

# I giudici della Corte e le regole del loro rapporto di lavoro

(materiali raccolti dai curatori)

## COMPOSITION OF THE COURT <sup>1</sup>

At 31 December 2018, in order of precedence

GUIDO RAIMONDI  
Italy  
*President*

ANGELIKA NUSSBERGER  
Germany  
*Vice-President*

LINOS-ALEXANDRE SICILIANOS  
Greece  
*Vice-President*

GANNA YUDKIVSKA  
Ukraine  
*Section President*

ROBERT SPANO  
Iceland  
*Section President*

VINCENT A. DE GAETANO  
Malta  
*Section President*

LEDI BIANKU  
Albania

IŞIL KARAKAŞ  
Turkey

JULIA LAFFRANQUE  
Estonia

PAULO PINTO DE ALBUQUERQUE  
Portugal

HELEN KELLER  
Switzerland

ANDRÉ POTOCKI  
France

PAUL LEMMENS  
Belgium

ALEŠ PEJCHAL  
Czech Republic

KRZYSZTOF WOJTYCZEK  
Poland

VALERIU GRÎȚCO  
Republic of Moldova

FARIS VEHABOVIĆ  
Bosnia and Herzegovina

KSENIJA TURKOVIĆ  
Croatia

DMITRY DEDOV  
Russian Federation

EGIDIJUS KŪRIS  
Lithuania

IULIA ANTOANELLA MOTOC  
Romania

JON FRIDRIK KJØLBRO  
Denmark

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Il 4 maggio 2019, il Presidente Guido Raimondi cesserà il suo mandato presso la Corte e il 5 maggio prenderà servizio Raffaele Sabato, nuovo giudice italiano.

BRANKO LUBARDA  
Serbia

YONKO GROZEV  
Bulgaria

SÍOFRA O'LEARY  
Ireland

CARLO RANZONI  
Liechtenstein

MĀRTIŅŠ MITS  
Latvia

ARMEN HARUTYUNYAN  
Armenia

STÉPHANIE MOUROUVIKSTRÖM  
Monaco

GEORGES RAVARANI  
Luxembourg

GABRIELE KUCSKOSTADLMAYER  
Austria

PERE PASTOR VILANOVA  
Andorra

ALENA POLÁČKOVÁ  
Slovak Republic

PAULIINE KOSKELO  
Finland

GEORGIOS SERGHIDES  
Cyprus

MARKO BOŠNJAK  
Slovenia

TIM EICKE  
United Kingdom

LƏTIF HÜSEYNOV  
Azerbaijan

JOVAN ILIEVSKI  
The former Yugoslav  
Republic of Macedonia

JOLIEN SCHUKKING  
Netherlands

PÉTER PACZOLAY  
Hungary

LADO CHANTURIA  
Georgia

MARÍA ELÓSEGUI  
Spain

IVANA JELIĆ  
Montenegro

GILBERTO FELICI  
San Marino

RODERICK LIDDELL, *Registrar*

## THE PLENARY COURT

12 November 2018, from left to right



### FRONT ROW

Paul Lemmens, Paulo Pinto de Albuquerque,  
İşıl Kara Kaş, Vincent A. De Gaetano, Ganna  
Yudkivska, Angelika Nußberger, Guido  
Raimondi, Linos-Alexandre Sicilianos,  
Robert Spano, Leif Blanku, Helen  
Keller, Andrzej Potocki, Aleš Pejchal

### MIDDLE ROW

Françoise Elens-Passos, Gilberto Felici,  
Egidijus Kūris, Maria Ekésegui, Ksenija  
Turković, Alena Poláčková, Armen  
Harutyunyan, Valeriu Grițco, Paris  
Vehabović, Siofra O'Leary, Iulia Antoanella  
Motoș, Mārtiņš Mits, Dmitry Dedov

### BACK ROW

Roderick Liddell, Marko Bošnjak, Stéphanie Mourou-Mkström,  
Jovan Ilievski, Georgios Seirghides, Pauline Koskela, Krzysztof  
Wojtyczek, Ivana Jelić, Péter Paczolay, Branko Lubarda, Joëlle  
Schukking, Latif Hüseyinov, Carlo Ranzani, Yonko Grozev, Lado  
Chanturia, Jon Fridrik Kjølbro, Pere Pastor Vilanova, Gabriele Kusko-  
Stadlmayer, Georges Ravarani, Tim Eicke, Julia Laffranque absent

