

Translation of Liechtenstein Law

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Law
of 26 November 2003
on the Appointment of Judges
(Judicial Appointment Act, RBG)

I hereby grant My consent to the following resolution adopted by Parliament:

I. General provisions

Article 1

Object

1) This Act governs the organizational preconditions and the procedure for appointing judges in accordance with Articles 11, 95, 96, 101(1), 102(1) and (2), and 105 of the Liechtenstein Constitution.

2) Judges for the purposes of this Act include the judges of all ordinary courts (Court of Justice, Court of Appeal, Supreme Court), the Administrative Court, and the Constitutional Court.

Article 2

Designations

The designations used in this Act to denote persons and functions include persons of male and female gender alike.

II. Judicial Selection Commission

Article 3

Composition

1) A special Judicial Selection Commission (Commission) shall be appointed to select the candidates considered for appointment to a vacant judicial position. The Reigning Prince shall serve as Chairman of the Commission.

2) The Commission shall be composed of:

- a) the Reigning Prince;
- b) one representative of each electoral group represented in Parliament; these representatives are delegated by Parliament after each parliamentary election for the legislative term of Parliament;
- c) the Minister of Justice;
- d) additional members, corresponding in number to the representatives of Parliament; these members are appointed to the Commission by the Reigning Prince after each parliamentary election for the legislative term of Parliament.

Article 4

Responsibilities

1) In accordance with Articles 11, 96, 101(1), 102(1), and 105 of the Liechtenstein Constitution and pursuant to the provisions of this Act, the Commission has the responsibility to evaluate and select the candidates to be considered for appointment as judges.

2) To further specify the legislative provisions on the appointment of judges, the Commission may adopt Rules of Procedure. The Rules of Procedure shall be promulgated in the Liechtenstein Law Gazette.

Article 5

Right of proposal

1) In the case of judicial vacancies that are not announced publicly, all members of the Commission shall have the right to nominate candidates to the Commission for the selection procedure, in accordance with the statutory criteria for the announcement of the judicial vacancies to be filled.

2) The Commission shall examine whether a candidate nominated by members of the Commission meets all of the statutory criteria for a specific judicial vacancy and whether the candidate is personally suitable for performing the judicial office in question.

3) On the basis of this examination, the Commission decides on an appropriate proposal to Parliament.

Article 6

Confidentiality of deliberations

1) The deliberations of the Commission on the individual judicial candidates shall be confidential.

2) The representatives to the Commission delegated by Parliament may report to Parliament confidentially on the deliberations of the Commission in view of the consideration of this business item in a non-public meeting of Parliament. Likewise, the Minister of Justice may report to the Government confidentially on the deliberations of the Commission.

Article 7

Compensation for members of the Commission

1) The Reigning Prince and the Minister of Justice do not receive separate compensation for their work in the Commission.

2) The compensation for the members of Parliament delegated to the Commission shall be governed *mutatis mutandis* by Article 2 of the Law on the Remuneration of Members of Parliament and on Contributions to the Electoral Groups represented in Parliament.

3) The compensation for the members of the Commission appointed by the Reigning Prince shall be governed *mutatis mutandis* by the relevant provisions of the Law on the Remuneration of Government

Ministers and Members of Commissions as well as Part-Time Judges and Ad Hoc Judges applicable to the members of commissions.¹

III. Commencement of selection procedure and procedure within the Commission

Article 8

Convening and meetings

- 1) The Commission is convened as needed by the Chairman.
- 2) The Commission may also be convened at the request of the Government, which notifies the Commission in a timely manner when judicial vacancies must be filled.
- 3) The meetings of the Commission must be scheduled in such a way that there is sufficient time to assess the individual candidates and that the judicial vacancies can be filled in a timely manner even if there is a mutual agreement procedure between the Commission and Parliament or if there is a popular election of judges.

Article 9

Public announcement

- 1) Full-time judicial vacancies must be announced publicly in all cases. The Commission may decide to announce other judicial vacancies publicly as well. The Government is responsible for the announcements.
- 2) The Government shall notify the Commission of the outcome of the public announcement. The notification shall include a list of the applicants and the application materials.
- 3) Candidates who do not meet the conditions set out in the announcement may be labelled accordingly by the Government in its notification to the Commission.
- 4) In the case of judicial vacancies that are not announced publicly, the candidates shall be nominated by the members of the Commission (Article 5).

