

2023 ICC Judicial Elections

Questionnaire to nominating States

Nominating state: Government of Mongolia

Date: 24 August 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)?

The Government of Mongolia has nominated the Honorable Justice Erdenebalsuren Damdin in accordance with the procedure for the nomination of candidates for appointment to the highest judicial offices as stipulated in Art. 36.4 (a)(i) of the Rome Statute of the International Criminal Court.

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 accordance with the national legal framework, the nomination of judges to the International Criminal Court is governed by the Constitution of Mongolia, Law on Judiciary, and Rules of the Session of the Assembly of Justices of the Supreme Court.

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

Pursuant to Art. 36.4 (a)(i) of the Rome Statute of the International Criminal Court, the Government of Mongolia adopts the nomination procedure used for the highest judicial appointments when nominating judicial candidates.

Article 51 of the Constitution of Mongolia stipulates that an individual must be at least thirty-five years of age, possess higher education in law, and have a professional legal career spanning no less than 10 years to be considered for appointment as a Justice of the Supreme Court. Furthermore, the Law on Judiciary augments these criteria by requiring the candidate to have a clean criminal record, be in good health, demonstrate a high moral character, and successfully pass the national judicial exam. This examination encompasses both written assessments and interviews.

The Judicial General Council of Mongolia, an independent body, has the mandate to advise on the selection of judges. This Council oversees the administration of the national judicial exams, evaluates candidates' credentials, and conducts comprehensive due diligence on each candidate.

Judicial candidates for the Supreme Court, once approved by the Judicial General Council, proceed to a public hearing in Parliament. During this phase, Parliament not only invites but also actively encourages professional associations, NGOs, and other civil society organizations to express their views on the nominees.

Post-hearing, qualified candidates are presented to the President, who then makes the final appointment to the Supreme Court.

Upon the announcement from the Secretariat of the Assembly of States Parties of the International Criminal Court regarding the Nomination period of Judges is made public, every individual is granted the opportunity to voice their interest in the candidacy by liaising with the Ministry of Foreign Affairs.

As outlined in the Law on Judiciary and the Rules of the Session of the Assembly of Justices of the Supreme Court, the Assembly, upon receiving qualified nominations, convenes an election for the judicial candidate nomination to the International Criminal Court. A majority of the Justices cast vote for the most qualified candidate. After a candidate secures the majority votes, the decision is presented to the President.

Honorable Justice Erdenebalsuren Damdin is a distinguished sitting Justice of the Supreme Court. He has met all criteria and requirements outlined in our national legal framework, possesses the qualifications mandated by the Rome Statute of the International Criminal Court, and was unanimously elected for nomination by the Assembly of Justices of the Supreme Court. His nomination has been formally endorsed by the President.

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).

Please refer to the answer of question 3.

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 refer to the answer of question 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?

Please refer to the answer of question 3.

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 refer to the answer of question 3.

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

Please refer to the answer of question 3.