



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 1066th 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 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;¹

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, 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 accordance with any adjustments made to salaries of staff members based in France. Judges shall be paid monthly in advance.
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.

¹ 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](#).

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.

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 Appendix V bis to the Staff Regulations 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. Judges shall benefit from the Pension Scheme for staff members which is in force at the Council of Europe at the time of their appointment, subject to any modifications rendered necessary by their particular status and conditions of service.

2. The New Pension Scheme “NPS” (Appendix V bis to the Staff Regulations), in force as at the date of adoption of this resolution, shall apply to judges subject to the following modifications:

- (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 to be paid according to subparagraph (ii) here below. Judges who have ten or more years of reckonable service shall only be entitled to a retirement pension to be paid according to subparagraph (ii) here below;
- (ii) The age at which judges become entitled to a retirement pension, without reduction due to early departure, shall be 63 years;
- (iii) In the case of judges, the salary for the purposes of Appendix V bis to the Staff Regulations 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 33.2 to 33.7 of Appendix V bis to the Staff Regulations 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 Appendix V bis to the Staff Regulations 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.

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 exception that 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.

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 – Entry into force and transitional provisions

- 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 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.