



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels 17 February 2011 (18.12)
(OR. fr)**

6509/11

**COUR 3
JUR 57**

COVER NOTE

from: Mr Jean-Marc Sauvé, President of the panel provided for by Article 255 of the Treaty on the Functioning of the European Union
dated: 11 February 2011
to: Mr Pierre de Boissieu, Secretary-General of the Council of the European Union
Subject: Activity report of the panel provided for by Article 255 of the Treaty on the Functioning of the European Union

Delegations will find attached a report on the activities of the panel provided for by Article 255 of the Treaty on the Functioning of the European Union at the close of the first calendar year for which it has been in operation.

**Activity report of the
panel provided for by Article 255
of the Treaty on the Functioning of the European Union**

The panel provided for by Article 255 of the Treaty on the Functioning of the European Union (hereinafter "the panel") was established by the Treaty signed at Lisbon on 13 December 2007, which entered into force on 1 December 2009. The panel's purpose, pursuant to the provisions of Article 255 of the Treaty on the Functioning of the European Union (TFEU), is to "to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles 253 and 254" of that Treaty¹.

The panel began its work immediately after the entry into force on 1 March 2010 of the two Decisions No 2010/124/EU and No 2010/125/EU of 25 February 2010 whereby the Council of the European Union established the operating rules of the panel (hereinafter "the operating rules") and appointed its members². During 2010, the panel met eight times, with one of its meetings spread over two days.

At the end of its first calendar year of existence the panel deemed it appropriate to draw up the present report, the purpose of which is to retrace its activities and enable the Union's institutions, the Member States' governments and, if appropriate, future candidates for the posts of Judge or Advocate-General of the Court of Justice and the General Court to gain a better understanding of the procedures in place for examining candidatures and the panel's interpretation of the provisions which it is charged with applying.

I. Summary of work done

The panel was particularly busy in the first ten months of its active existence, inter alia because of the triennial renewal of the members of the Court of Justice of the European Union, provided for by Article 254 TFEU. The terms of office of fourteen Judges at the Court ended on 31 August 2010. The panel worked hard to deliver its opinions as swiftly as possible, aware that it was important for members of the Court of Justice and the General Court to be appointed as soon as possible.

1.- Candidatures examined

The panel's proceedings over the past year led to the appointment of 16 candidates for the office of Judge, two at the Court of Justice and 14 at the General Court. These appointments were made in the light of the opinions given by the panel. The panel's analysis of Regulations (EC) No 1049/2001 and (EC) No 45/2001, as interpreted by the Court of Justice of the European Union in its judgment of 29 June 2010 *European Commission v The Bavarian Lager Co. Ltd, European Data Protection Supervisor (EDPS)*, however, leads it to judge that the content of the opinions it gives, whether favourable or not, may not be made public either directly or even, through statistical details, indirectly.

Three of the candidates appointed to the General Court and both candidates appointed to the Court of Justice were candidates for a first term of office. The other candidatures were for renewal of a term of office as Judge.

¹ Annex 1 to the present report.

² Annexes 2 and 3 to the present report.

2.- Time taken to examine applications

Since the panel was established as from 1 March 2010, a distinction can be made as to the amounts of time taken to examine candidatures, between those submitted to the General Secretariat of the Council before and those submitted after that date.

As to candidatures submitted to the General Secretariat of the Council before 1 March, the panel did not receive them before that date. This applies to a majority of the candidatures. They were examined by the panel on average³ within around two and a half months (80 days).

For candidatures submitted to the General Secretariat of the Council after 1 March, the panel received them straight away. This covers seven applications. They were examined by the panel on average⁴ within less than two months (49 days).

II. Consideration and examination of candidatures

1.- General principles of examination of candidatures

The panel recalls that under Article 255 TFEU its mission is to give an opinion, favourable or otherwise, on the suitability of each candidate proposed for appointment to the offices of Judge or Advocate-General at the Court of Justice or the General Court. It is therefore not the task of the panel to choose between several candidates. The fundamental responsibility in the appointment of the Judges and Advocates-General of the Court of Justice and the General court of course lies with the Member States who, in particular, must propose the best candidates, taking into account the criteria laid down by Articles 253, 254 and 255 TFEU.

