



**COUNCIL OF THE
EUROPEAN UNION**

**Brussels, 11 January 2010 (13.01)
(OR. fr)**

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COVER NOTE

from : Mr. Vassilios SKOURIS, President of the Court of Justice of the European Union
date: 11 January 2010
to: Mr. Miguel Angel MORATINOS, President of the Council of the
European Union and of the Conference of the Representatives of the Governments
of the Member States

Subject: Recommendation relating to the operating rules of the panel provided for in
Article 255 TFEU

Dear President,

As President of the Court of Justice of the European Union, I am pleased to enclose my recommendation, in accordance with Article 255 TFEU, relating to the operating rules of the panel provided for in Article 255.

I would like to take the opportunity to advise you of certain factors which have influenced me and informed this recommendation. Following the example of the operating rules of the committee which has the task of drawing up a list of candidates having the most suitable high-level experience to perform the duties of a judge of the European Union Civil Service Tribunal (the committee provided for in Article 3(3) of Annex I to the Protocol on the Statute of the Court of Justice of the European Union), I consider it appropriate that the provisions which I propose do no more than deal with the main issues likely to arise in this matter. Those issues include the powers of the panel and the relations which the panel may have with other parties. The rules which I propose therefore deal more specifically with the issues of referral to the panel, the confidentiality of its deliberations, the panel's freedom to request additional information and to convene hearings, and the presentation of the panel's opinion to the governments of the Member States meeting within the Council.

By contrast, as regards certain matters relating to how the opinions required from the panel will be produced, a degree of discretion can best be left to the panel, particularly when provisions of the TFEU offer guidance on those matters, as is the case for the evaluation criteria which the panel will have to apply when examining applications. Similarly, the voting arrangements within the panel and even the form which the panel's opinions will take can be shaped by the panel's practice as it develops in the course of examining the files relating to applications which are referred to it.

Yours sincerely,

Vassilios SKOURIS

OPERATING RULES OF THE PANEL PROVIDED FOR IN ARTICLE 255 TFEU

Mission

1. In accordance with Article 255 TFEU, the 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 TFEU and 254 TFEU.

Composition

2. 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.

Term of office

3. 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.

Presidency

4. 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.

Quorum and deliberations

5. 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*.

Referral to the panel and request for additional information

6. As soon as the government of a Member State has lodged a proposal for appointment, the General Secretariat of the Council shall send it to the President of the panel.

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

Hearing

7. Except where a proposal for appointment relates to the reappointment of a Judge or Advocate-General, the panel may decide to call the candidate to a hearing held in private.

Statement of reasons for opinion and presentation

8. 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.

At the request of the Presidency of the Council, the President of the panel shall present the panel's opinion to the governments of the Member States meeting within the Council.

Financial provisions

9. 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, No 5/67/Euratom of the Council of 25 July 1967 determining the emoluments of the President and Members of the Commission, of the President, Judges, Advocates-General and Registrar of the Court of Justice, 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 (OJ English Special Edition 1967, p. 222), as last amended by Council Regulation (EC, Euratom) No 202/2005 of 18 January 2005 (OJ 2005 L 33, p. 1). The corresponding expenditure shall be borne by the Council.
