach has always been based on the principles at the heart of the Council of Europe, namely human rights, democracy and the rule of law.

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court

I confirm that I will take up permanent residence in Strasbourg if elected a judge on the Court.