

2023 ICC Judicial Elections

Questionnaire to nominating States

Nominating state: Romania

Date: July 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)?

Romania's candidate for the ICC judicial elections was selected under a competitive, transparent and merit-based procedure approved by the Government of Romania and published on the websites of the Ministry of Foreign Affairs, the Ministry of Justice, the Superior Council of Magistracy and the High Court of Cassation and Justice.

The selection procedure comprised several stages and involved several national authorities, as described below. The candidate was finally confirmed by decision of the Government of Romania.

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).

On 15 November 2022, the Government of Romania approved the Procedure for the nomination of the Romanian candidate for the position of judge at the International Criminal Court ("*the Procedure*").

The Procedure was published on the websites of the Ministry of Foreign Affairs, the Ministry of Justice, the Superior Council of Magistracy and the High Court of Cassation and Justice.

Please find below the relevant links (in Romanian):

https://www.mae.ro/sites/default/files/file/anul_2022/2022_pdf/anunt_selectie_candidat_romania_alegeri_curtea_penala_internationala_22.12.2022.pdf

<https://www.just.ro/anunt-referitor-la-selectia-candidatului-romaniei-pentru-functia-de-judecator-la-curtea-penala-internationala/>

<https://www.iccj.ro/wp-content/uploads/2022/12/Anunt-selectie-candidat-Romania-alegeri-Curtea-Penala-Internationala.pdf>

<https://www.csm1909.ro/ViewFile.ashx?guid=323bc2dc-f691-4840-9b68-796e639751b5-InfoCSM>

A translation of the Procedure is attached to this questionnaire.

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

The selection was made in accordance with Article 6 paragraph (6) point (3) of the Procedure, on the basis of the following criteria:

- a) the candidate's legal qualifications and knowledge of the Rome Statute of the International Criminal Court and ICC case-law;
- b) professional experience;
- c) ability to perform judicial functions;
- d) language skills;
- e) ability to work in a multicultural environment reflecting different legal systems;
- f) absence of any doubt as to the candidate's independence, impartiality, probity and integrity.

The public call for applications and the Procedure for the nomination of the Romanian candidate for the position of judge at the International Criminal Court were published on the websites of the Ministry of Foreign Affairs, the Ministry of Justice, the Superior Council of Magistracy and the High Court of Cassation and Justice.

Please find below the relevant links:

https://www.mae.ro/sites/default/files/file/anul_2022/2022_pdf/anunt_selectie_candidat_romania_alegeri_curtea_penala_internationala_22.12.2022.pdf

<https://www.just.ro/anunt-referitor-la-selectia-candidatului-romaniei-pentru-functia-de-judecator-la-curtea-penala-internationala/>

<https://www.iccj.ro/wp-content/uploads/2022/12/Anunt-selectie-candidat-Romania-alegeri-Curtea-Penala-Internationala.pdf>

<https://www.csm1909.ro/ViewFile.ashx?guid=64ae9f6d-e5fc-4877-8fa0-1200cbe37e95-InfoCSM>

The applications submitted were examined by the Selection Committee, in accordance with Article 5 paragraph 2 of the Procedure. 4 candidates were pre-selected on the basis of the criteria defined by article 36 paragraph 3 of the Rome Statute. The results of this stage were also published on the websites of the Ministry of Foreign Affairs, the Ministry of Justice, the Superior Council of Magistracy and the High Court of Cassation and Justice.

Please find below the relevant links:

https://www.mae.ro/sites/default/files/file/anul_2023/pdf_2023/anun%C8%9B_interviu_final.pdf

<https://www.just.ro/anunt-referitor-la-selectia-candidatului-romaniei-pentru-functia-de-judecator-la-curtea-penala-internationala>

<https://www.iccj.ro/wp-content/uploads/2023/01/Anunt-interviu.pdf>

<https://www.csm1909.ro/ViewFile.ashx?guid=a8c1966d-062a-4473-bcc6-6ef6fc59cb4d-InfoCSM>

The individual interviews were held on 30 January 2023, according to the schedule below:

https://www.mae.ro/sites/default/files/file/anul_2023/pdf_2023/anun%C8%9B_interviu_cpi_300123.pdf

<https://www.iccj.ro/wp-content/uploads/2023/01/Anunt-interviu-CPI-300123.pdf>

<https://www.csm1909.ro/ViewFile.ashx?guid=7982d552-8d27-4500-8a80-78b0c181cbc3-InfoCSM>

The Government of Romania approved the proposal of the Selection Committee. The results were published on the website of the Ministry of Foreign Affairs.

The final results were published on the website of the Ministry of Foreign Affairs:

https://www.mae.ro/sites/default/files/file/anul_2023/pdf_2023/2023.03.24_anun%C8%9B_rezultate_procedur%C4%83_selec%C8%9Bie_cpi.pdf

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).

Yes. Please see the answer above.

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.

The Selection Committee was composed of the following members:

- Secretary of State for Global Affairs and Diplomatic Strategies, Ministry of Foreign Affairs (MFA), President of the Commission;
- Secretary of State, Ministry of Justice (MoJ), Vice-President of the Commission;
- President of the Superior Council of Magistracy, member;
- Judge, High Court of Cassation and Justice, member;
- Director General, Legal Affairs Department, MFA, member;
- Director, Directorate of International Law and Judicial Cooperation, MoJ, member;
- Lecturer, Faculty of Law, University of Bucharest, member.

According to Art. 2 paragraph (5) of the Procedure *"The members of the Committee shall exercise their mandate individually and independently."*

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?

As mentioned above, one of the criteria taken into account was related to *"absence of any doubt as to the candidate's independence, impartiality, probity and integrity."* (Article 6 paragraph (6) point (3) letter f of the Procedure).

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)?

The Selection Committee has included the President of the Superior Council of Magistracy and a Judge

from the High Court of Cassation and Justice, besides the two representatives of the Ministry of Justice (the Secretary of State and the Director of the Directorate of International Law and Judicial Cooperation).

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

Besides the elements mentioned above, which, in our view, fully ensured that the nomination process was fair, merit-based, and transparent:

- For the procedures of hearing, deliberation, selection of candidates, the Committee was validly convened in the presence of *all* members
- All decisions in the Committee were taken by written procedure
- There were clear deadlines for all stages of the Procedure, which were fully observed.

A translation of the Procedure is attached to this questionnaire.