In addition, besides ensuring, as it does, the personal suitability of each candidate, it is not the panel's job to take part in determining the composition of the Court of Justice or of the General Court. It therefore does not give preference to any particular professional path nor any one field of legal competence more than another, in its assessment of the suitability of the candidatures for the duties for which they are proposed.

To assess whether the candidates fulfil the criteria laid down in Articles 253, 254 and 255 TFEU, the panel takes as its basis the items in the dossier forwarded to it by the government proposing the candidature and by the candidate him- or herself as well as, if applicable, publications by that candidate which members have had the opportunity to consult.

The panel may, under the second paragraph of point 6 of its operating rules, decide to ask the government making the proposal "to send additional information or other material which the panel considers necessary for its deliberations." It does not rule out, particularly with a view to

³ Average time from 1 March to date opinion signed by panel.

⁴ Average time between date of submission of candidature by Member State governments to the General Secretariat of the Council and date of opinion signed by panel.

assessing the value of such a request, taking account of publicly available and objective information (e.g. for candidates for the renewal of their term, the number of judgments available on the basis of the case-law of the European courts).

The panel emphasises that it does not ask for documents or assessments concerning the candidates, except those sent to it, unasked or at its request, by Member State governments or by the candidates themselves. If factual information regarding a candidate of a kind that would support an unfavourable assessment comes to the knowledge of the panel, the panel would take it into account only after the candidate and/or the government proposing the candidature has first been given the opportunity to comment on its pertinence and accuracy.

While the above general principles apply to the examination of all candidatures proposed to the panel, the panel has nevertheless seen fit to establish distinct procedures for considering and examining candidatures depending on whether they concern the renewal of a Judge's term or proposals for a first term. This follows from its interpretation of point 7 of its operating rules, namely that "Except where a proposal relates to the reappointment of a Judge or Advocate-General, the panel shall hear the candidate; the hearing shall take place in private", as meaning that candidates for a first term must go through a hearing procedure which is not applicable to those proposed for a renewal.

2.- Consideration and examination of proposals for renewal of a term

The panel emphasises that the fact that a candidate already holds the office of Judge or Advocate-General at the Court of Justice or at the General Court is an important assessment factor as regards the suitability of the candidature for that office, but that this factor is not decisive on its own. While, as already mentioned, the operating rules exempt a candidate from the hearing procedure if the proposal in question concerns the renewal of a Judge's or Advocate-General's term, no provisions of TFEU nor any of the panel's operating rules can be interpreted as excusing the panel from carrying out a genuine assessment, with a view to a fresh term, of how well the candidature meets the criteria of Articles 253, 254 and 255 of the Treaty.

The panel therefore analysed in detail the candidatures received, taking as their main basis the content of the dossiers sent by the Member State governments. In this context the panel stresses that it is important that the CVs it receives be detailed, so as to facilitate the assessment of the candidatures.

The panel does not in principle rule out, in examining the proposals for renewals of terms, applying the second paragraph of point 6 of its operating rules, quoted above, whereby "[the] panel may ask the government making the proposal to send additional information or other material which the panel considers necessary for its deliberations."

It did not however do so with regard to the proposals it examined during 2010, since all

those proposals were accompanied by detailed CVs of the candidates and, in some cases, by lists of published works by the candidate.

3.- Consideration and examination of proposals of candidates for a first term

As to candidates for a first term as Judge or Advocate-General, the panel judges that it needs a larger quantity of relevant items to enable it to assess fully the extent to which the candidature meets the criteria set out in Articles 253, 254 and 256 TFEU.

To that end, where the necessary documents and information have not already been sent with the proposal, the panel, pursuant to point 6 of its operating rules, asks the government proposing the application to pass on the essential reasons why it chose the proposed candidate and a letter explaining the reasons for the application and a bibliographic list of the candidate's publications. The panel also asks for information on the national procedure that led to the candidate being selected, inviting the government to say *inter alia* whether there was a public call for applications, whether a national selection committee was set up and if so how the national selection committee was made up and what it recommended. This request is sent in time to allow the government to send the panel the requested information and documents before the day scheduled for the candidate's hearing.