## IL RAPPORTO DI LAVORO DEI GIUDICI DELLA CORTE

### COUNCIL OF EUROPE COMMITTEE OF MINISTERS

#### Resolution Res(2004)50 on the status and conditions of service of judges of the European Court of Human Rights

*(Adopted by the Committee of Ministers  
on 15 December 2004 at the 909<sup>th</sup> meeting  
of the Ministers' Deputies)*

The Committee of Ministers, acting pursuant to Article 16 of the Statute of the Council of Europe,

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 ("the Convention");

Having regard to Protocol No. 11 to the Convention, restructuring the control machinery established thereby, signed at Strasbourg on 11 May 1994;

Having regard to the General Agreement on Privileges and Immunities of the Council of Europe, signed at Paris on 2 September 1949;

Having regard to Resolution (97) 9 on the Status and Conditions of Service of Judges of the European Court of Human Rights to be set up under Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted on 10 September 1997;

Having regard to the proposals submitted by the previous Secretary General as they appear in document CM(2004)69 in pursuance to the decisions taken at the 784<sup>th</sup> (21 February 2002) and the 869<sup>th</sup> (21 January 2004) meetings of the Ministers' Deputies;

Having regard to the Resolution concerning the conditions of service of Judges adopted by the European Court of Human Rights at its 41<sup>st</sup> plenary administrative session on 12 May 2003;

Having regard to the recommendations of the Budget Committee at its May 2004 meeting (CM(2004)94),

Resolves as follows:

#### Article 1

Elected members of the Court shall enjoy the special status of "judges of the European Court of Human Rights" ("judges").

#### Article 2

In accordance with Article 51 of the European Convention on Human Rights ("the Convention"), judges and *ad hoc* judges appointed pursuant to Ar-

ticle 27, paragraph 2, of the Convention shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder, including in particular the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.

#### Article 3

The conditions of service of judges and *ad hoc* judges shall be governed by the Regulations set out in Appendices I and II respectively to this Resolution.

The Regulations shall be implemented by the Secretary General of the Council of Europe, who, for this purpose, shall act in consultation with the President of the Court and may have regard to the rules applied concerning staff members of the Council of Europe.

#### Article 4

This Resolution repeals and replaces Resolution (97) 9 and shall enter into force on 1 January 2005.

The Secretary General may submit proposals for the revision of this Resolution to the Committee of Ministers within three years from its entry into force.

### Appendix I to Resolution Res(2004)50: Regulations governing the conditions of service of judges

#### Article 1 - Annual salary

1. The all inclusive annual salary of judges, as holders of a full-time office, shall be € 198,349 payable in equal monthly instalments in advance.

2. Additional remuneration at the following annual rates shall be paid, on a *pro rata temporis* basis, to the following office-holders:

- the President of the Court: € 12,092.
- the Vice-Presidents of the Court and the Presidents of Sections: € 6,046.

3. The annual remuneration shall be adjusted in accordance with any adjustments made to salaries of Council of Europe staff of Grade A7 based in France.

#### Article 2 - Place of residence

Judges shall reside at or near the seat of the Court.

#### Article 3 - Leave

##### 1. Holiday leave

The Court shall remain permanently in session. The duration of court vacations shall be determined

by the President of the Court with due regard to the needs of business. During such court vacations judges shall make themselves available as required. Judges may absent themselves from Strasbourg outside court vacations only exceptionally and with the President's authorisation.

#### 2. Sick leave

Whenever judges are absent and unable to perform their duties for health reasons they shall inform the President of the Court and provide appropriate medical certificates to the Welfare Office of the Council of Europe.

Judges who are absent on account of illness shall receive from the Council of Europe:

- for the first three days: their full salary;
- thereafter and for a period of eighty-seven days: 90% of their salary;
- thereafter and for a period of ninety days: one-half of their salary.

At the end of the said period of ninety days, judges shall no longer be remunerated by the Council of Europe.

#### Article 4 - Payment of expenses by the Council of Europe

1. The Council of Europe shall pay:

- (a) the travel and subsistence expenses of a judge on an official journey;
- (b) travel, subsistence and removal expenses incurred by judges and their household (spouse and children) when taking up or on termination of their duties.

2. On the death of a judge during his or her term of office, the Council of Europe shall defray:

- (a) the cost of transporting the body of the judge from the place of death to the place of funeral;
- (b) the cost of transporting the deceased judge's personal belongings;
- (c) the travel costs of the survivors who were dependent on the judge and were part of the judge's household.

