COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES
COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution CM/Res(2015)5
amending 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 as amended by Resolution CM/Res(2013)4

(Adopted by the Committee of Ministers on 15 April 2015
at the 1225th meeting of the Ministers' Deputies)

The Committee of Ministers, in accordance with 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 Resolution CM/Res(2009)5 on the status and conditions of service of judges of the European Court of Human Rights and the Commissioner for Human Rights, adopted on 23 September 2009;

Having regard to Resolution CM/Res(2013)4 amending 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 on 27 March 2013;

Having regard to the New Pension Scheme ("NPS") and the Third Pension Scheme ("TPS") (Appendices V bis and V ter to the Staff Regulations);

Considering that Resolution CM/Res(2009)5, as amended by Resolution CM/Res(2013)4, which provides for a mandatory affiliation of judges to the applicable Council of Europe pension schemes needs to be revised in order to allow for more flexibility in this respect;

Considering the need to consult the Court and the Commissioner for Human Rights on any amendment to their status and conditions of service;

Having consulted the Court and the Commissioner for Human Rights;

On a proposal of the Secretary General,

Resolves as follows:

Article 1

1. Article 10, paragraph 1, of Resolution CM/Res(2009)5 as amended by Resolution CM/Res(2013)4 shall henceforth be worded as follows:

"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."

2. Article 10, paragraph 2, first sentence, of Resolution CM/Res(2009)5 as amended by Resolution CM/Res(2013)4 shall henceforth be worded as follows:

"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:
…"

3. At the end of Article 10 of Resolution CM/Res(2009)5 as amended by Resolution CM/Res(2013)4 a fourth paragraph shall be added, which shall read as follows:

"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."

Article 2

Article 11 of of Resolution CM/Res(2009)5 as amended by Resolution CM/Res(2013)4 shall henceforth be worded as follows:

"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:

(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 3

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

2. Judges already affiliated to the New Pension Scheme or the Third Pension Scheme on the date of entry into force of this resolution may withdraw from the respective scheme within a period of three months following that date. This decision shall be irrevocable. Judges who opt for withdrawal shall be entitled to payment of an allowance calculated in accordance with Article 11 of the relevant pension scheme (Appendix V bis and V ter to the Staff Regulations respectively) for the period of their affiliation to the latter. For the remainder of their term of office, they shall declare in writing to which national and/or other pension schemes they are affiliated, following which they shall be entitled to a monthly payment corresponding to the amount of the employer's contribution to the Council of Europe's pension scheme to which they were affiliated in conformity with the applicable contribution ratio and the staff contribution rate in force.