At the same time, the panel's secretariat sends the candidate a letter inviting him or her to take part, in accordance with point 7 of the operating rules, in a hearing, the date and time of which are specified. The same letter also informs the candidate of the conditions of the hearing (duration, breakdown of hearing time between presentation and answers to questions, language arrangements, etc.) and the candidate is invited to send the panel a text of his or her choice, written in or translated into English or French, published recently if the candidate is its author. The letter also informs the person concerned of the request sent to the government proposing the application to send the panel a letter stating the reasons for the application and a bibliographical list of his or her publications.

The reason for the hearing of the candidate is to supplement the examination of the content of the dossier. It enables the panel to assess, in particular, the candidate's professional experience, legal expertise, aptitude for working in an environment in which a number of legal traditions are represented, language skills, reasons why the candidate considers that he or she is suited for the performing the duties of a Judge at the Court of Justice or General Court and how the candidate envisages doing so. The hearing, which lasts an hour, begins with an introductory presentation in which the candidate briefly introduces himself/herself. The candidate may speak in English, French or any other official language of the European Union. Next, the members of the panel put questions to the candidate, in English or French, for 50 minutes, on the various aspects of the candidature (skills/expertise, experience, motivation, etc.). The candidate is asked to respond in the language in which the question was asked. If the candidate considers his or her mastery of both English and French inadequate, he or she may respond in any other official language of the European Union.

To support its assessment of the candidate's legal expertise, experience, suitability for the office of Judge, independence and impartiality, the panel may take into account the conditions

under which the Member State concerned selected the candidate and, in particular, whether there is a national merit-based selection procedure and, if so, how it is organised (transparency and objectivity of the procedure, involvement of a national selection committee, composition of that committee, and so on). The panel may also take into account other selection procedures offering at least equivalent guarantees, such as choice of the candidate by a Member State's highest court. It may also check whether the candidate proposed by the Member State government was adopted at the conclusion of the national procedure. The panel also notes that a number of proposed candidatures sent to it during the past year spontaneously described the procedures and running of the national selection procedure applied, without the panel having asked for additional information on the subject to be sent on the basis of point 6 of its operating rules. The panel notes that while the existence or otherwise of a national selection procedure, and the procedures for its conduct and the way it in fact operates, are indeed factors it may take into account, they are parts of a comprehensive assessment of the candidature for the proposed offices, along with the other criteria the panel applies.

4.- Reasons for and communication of the panel's opinions

In the words of the first paragraph of point 8 of the panel's operating rules, "Reasons for the opinion given by the panel shall be stated. The statement of reasons shall set out the principal grounds on which the panel's opinion is based." Pursuant to those provisions, the panel's opinions, following a reminder of the various stages of examination, set out the reasons underlying their tenor, favourable or otherwise, and concerning the candidate's legal capabilities, professional experience, ability to perform the duties of a Judge with independence and impartiality, knowledge of languages and aptitude for working in an international environment.

In accordance with the second paragraph of point 8 of the operating rules, the opinions given by the panel are "forwarded to the representatives of the governments of the Member States".

As to requests from third parties for communication of the panel's opinions, the panel considered, with regard to a request for a communication to the General Secretariat of the Council, that pursuant to the combined provisions of point 8, quoted above, and of point 5 of the rules, which provide that the panel's deliberations take place in camera, the requested opinions were intended exclusively for Member State governments in the context of the procedure for appointing two European Union judges. Compliance with these rules seemed to the panel to require that the positions it takes on the suitability of candidates for judicial office in the European Union should not be disclosed to the public.

In addition, Article 4(1)(b) of Regulation (EC) No 1049/2001 lays down an exception to the right of access to Union documents if their disclosure would undermine the protection of the privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. Article 2(a) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000, meanwhile, defines "personal data" as "any information relating to an identified or identifiable natural person". The relevant opinions of the panel, which included an assessment of the suitability of the candidates for the office of Judge at

the Court of Justice or at the General Court of the European Union, contained personal data within the meaning of Article 2(a) of Regulation (EC) No 45/2001⁵. The processing of these personal data was intended solely to help the representatives of Member State governments to take decisions on the appointment of Judges to the Court of Justice or the General Court of the European Union, in accordance with Articles 253, 254 and 255 TFEU. The panel therefore considered that communication of opinions requested to any other than those provided for by point 8 of its operating rules would have constituted processing of personal data for a purpose other than those for which they have been collected, contrary to Article 6(1) of Regulation (EC) No 45/2001. That being so, disclosure of the opinions it had delivered would not comply with Regulation (EC) No 45/2001 and would have undermined the protection of the privacy and the integrity of the individual within the meaning of Article 4(1)(b) of Regulation (EC) No 1049/2001.