3. The rules issued by the Secretary General of the Council of Europe applicable to payment of expenses to staff members of the Council of Europe shall apply to judges, save that the amounts payable in respect of travel and subsistence expenses shall be governed by

the rules issued by the Secretary General applicable to the reimbursement of the expenses of members of the Parliamentary Assembly and Ministers' Deputies when travelling at the charge of the Council of Europe.

#### Article 5 - Social protection

1. Judges are required to ensure that they have arranged, at their own expense, for adequate insurance cover of the following risks, for the full period of their terms of office:

- temporary incapacity to work due to illness or accident - the cover must be such as to replace the loss of salary indicated under Article 3, paragraph ii above;
- costs of health care, including maternity expenses, for themselves and their dependants;
- permanent incapacity to work due to an illness or an accident;
- death.

Judges are also required to provide, at their own expense, for their retirement or pension benefits as regards the period of their terms of office.

2. Judges shall provide the Council of Europe at the beginning of each year with proof that they have adequate coverage of the risks listed above. The Council of Europe will make available proposals for an insurance policy which covers the risks, the full premium to be paid by judges.

#### *Appendix II to Resolution Res(2004)50: Regulations governing the conditions of service of ad hoc judges*

1. For each day on which they exercise their functions *ad hoc* judges shall receive an allowance of an amount equal to 1/365th of the annual salary payable to judges of the Court by virtue of Article 1, paragraph 1, of Appendix I above. The allowance shall be free of all taxation.

2. The Council of Europe shall also reimburse to *ad hoc* judges travel and subsistence expenses incurred by them in connection with the performance of their functions. The rules issued by the Secretary General of the Council of Europe applicable to the reimbursement of the expenses of members of the Parliamentary Assembly and Ministers' Deputies when travelling at the charge of the Council of Europe shall apply.

**Resolution CM/Res(2009)5  
on the status and conditions of service of  
judges of the European Court of Human  
Rights and of the Commissioner for Human  
Rights**

*(Adopted by the Committee of Ministers  
on 23 September 2009  
at the 1066<sup>th</sup> meeting of the Ministers' Deputies)<sup>1</sup>*

The Committee of Ministers, acting pursuant to Article 16 of the Statute of the Council of Europe,

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ("the Convention");

Having regard to the General Agreement on Privileges and Immunities of the Council of Europe, signed in Paris on 2 September 1949;

Having regard to Resolution Res(2004)50 on the status and conditions of service of judges of the European Court of Human Rights ("the Court"), adopted on 15 December 2004;

Having regard to the actuarial study<sup>2</sup>;

On a proposal of the Secretary General,

Resolves as follows:

**Article 1 – Status**

Elected members of the Court shall enjoy the special status of "judges of the European Court of Human Rights" ("judges").

**Article 2 – Privileges and immunities**

In accordance with Article 51 of the Convention, judges and ad hoc judges appointed pursuant to Article 27, paragraph 2<sup>3</sup>, of the Convention shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder, including in particular the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.

**Article 3 – Remuneration**

1. The basic salary of judges shall be equal to step 6 of the grade A7 pay scale for Council of Europe staff members based in France. It shall be adjusted in ac-

cordance with any adjustments made to salaries of staff members based in France. Judges shall be paid at the end of each month<sup>4</sup>.

2. Each judge shall also receive a displacement allowance equal to 12.5% of basic salary.

3. Additional remuneration at the following annual rates shall be paid, on a *pro rata temporis* basis, to the following office-holders:

- the President of the Court: € 13 885

- the Vice-Presidents of the Court and the Presidents of Sections: € 6 942.

These amounts shall be adjusted annually by applying the rate used for the adjustment in Article 3.1.

4. The judges shall not be entitled to any of the allowances/indemnities provided for in the Staff Regulations.

**Article 4 – Payment of expenses  
by the Council of Europe**

1. The Council of Europe shall pay:

(a) the travel and subsistence expenses of a judge on an official journey;

(b) travel, subsistence and removal expenses incurred by judges and their household when taking up or on termination of their duties, according to the rules applying to staff members.

2. On the death of a judge during his or her term of office, the Council of Europe shall defray, according to the rules applying to staff members:

(a) the cost of transporting the body of the judge from the place of death to the place of funeral;

(b) the cost of transporting the deceased judge's personal belongings;

(c) the travel costs of the survivors who were dependent on the judge and were part of the judge's household.

3. The rules issued by the Secretary General of the Council of Europe applicable to payment of expenses to staff members of the Council of Europe shall apply to judges, save that the amounts payable in respect of travel and subsistence expenses shall be governed by the rules issued by the Secretary General applicable to the reimbursement of Ministers' Deputies when travelling at the charge of the Council of Europe.

