

Rules of Procedure of the Judiciary Committee on Preparing for Elections

of 15 February 2023

The Judiciary Committee of the United Federal Assembly (the Committee),
based on Article 40a of the Parliament Act of 13 December 2002¹ (ParlA),
adopts the following Rules of Procedure:

Art. 1 Scope

These Rules of Procedure apply to the preparations for the election and re-election of persons pursuant to Article 40a paragraph 1 ParlA and of the President and Vice-President of the federal courts.

Art. 2 General Principles

¹ The Committee shall ensure confidentiality and equal treatment. It shall pay particular attention to the professional and personal qualifications of candidates. It shall also pay attention to language skills, political representation and gender balance.

² To pre-select the applications, it shall appoint a sub-committee for the duration of a legislature period, with one member from each parliamentary group. The term of office of the chair of the sub-committee is two years. The President of the Committee shall attend the meetings of the sub-committee in an advisory capacity.

Art. 3 Invitation for applications

¹ The Committee shall advertise vacancies for the positions listed in Article 40a paragraph 2 ParlA. It may also advertise the positions for lawyers and specialists referred to in Article 23 paragraph 2 letters b and c of the Criminal Justice Authorities Act of 19 March 2010².

² The chair of the sub-committee shall approve the text of the job advertisement, in which the following points must be stated:

- a. the main working language;
- b. the level of employment (FTE);
- c. the profile sought;
- d. the underrepresented political parties;
- e. the documents to be submitted: curriculum vitae, copies of degree certificates and employers' references, contact details of at least two referees, extracts from the debt enforcement and criminal records registers and a list of publications, if available.

³ Candidates must be eligible to vote on federal matters; this does not apply to the lawyer and specialist positions in the Supervisory Authority for the Office of the Attorney General (SA-OAG).

⁴ Advertisements shall be published in German, French and Italian in the national print media. They shall also be published on the Committee's website and in the Confederation's electronic federal jobs portal. The parliamentary groups shall be notified of the publication of the advertisement.

⁵ The Committee Secretariat shall confirm receipt of the applications and shall reject applications that do not fulfil the legal requirements. It shall forward the applications from persons who have indicated that they are members of or have close links with a particular political party to the secretariat of the parliamentary group concerned.

¹ SR 171.10

² SR 173.71

Art. 4 Pre-selection by the sub-committee

¹ The sub-committee generally meets once a quarter. It shall take note of the applications received. The Institute of Intellectual Property as well as professional organisations and interested parties active in the patent field may be consulted in connection with applications for the position of judges in the Federal Patent Court (Art. 9 para. 4 Patent Court Act of 20 March 2009³).

² The sub-committee shall designate the persons to be invited to an interview before the Committee.

³ A member of the sub-committee who does not belong to the same party as the candidate shall be instructed to obtain information from the referees named in the application.

⁴ Persons who are not selected for an interview by the sub-committee may withdraw their applications; their names do not appear on the list sent to the Committee.

⁵ The Committee members are granted access at the Committee Secretariat to all application dossiers that have not been withdrawn.

Art. 5 Interview by the Committee

¹ The Committee shall receive the applications of the persons selected by the sub-committee for an interview. It shall also receive the list of persons who have not withdrawn their applications; it may request that some of these persons be interviewed.

² The candidates must be physically present at their interviews.

³ The candidates shall introduce themselves at the beginning of the interview in the official language of their choice. Each member of the Committee may then ask questions in the official language of their choice. After the person being interviewed has left the room, the responsible member of the sub-committee shall report on the information provided by the referees.

⁴ The Committee interviews the candidates in order to assess their professional, personal, social and leadership skills.

Art. 6 Deliberations and decision-making

¹ The Committee's deliberations take place after all interviews have been concluded. If possible, the Committee decides which candidates are suitable by consensus, but otherwise by a vote.

² If there are more suitable candidates than vacancies to be filled and the Committee does not reach a consensus, a vote is held. Voting is by show of hands, or by secret ballot if so requested by at least one member of the Committee.

³ If there are more than two suitable candidates for each vacancy, the following rules apply:

- a. In the first ballot, each member of the Committee shall vote for one candidate. If no candidate achieves an absolute majority, a second ballot is held. The candidate with the fewest votes is eliminated.
- b. Ballots are held until one candidate achieves an absolute majority.
- c. Abstentions are not counted when calculating the absolute majority.

Art. 7 Consultation of the parliamentary groups

¹ The Committee shall consult the parliamentary groups before making its final decision. It shall submit an election recommendation to them, which they can comment on in the first week of the session. The secretariat shall inform the persons recommended about the procedure.

² After taking note of the opinions of the parliamentary groups, the Committee shall formulate its final election proposal by correspondence or, in the event of differences between its proposals and that of the parliamentary groups, at an additional meeting. A minority proposal may be submitted to the United Federal Assembly.

³ SR 173.41

Art. 8 Preparation for re-election

¹ No later than six months before the date of the general election, the Committee shall request the court or body concerned to send it the list of members standing for re-election.

² The Committee shall request the control committees and the Finance Delegation to bring to its attention any findings that seriously call into question the professional or personal suitability of the persons standing for re-election.

³ If any of its members submits a proposal for non-re-election, the Committee shall hear the person concerned and apply the Rules of Procedure of the Judiciary Committee of 3 March 2011⁴ on the Committee's Procedure for Removal from Office or Non-Re-election.

⁴ In accordance with Article 15 of the aforementioned Rules of Procedure, any proposal for non-re-election must be submitted at the latest at the meeting preceding the meeting at which the Committee adopts the final list of candidates it is proposing for re-election.

Art. 9 Preparations for the election of court presidents

¹ In the case of the Federal Supreme Court (Art. 15 para. 1 let. e Federal Supreme Court Act of 17 June 2005⁵), the Federal Criminal Court (Art. 53 para. 2 let. b Criminal Justice Authorities Act of 19 March 2010⁶) and the Federal Administrative Court (Art. 16 para. 1 let. f Federal Administrative Court Act of 17 June 2005⁷), the respective court assembly shall submit a proposal to the Federal Assembly for the election of the President and Vice-President.

² The Committee shall take note of the proposal of the respective court assembly and interview the persons proposed. It may request a review of the proposal or a new proposal from the court.

³ The Committee shall submit its election proposal to the United Federal Assembly; this proposal may differ from that of the respective court assembly. If this is the case, it shall at least interview the newly proposed persons and consult the court presidents.

Art. 10 Notification of election proposals

The Committee shall submit its election and re-election proposals in a report to the United Federal Assembly in the second week of the session at the latest. It shall inform the public of its proposals in a press release after the persons concerned have been notified.

Article 11 Commencement

These Rules of Procedure come into force on 15 February 2023.

15 February 2023

For the Committee

The President, Matthias Aebischer

⁴ BBl 2012 1271

⁵ SR 173.110

⁶ SR 173.71

⁷ SR 173.32