Finally, the panel recalls that the opinions it delivers, like the documents it draws up or receives in the context of its proceedings, are "third-party documents" within the meaning of Article 4(4) of Regulation (EC) No 1049/2001. It is therefore for the institutions of the Union if they receive a request to communicate documents from the panel which they have received, to consult the panel before any communication, in order to determine whether an exception to the right of communication is applicable, unless it is clear that the document should, or should not, be disclosed.

III. Assessment of candidates' suitability to perform the duties of Judge of the Court of Justice and the General Court

The panel reiterates that, pursuant to Article 255 TFEU, the opinion it gives relates to "candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles 253 and 254" of that Treaty. Article 253 provides that "the Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence". Article 254 of the Treaty provides that "the members of the General Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office".

Although the criteria established by the Treaty on the Functioning of the European Union are exhaustive, the panel nevertheless considers that they could be more clearly and precisely explained. The panel's assessment of whether a candidate for the posts of Judge or Advocate-General of the Court of Justice meets the conditions required for appointment to the highest judicial offices, or its assessment of whether a candidate for a post with the General Court has the ability required for appointment to high judicial office, is therefore made on the basis of six considerations: the candidate's legal expertise, professional experience, ability to perform the duties of a Judge, assurance of independence and impartiality, language skills and aptitude for

⁵ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1.

working as part of a team in an international environment in which several legal systems are represented.

The panel stresses that its assessment of the candidature is an overall assessment. However, if a candidature is clearly lacking in one of these areas, this could be grounds for an unfavourable opinion.

1.- Legal expertise

The panel assesses the candidates' legal expertise firstly on the basis of the supporting documents, in particular the candidates' career history, and, where relevant, on the basis of published works submitted by the candidates, or other publications that the panel members may have been able to consult. In assessing legal expertise, the panel therefore takes into consideration candidates' discharge of high-level judicial, administrative or academic duties, university degrees (such as a doctorate) and experience of teaching or training, as well as experience as a legal expert or consultant to supreme courts or very important institutions, or participation in scientific associations devoted to the study of law.

For candidates for a first term of office, the hearing conducted by the panel enables the initial analysis of the content of the dossier to be confirmed, supplemented or refuted.

Using the content of the dossiers and the hearing, the panel seeks to determine the breadth and solidity of the candidates' knowledge of the major judicial issues, the challenges involved in the rule of law, and the key aspects of the Union's legal system and EU law, as well as the candidates' ability to reflect on the application of this law by Member States' legal systems, and on the relationships between these systems and European law. The panel emphasises that knowledge of EU law is a factor that it takes into consideration in its assessment of candidatures, but that this is less important than being able to demonstrate a real ability to analyse and reflect on the conditions and mechanisms for applying this law, particularly within the Member States' national legal systems, and the major ongoing challenges involved.

2.- Professional experience

The panel considers that extensive or even very extensive experience, characterised by length and nature, is an important indicator of candidates' suitability to perform the duties of Judge or Advocate-General of the Court of Justice or the General Court.

With regard to length of professional experience, by analogy between the offices of Judge (or Advocate-General) of the Court of Justice or Judge of the General Court and staff of an equivalent level in the European Civil Service, and with reference to the national practices of which it is aware, the panel considers that less than twenty years' experience of high-level duties for candidates for the office of Judge or Advocate-General of the Court of Justice, and less than twelve or even fifteen years' experience of similar duties for candidates for the office of Judge at the General Court, is unlikely to be deemed sufficient, unless the candidate demonstrates exceptional legal expertise.

When assessing the length of experience, the panel takes into account any high-level duties performed by the candidate, with due regard to the diverse practices and legal, administrative and university systems in the different Member States. In case of uncertainty, the panel may request further details regarding the level of any duties performed by the candidates, either from the government which made the proposal or from the candidates themselves during their hearing.