1. As amended by Resolution CM/Res(2013)4 on 27 March 2013 at the 1166th meeting of the Ministers' Deputies, with effect from 1 April 2013 and Resolution CM/Res(2015)5 on 15 April 2015 at the 1225th meeting of the Ministers' Deputies, with effect from 1 May 2015.

2. Study dated 19 December 2007 prepared by the Joint Pensions Administrative Section (JPAS) and the JPAS Memorandum dated 21 August 2009, contained in DD(2009)449.

3. Following the entry into force of Protocol 14 to the Convention on 1 June 2010, Article 27 of the Convention became Article 26 and the reference should read: "... and ad hoc judges appointed pursuant to Article 26, paragraph 4,..."

4. As amended by Resolution CM/Res(2013)4.

**Article 5 – Place of residence**

Judges shall reside at or near the seat of the Court.

**Article 6 – Medical examination**

Judges, when taking up their duties, shall undergo the medical examination that staff members undergo as part of their appointment process. Where the medical examination shows a judge to be suffering from an illness or disablement, the Council of Europe may decide that, as regards risks arising from an illness or disablement existing before s/he took up his or her duties, the said judge shall not be entitled to the invalidity or death benefits provided for in the applicable pension scheme<sup>5</sup> until the expiry of a period not exceeding five years from the date of his or her taking up his or her duties.

**Article 7 – Annual leave**

The Court shall remain permanently in session. The duration of court vacations shall be determined by the President of the Court with due regard to the needs of business. During such court vacations, judges shall make themselves available as required. Judges may absent themselves from Strasbourg outside court vacations only exceptionally and with the President's authorisation.

**Article 8 – Sick leave**

Whenever judges are absent and unable to perform their duties for health reasons, they shall inform the President of the Court and provide appropriate medical certificates to the Directorate of Human Resources of the Directorate General of Administration and Logistics.

**Article 9 – Maternity, paternity and adoption leave**

Judges shall be entitled to the same maternity, paternity and adoption leave as staff members. Pregnancies, births and adoptions shall be notified to the Directorate of Human Resources.

**Article 10 – Pension**

1. On the date on which they take up office, judges shall decide whether or not to adhere to the pension scheme applicable to newly appointed staff members of the Council of Europe at that time. This decision shall be irrevocable.<sup>6</sup>

2. Judges who have opted to be affiliated to the applicable pension scheme shall benefit from the latter subject to any adjustments rendered necessary by their particular status and conditions of service, and in particular subject to the following modifications:<sup>7</sup>

(i) Judges with fewer than five years' reckonable service at the Court shall be entitled to a leaving allowance. Judges with at least five but fewer than ten years of reckonable service shall be able to choose between a leaving allowance and a retirement pension. Judges who have ten or more years of reckonable service shall only be entitled to a retirement pension<sup>8</sup>;

(ii) *Deleted*<sup>9</sup>.

(iii) In the case of judges, the salary for the purposes of the applicable pension scheme<sup>10</sup> shall be the monthly basic salary of the judge, according to the scales in force in the Organisation at the time when the pension is assessed, and updated in accordance with the provisions of Article 36, and the judge's displacement allowance; the President's, Vice Presidents' and Section Presidents' additional remuneration is not to be taken into account;

(iv) Chapter VI as well as Article 33 with the exception of its first paragraph<sup>11</sup> of the applicable pension scheme<sup>12</sup> shall not apply to judges;

(v) The survivor's pension shall be 60% of the pension the judge would have received had s/he reached the end of his or her mandate and the reversion pension shall be 60% of the judge's pension. The minimum amounts provided for in the applicable pension scheme<sup>13</sup> shall not be applicable;

(vi) The invalidity pension shall be equal to the pension the judge would have received had s/he reached the end of his or her mandate.

