

**2023 ICC Judicial Elections
Questionnaire to nominating States**

**Nominating state: Estonia
Date: 20.07.2023**

1. Which Rome Statute procedure was followed to nominate your judicial candidate:
The procedure for the nomination of candidates for appointment to the highest judicial offices (Art. 36.4 (a)(i) Rome Statute); or
The procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court (Art. 36.4 (a)(ii) Rome Statute)?

Estonia has followed the procedure for the nomination of candidates for appointment to the highest judicial offices (Art. 36.4 (a)(i) Rome Statute).

2. What are the rules or the national legal framework for nominating judges to the ICC? Please indicate the date of adoption and references, and share a link(s) or the text(s).

In Estonia, the selection and nomination procedure of judges to international courts is regulated by the Foreign Relations Act, which was passed by the parliament on 15 June 2006. The Act in English is accessible here: <https://www.riigiteataja.ee/en/eli/ee/501022017002/consolide/current>

Section 9 of the Foreign Relations Act stipulates the competence of the Ministry of Foreign Affairs and its subsection 9 determines the nomination procedure to international courts. The Minister of Foreign Affairs, coordinating with the Minister of Justice and after having heard the opinion of the Chief Justice of the Supreme Court, the Chancellor of Justice and the Secretary of State, presents candidates for judges of international courts to the Government of the Republic for approval.

3. What are the criteria and requirements to select candidate judges to the ICC? What are the key steps in the nomination procedure?

The Minister of Foreign Affairs forms a special selection panel to determine the best candidate to be presented to the Government for nomination to the international court. The selection panel consists of the Minister of Foreign Affairs, the Minister of Justice and the Chief Justice of the Supreme Court, the Chancellor of Justice and the Secretary of State or representatives appointed by them. The Minister of Foreign Affairs approves the rules of procedure of the selection panel and distributes them to the members of the panel.

The selection panel reviews the applications received and makes a shortlist of candidates who will be invited to interviews. After having heard the candidates in person, the panel deliberates and decides on the best candidate who is then presented to the Government for approval. The secretary of the panel prepares the minutes of the hearing of the candidates. The minutes are submitted to the Government together with the proposal.

The panel makes decisions by a simple majority, but the Minister of Foreign Affairs and the Minister of Justice or their representatives must cast their vote in favour of the candidate. The panel usually decides by consensus.

The panel presents to the Government the reasons why such a decision was made and why the proposed candidate is the best and how he/she satisfies the requirements of an international judge. The Government makes the final decision and approves the best candidate for the post of the international judge. Thereafter the Ministry of Foreign Affairs officially submits the nomination to the international court.

4. Does the selection procedure include a public call for applications or a vacancy announcement for the position of ICC candidate judge? If so, please indicate when and where it was advertised, and whether any other steps of the selection process were made public (including the total number of applicants).

The Ministry of Foreign Affairs officially initiates the selection procedure by announcing an open competition to a position of an international judge and inviting applications through a public advertisement with broad distribution of information in the media and social media, with particular emphasis on professional media channels. The public advertisement was widely published in October, 2022, in addition the Ministry of Foreign Affairs forwarded it directly to the judiciary and professional associations at the same time.

5. Does the selection procedure include an assessment by an independent body to scrutinize the candidates' qualifications? If so, please provide more information on the members of the body and their mandate.

Please see the answer to Q 3.

6. Does the selection procedure include an assessment of the Rome Statute requirement of "high moral character" (article 36), by means of a due diligence or vetting procedure, with the review of background information and a confidential mechanism to receive complaints and allegations about candidates?

In the public advertisement calling for submission of candidates, the requirements of the Rome Statute including "high moral character" were conditions for prospective candidates. The selection panel, in addition to professional requirements, also reviewed whether a candidate fulfils the requirement of "high moral character".

7. Did you consult with the judiciary, professional associations, NGOs and other civil society bodies at any stage of the procedure, including to submit views on the candidates? If so, which actors and at what stage(s)?

Please see the answers to Q 3-4. The judiciary and professional associations were informed about an open competition to selection and nomination of a candidate to a judge of the ICC and inviting applications. Professional organizations and relevant associations/unions and the candidate's

current and previous workplaces were informed about due diligence process of the ICC and the confidential reporting channel for the submission of information on alleged misconduct.

8. What other steps or measures were put in place to ensure that the nomination process was fair, merit-based, and transparent?

The selection and nomination procedure of judges to international courts is regulated by the law. The aim of the national selection procedure is to ensure fair and merit-based procedure with the greatest possible transparency in nominating the candidate for a judge at an international court.