On the other hand, provided that the positions previously held by the candidate entail professional capabilities in the legal field, the panel does not give preference to any particular type of professional path. The panel therefore considers that the ability to perform the duties of Judge of the Court of Justice or the General Court could result from professional experience in judicial office, for example, or alternatively from employment as a lawyer, academic or senior official, or from a career path that successively or simultaneously combines several of these types of experience. In all these cases, however, the panel values professional experience that provides evidence of the candidate's aptitude for independent thinking and ability to make decisions on a legal basis.

Whatever their professional experience, the panel attaches particular importance to the candidates' thoughts on the nature, role and scope of the office of Judge or Advocate-General of the Court of Justice or the General Court, and on their ability to demonstrate the relevance of their own experience to this office.

3.- Candidates' ability to perform the duties of Judge

The panel is particularly concerned with the candidates' awareness and internalisation of the demands of being a judge. It therefore seeks to assess the candidate's ability to offer analyses that are appropriate both in principle and in terms of their practical implications. The panel also values candidates' ability to cope with stringent professional requirements, to formulate clear and precise responses and to debate within a collegial judicial environment.

4.- Assurance of independence and impartiality

The panel reiterates that the principles of independence and impartiality must be beyond doubt when administering justice and that assessing the independence of candidates for the office of Judge and Advocate-General of the Court of Justice and the General Court falls within the scope of the mission entrusted to the panel by the combined provisions of Articles 253 or 254 and 255 TFEU.

The panel therefore determines, taking into account all the items in each candidate's dossier and, where appropriate, statements made by the candidate during the hearing, whether there is evidence of any kind that could engender the slightest reservation regarding the candidate's ability to perform the duties of Judge with independence and impartiality.

5.- Language skills and aptitude for working in an international environment in which several legal systems are represented

The panel considers that candidates' proficiency in several official languages of the European Union is an advantage, although not a determining factor, in its assessment of their suitability for the office of Judge or Advocate-General of the Court of Justice or the General Court.

In any case, being able to understand several languages and at least potentially able to become proficient in the working language of the courts of the European Union are factors that the panel evaluates in order to assess the candidate's aptitude for working in an international environment.

To this end, in addition to the candidates' hearing under the conditions stated above, the panel may take into consideration published texts written by the candidates in a language other than their mother tongue and, for example, their participation in the work of international organisations or in international meetings, seminars or conferences.

Aptitude for working in an international environment in which several legal systems are represented is also assessed in terms of ability to comprehend the broad categories and principles of the legal systems of the Member States of the European Union, in addition to the legal system of the country proposing the candidature, as well as ability to appreciate the issues that may arise from applying Union law there.

*
* * *

The panel hopes that this activity report will provide a better understanding of the examination requirements for candidates for the office of Judge and Advocate-General of the Court of Justice and the General Court, as well as the factors that it takes into consideration in its assessment of candidates' suitability for these offices. It is the panel's hope that this report will help to strengthen appreciation of the relevance and usefulness of the mission entrusted to it by Article 255 of the Treaty on the Functioning of the European Union.

ANNEX 1

**Articles 253 to 255 of the
Treaty on the Functioning of the European Union**

Treaty on the Functioning of the European Union

Article 253 (ex Article 223 TEC)

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice of the European Union.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

Retiring Judges and Advocates-General may be reappointed.

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council.

Article 254 (ex Article 224 TEC)

The number of Judges of the General Court shall be determined by the Statute of the Court of Justice of the European Union. The Statute may provide for the General Court to be assisted by Advocates-General.

The members of the General Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the General Court from among their number for a term of three years. He may be re-elected.

The General Court shall appoint its Registrar and lay down the rules governing his service.

The General Court shall establish its Rules of Procedure in agreement with the Court of Justice.

Those Rules shall require the approval of the Council.

Unless the Statute of the Court of Justice of the European Union provides otherwise, the provisions of the Treaties relating to the Court of Justice shall apply to the General Court.

Article 255

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles 253 and 254.

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a decision establishing the panel's operating rules and a decision appointing its members. It shall act on the initiative of the President of the Court of Justice.