5. As amended by Resolution CM/Res(2013)4.

6. As amended by Resolution CM/Res(2015)5.

7. As amended by Resolution CM/Res(2015)5.

8. As amended by Resolution CM/Res(2013)4.

9. Deleted by Resolution CM/Res(2013)4.

10. As amended by Resolution CM/Res(2013)4.

11. As amended by Resolution CM/Res(2013)4.

12. As amended by Resolution CM/Res(2013)4.

13. As amended by Resolution CM/Res(2013)4.

3. The age at which judges affiliated to New Pension Scheme “NPS” (Appendix V bis to the Staff Regulations) become entitled to a retirement pension, without reduction due to early departure, shall be:

- 63 years for those having reached the age of 55 on 1 January 2013;
- 63 years and 6 months for those aged between 50 and 55, without having reached their 55th birthday, on 1 January 2013;
- 64 years for those aged between 45 and 50, without having reached their 50th birthday, on 1 January 2013;
- 64 years and 6 months for those aged between 40 and 45, without having reached their 45th birthday, on 1 January 2013;
- 65 years for those who have not reached the age of 40 on 1 January 2013.<sup>14</sup>

4. Judges who have opted not to affiliate themselves to the Council of Europe pension scheme that would be applicable to them at the time of their appointment shall declare in writing to which national and/or other pension schemes they are affiliated, following which they shall, during their term of office, be entitled to a monthly payment corresponding to the amount of the employer’s contribution to the respective Council of Europe’s pension scheme in conformity with the applicable contribution ratio and the staff contribution rate in force.<sup>15</sup>

#### **Article 11 – Medical and social insurance**

Judges shall be affiliated to the Council of Europe Medical and Social Insurance Scheme. Appendix XII to the Staff Regulations shall apply to them with the proviso that:<sup>16</sup>

(i) the capital sum paid in the event of death shall be reduced as follows in the case of judges who die in service following their 65th birthday: by 10% when a judge dies before turning 66, by 20% when a judge dies before turning 67, by 30% when a judge dies before turning 68, by 40% when a judge dies before turning 69 and by 50% when a judge dies before turning 70. No capital sum shall be paid in the case of judges who die in service following their 70th birthday;

(ii) as regards judges who are not affiliated to a Council of Europe pension scheme, the Invalidity Board referred to in Article 13, paragraph 2, of the

Council of Europe pension schemes (Appendix V bis and V ter to the Staff Regulations) shall be competent, *mutatis mutandis*, to recognise whether the conditions for the entitlement to payment of a capital sum in cases of total, permanent disability pursuant to Article 12, paragraphs 1 and 2, of Appendix XII to the Staff Regulations are met.

#### **Article 12 – Ad hoc judges**

1. For each day on which they exercise their functions, ad hoc judges shall receive an allowance of an amount equal to 1/365th of the annual basic salary of judges of the Court provided for in Article 3 § 1 above. The allowance shall be free of all taxation.

2. The Council of Europe shall also reimburse to ad hoc judges travel and subsistence expenses incurred by them in connection with the performance of their functions, according to the rules applying to staff members. The rules applicable to the reimbursement of the expenses of Ministers’ Deputies when travelling at the charge of the Council of Europe shall apply.

3. Ad hoc judges shall not benefit from any social or medical cover provided by the Council of Europe.

#### **Article 13 – Council of Europe Commissioner of Human Rights (“the Commissioner”)**

The Commissioner shall enjoy a special status which shall be the same as that of an elected judge. The above provisions shall apply to him or her.

#### **Article 14 - Amendments<sup>17</sup>**

1. The Court and the Commissioner for Human Rights shall be consulted before making any amendment to their status and conditions of service.

2. The Secretary General may submit proposals for the revision of this resolution to the Committee of Ministers, following consultation of the Court and of the Commissioner for Human Rights, who may also propose amendments to this resolution.

#### **Article 15 – Entry into force and transitional provisions<sup>18</sup>**

1. This resolution shall enter into force on the first day of the month following its adoption.

2. The conditions of service of judges in office on the date of entry into force of this resolution shall be

14. As amended by Resolution CM/Res(2013)4.

15. As amended by Resolution CM/Res(2015)5.

16. As amended by Resolution CM/Res(2015)5.

17. As amended by Resolution CM/Res(2013)4.

18. As amended by Resolution CM/Res(2013)4.

those contained in Resolution Res(2004)50. However, the conditions of service contained in this resolution shall be applied to any such judge upon his or her request.

3. Judges in office on the date of entry into force of this resolution who have decided to be covered by it shall be able to have all or part of their years of service as judges recognised as reckonable years of service under the New Pension Scheme by paying 2.5 times the staff contribution for the period they wish to validate. Their rights shall be calculated on

the basis of the first basic salary and the displacement allowance which they shall be paid under this resolution.

4. The conditions of service of the Council of Europe Commissioner of Human Rights in office on the date of the entry into force of this resolution shall be those contained in Decision 668/11.2b of 27 April 1999 of the Ministers' Deputies. However, the conditions of service contained in the present resolution can be applied to him following the modalities of paragraphs 2 and 3.