

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

**Nominating state:** Germany  
**Date:** 27/07/2023

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)?

*Germany has opted for the procedure whereby candidates are nominated by the German national group in the Permanent Court of Arbitration, in accordance with Article 4, para. 1 of the Statute of the International Court of Justice, which regulates the procedure for the nomination of candidates for that Court.*

*With regard to the other procedural option for nominating candidates for election to the ICC, Germany would like to note that Judge Hohoff was approved for her current office, as sitting Judge at Germany's Federal Court of Justice, in accordance with the national procedure that is applicable to the nomination of candidates for appointment to the highest judicial offices in Germany.*

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).

*The process leading up to the nomination of a candidate for the elections to take place at the Assembly of States Parties in 2023 involved multiple stages:*

*The Federal Foreign Office conducted a thorough internal inter-agency process that included the Federal Ministry of Justice in order to identify the potential candidates who would best fulfil the prerequisites established in article 36 of the Rome Statute. The challenges currently faced by the ICC led Germany to take the view that a practitioner with longstanding courtroom experience in cases relating to transnational and international criminal law would be of crucial importance for the optimal functioning of the ICC. Germany therefore decided that it would aim to present a high-ranking, experienced criminal law judge as a candidate for election to the ICC. The Federal Foreign Office, as the lead ministry, shared the result of the inter-agency process with the German national group in the Permanent Court of Arbitration.*

*On 21 April 2022, the spokesperson for the German group in the Permanent Court of Arbitration, Prof. Dr. iur. Stefan Oeter, informed the German Government that the group had, after careful deliberation, unanimously decided to nominate Judge Dr Ute Hohoff as a candidate (see attachment).*

*Given the political importance that Germany attributes to any candidacy for the International Criminal Court, the candidacy of Judge Hohoff was formally submitted to the Federal Cabinet in June 2022. The*

*Federal Cabinet approved her candidacy, meaning that it is officially endorsed at the highest level by the Government of the Federal Republic of Germany.*

*On 21 February 2023, the spokesperson for the German group in the Permanent Court of Arbitration then informed the President of the Assembly of States Parties that it was nominating Judge Hohoff as a candidate for election (see attachment). The Embassy of the Federal Republic of Germany forwarded this letter, together with other relevant information, to the Secretariat of the Assembly of States Parties in its Note Verbale communicating the nomination of Judge Hohoff.*

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

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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 selection procedure does not include a public call for applications or a vacancy announcement.*

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.

*As Germany follows 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), candidates are nominated by the German national group in the Permanent Court of Arbitration. The members of the national*

*group are independent and act in their personal capacity. According to article 44 of the 1907 Convention for the Pacific Settlement of International Disputes, these persons must be of known competency in questions of international law and of the highest moral reputation. The German national group in the Permanent Court of Arbitration is currently composed of a Judge at the German Constitutional Court and three highly respected members of the German academia. It is equally composed of women and men.*

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?

*The Federal Foreign Office has thoroughly assessed that candidates submitted for consideration to the German Group in the Permanent Court of Arbitration fulfil the necessary requirements according to article 36 Rome Statute, including the requirement of “high moral character”. In deciding upon the nomination of the German candidate, the German group in the Permanent Court of Arbitration has equally thoroughly assessed whether the nominee fulfils the necessary requirements including the requirement of “high moral character”. For more details, see the statement of qualifications submitted to the ASP-ICC (see attachment).*

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)?

*Germany has chosen the nomination procedure whereby the national group in the Permanent Court of Arbitration, whose members are themselves persons of the highest moral reputation (see answer to question 5) nominate judicial candidates, in order to ensure an impartial and independent selection. The German judicial candidate, Judge Hohoff, has been approved as a judge at Germany’s Federal Court of Justice in accordance with the national procedure that is applicable to the nomination of candidates for appointment to the highest judicial offices in Germany. The president of the German Federal Court of Justice (Bundesgerichtshof), Bettina Limperg, was consulted during the selection procedure.*

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

*The Federal Foreign Office did suggest to the German group in the Permanent Court of Arbitration that a high-ranking, experienced criminal law judge would be of crucial importance for the optimal functioning of the ICC. Members of the German judiciary are elected and promoted strictly based on merits, which is mandated by Article 97 (1) and 33 (2) of the German Basic Law (Constitution). As a long-standing member of the German Judiciary, the German nominee, Judge Hohoff, has repeatedly been promoted based on her professional and personal merits.*