ANNEX 2

**Council Decision of 25 February 2012
relating to the operating rules of the panel provided for in Article 255 of the Treaty on the
Functioning of the European Union
(2010/124/EU)**

DECISIONS

COUNCIL DECISION

of 25 February 2010

relating to the operating rules of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union

(2010/124/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the second paragraph of Article 255 thereof,

Having regard to the initiative by the President of the Court of Justice on 11 January 2010,

Whereas:

- (1) The Judges and Advocates-General of the Court of Justice and the General Court are appointed by common accord of the governments of the Member States, after consultation of a panel set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General. The panel comprises seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom is proposed by the European Parliament.
- (2) The operating rules of that panel therefore need to be established,

HAS ADOPTED THIS DECISION:

Article 1

The operating rules of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union are set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on 1 March 2010.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 25 February 2010.

For the Council

The President

A. PÉREZ RUBALCABA

ANNEX

OPERATING RULES OF THE PANEL PROVIDED FOR IN ARTICLE 255 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION**1. Mission**

The panel shall give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the Governments of the Member States make the appointments referred to in Articles 253 and 254 of the Treaty.

2. Composition

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament.

3. Term of office

The members of the panel shall be appointed for a period of four years. A person who is to replace a member before the expiry of that period shall be appointed for the remainder of his predecessor's term.

Members of the panel may be reappointed once.

4. Presidency and secretariat

The panel shall be presided over by one of its members, appointed for that purpose by the Council.

The General Secretariat of the Council shall be responsible for the panel's secretariat. It shall provide the administrative support necessary for the working of the panel, including the translation of documents.

5. Quorum and deliberations

Meetings of the panel shall be valid if at least five of its members are present. The deliberations of the panel shall take place *in camera*.

6. Referral to the panel and request for additional information

As soon as the Government of a Member State proposes a candidate, the General Secretariat of the Council shall send that proposal to the President of the panel.

The panel may ask the government making the proposal to send additional information or other material which the panel considers necessary for its deliberations.

7. Hearing

Except where a proposal relates to the reappointment of a Judge or Advocate-General, the panel shall hear the candidate; the hearing shall take place in private.

8. Statement of reasons for opinion and presentation

Reasons for the opinion given by the panel shall be stated. The statement of reasons shall set out the principal grounds on which the panel's opinion is based.

The panel's opinion shall be forwarded to the Representatives of the Governments of the Member States. Furthermore, at the request of the Presidency, the President of the panel shall present that opinion to the Representatives of the Governments of the Member States' meeting within the Council.

9. Financial provisions

Members of the panel required to travel away from their place of residence in order to carry out their duties shall be entitled to reimbursement of their expenses and an allowance on the conditions laid down in Article 6 of Regulation No 422/67/EEC, 5/67/Euratom of the Council of 25 July 1967 determining the emoluments of the President and members of the Commission and of the President, Judges, Advocates-General and Registrar of the Court of Justice and of the President, Members and Registrar of the Court of First Instance and of the President, Members and Registrar of the European Union Civil Service Tribunal ⁽¹⁾.

The corresponding expenditure shall be borne by the Council.

⁽¹⁾ OJ 187, 8.8.1967, p. 1.

ANNEX 3

**Council Decision of 25 February 2012
appointing the members of the panel provided for in Article 255 of the Treaty on the
Functioning of the European Union
(2010/124/EU)**

COUNCIL DECISION

of 25 February 2010

appointing the members of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union

(2010/125/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the second paragraph of Article 255 thereof,

Having regard to the initiative by the President of the Court of Justice on 26 January 2010,

Whereas:

- (1) A panel is to be set up pursuant to Article 255(1) of the Treaty, in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the Governments of the Member States make the appointments (hereafter 'the panel').
- (2) The panel is to comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom is to be proposed by the European Parliament.
- (3) Account should be taken of a balanced membership of the panel, both in geographical terms and in terms of representation of the legal systems of the Member States.
- (4) The members of the panel and its President should therefore be appointed,

HAS ADOPTED THIS DECISION:

Article 1

For a period of four years from 1 March 2010, the following shall be appointed members of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union:

Mr Jean-Marc SAUVÉ, President

Mr Peter JANN

Lord MANCE

Mr Torben MELCHIOR

Mr Péter PACZOLAY

Ms Ana PALACIO VALLELERSUNDI

Ms Virpi TIILI

Article 2

This Decision shall enter into force on 1 March 2010.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 25 February 2010.

*For the Council**The President*

A. PÉREZ RUBALCABA