¹ Article 7(3) amended by LGBl. 2014 No. 347.

Article 10

Deliberation

1) The Commission shall deliberate on the candidates determined through the public announcement or nominated in accordance with Article 5 and may invite the candidates for interviews.

2) In its deliberations, selection, and decision on the proposal of candidates to Parliament, the Commission shall be guided by the statutory criteria for the appointment of judges and, as set out in the announcement, the principle of qualification. The Commission shall also evaluate the personal suitability of a candidate for the judicial position.

Article 11

Vote and decision on the proposal

1) The Commission shall decide by a simple majority on the selection of candidates for specific judicial vacancies to be proposed to Parliament for election. The Commission has a quorum if at least three quarters of the members are present. In the case of a tie vote, the Reigning Prince as Chairman shall have the deciding vote. The Commission may propose candidates to Parliament only with the consent of the Reigning Prince.

2) In urgent cases or for routine business, decisions may be taken by circular. For a circular decision to be valid, all members of the Commission must agree in writing that the decision may be taken by circular. Paragraph 1 applies to the decision itself.

Article 12

Proposal to Parliament

After the conclusion of a selection procedure, the Commission communicates its proposal to Parliament in writing, gives reasons for its decision, and provides information on the qualifications of the proposed candidate. This report shall be made public. The Commission may also propose more than one suitable candidate for selection for a judicial vacancy.

IV. Election of judges by Parliament

Article 13

Procedure for the election of proposed candidates

- 1) Parliament shall elect the judges to be appointed by a simple majority from among the candidates proposed by the Commission.
- 2) Parliament shall communicate the result of the election to the Reigning Prince and the Commission.
- 3) The Reigning Prince shall appoint the candidates proposed by the Commission and elected by Parliament as judges.

Article 14

Procedure in the event that all proposed candidates are rejected

- 1) If Parliament rejects the candidates proposed by the Commission under Article 12, then Parliament shall notify the Commission of its decision immediately.
- 2) The notification to the Commission shall contain the result of the vote. The notification shall be accompanied by an excerpt from the minutes of the discussion held in the public meeting of Parliament.
- 3) If no agreement can be reached within four weeks between the Commission and Parliament on a new candidate, then Parliament must propose an opposing candidate and schedule a popular vote (Article 96(2) of the Liechtenstein Constitution).

V. Popular election of judges

Article 15

Scheduling of a popular vote

1) If Parliament and the Commission are unable to reach an agreement, then Parliament shall notify the Government for the purpose of conducting a popular vote without delay. The Government shall announce the scheduling of the popular vote in the official publication venues.

2) By way of its official announcement, the Government shall schedule the date for the popular vote so that there is sufficient time for the people to submit election proposals, but also so that the election can nevertheless be held as quickly as possible. In any event, the popular vote must take place at the latest four months after the official announcement.

Article 16

Candidates

1) The candidates available for election shall be:

- a) a candidate proposed by the Commission;
- b) an opposing candidate proposed by Parliament;
- c) any candidates proposed by the people for election.

2) Submission of the election proposals by the people shall be governed by Article 86a of the Law on the Exercise of Political Rights in National Matters.

Article 17

Popular election and appointment

1) The Government shall present the candidates standing for election to the Liechtenstein citizens eligible to vote by way of an information brochure. The brochure shall contain a description of the judicial vacancy to be filled, the statutory criteria for appointment as a judge, the conditions set out in the announcement of the judicial position, and information about the qualifications of the individual candidates that is relevant to performance of the judicial office under consideration.

2) The candidate shall be deemed elected who wins an absolute majority of the valid votes.

3) If more than two candidates are available and if neither of the candidates reaches an absolute majority in the first voting round, then a second voting round shall be held for the two candidates who received the most votes in the first round in accordance with Article 113(2) of the Liechtenstein Constitution.

4) The candidate elected by the people shall be appointed as judge by the Reigning Prince.

VI. Final provision

Article 18

Entry into force

- 1) This Act shall enter into force on the day of its promulgation.
- 2) After entry into force of this Act, the Judicial Selection Commission shall be constituted for the first time.
- 3) The new appointment procedure for judges shall be applied for the first time after expiry of the current terms of office for the individual courts.

signed *Hans-Adam*

signed *Otmar Hasler*
Prime Minister