

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

**Nominating state: SLOVENIA**

**Date: 24 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)?

To nominate the Slovenian judicial candidate, Ms Beti Hohler, the procedure for the nomination of candidates for appointment to the highest judicial offices (Art. 36.4 (a)(i) Rome Statute) was followed.

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 selection procedure in Slovenia for nominating judges for all international courts, including the ICC, is regulated by a specific act adopted by the National Assembly (i. e. Parliament) – the **Act on nomination of candidates from the Republic of Slovenia for judges at international courts** (adopted on 17 July 2001; amended on 21 June 2002; Official Gazette, 64/01 and 59/02).

Link to the Act (in Slovenian language):

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2460>

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

The *Act on nomination of candidates from the Republic of Slovenia for judges at international courts* (“*Nomination Act*”) establishes a nomination procedure that includes multiple stages and involves several national authorities: the Ministry of Justice, the President of the Republic, the Government, the Judicial Council and the National Assembly.

Article 3 of the Nomination Act stipulates that Slovenia’s candidates to international courts must fulfil the statutory requirements for judicial appointment to the Supreme Court of the Republic of Slovenia or the Constitutional Court of the Republic of Slovenia and must be fluent in at least one of the official languages of the respective international court or tribunal. In addition, pursuant to Article 2 of the Nomination Act, the candidates must also satisfy specific conditions set out in the founding documents of the respective international court or in a binding international treaty. In accordance with Article 4 of the Nomination Act, the Ministry of Justice of the Republic of Slovenia (hereinafter: the Ministry) is the authority initiating and overseeing the nomination process in Slovenia.

In accordance with the Nomination Act, the Ministry issues a public call for applications for a vacant judicial position at an international court. The call for applications is published in the Official Gazette of the Republic of Slovenia and the application period must not be shorter than 15 days. Along with their applications, the candidates must provide evidence of satisfying the application requirements and provide a detailed description of their professional activity subsequent to their latest professional or academic title. Applications that are submitted on time and that fulfil the formal requirements are thereafter transferred to the President of the Republic of Slovenia. The next step in the procedure is the assessment of the applicants by the Judicial Council of Slovenia and the Government of Slovenia. After obtaining the assessments of the applicants from the Government of the Republic of Slovenia and the Judicial Council of the Republic of Slovenia, the President of the Republic nominates one or more candidates for each vacant judicial post and submits a reasoned proposal to the National Assembly of the Republic of Slovenia. The President must provide detailed reasoning underlying his or her nomination. In the National Assembly of the Republic of Slovenia the President's nomination and his or her reasoning are presented and debated by the National Assembly, who thereafter decides whether to support the nomination or not through a secret ballot. For a nomination to be confirmed, a vote of absolute majority in the National Assembly is required (i.e. a total of at least 46 votes in a 90-seat National Assembly).

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).

According to paragraph 3 of the Article 4 of the Nomination Act, the call for applications must be published in the Official Gazette of the Republic of Slovenia.

On 8 July 2022, the Ministry published the call for applications for ICC Judicial Elections 2023 in the Official Gazette (Official Gazette of the Republic of Slovenia no. 92, 8 July 2022, p. 1790), available also online<sup>1</sup>. The deadline for applications was set to 30 days (i.e. double the prescribed minimum period). The call was also publicised on the website of the Ministry and disseminated within judiciary and the law faculties. Furthermore, it was referenced in the widely read professional weekly 'Legal Practice'.

All steps of the procedure are public. Namely, the Judicial Council issues a reasoned opinion that is made public, the President makes the nomination publicly and the President's reasoned motivation for the nomination is also public. The session of the National Assembly where the nomination is discussed and voted on is also public.

The Ministry received two applications in this competition.

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<sup>1</sup> <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2022009200009/eno-mesto-kandidata-za-sodnika-na-mednarodnem-kazenskem-sodiscu-v-haagu-za-mandat-od-leta-2024-dalje--st--110-420222-ob-269222?h=razpis>

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 mentioned above, the Judicial Council is one of the stakeholders actively involved in the nomination procedure. The Judicial Council of the Republic of Slovenia is an autonomous and independent authority, which performs tasks determined by the law, protects the autonomy and independence of the judiciary, and ensures the quality of work of courts and judges and the public reputation of the judiciary (paragraph 1 of Article 2 of the Judicial Council Act).

The Judicial Council is a state authority *sui generis*, which cannot be classified into any of the three branches of government. Its general role and powers are set out in Articles 130, 131 and 132 of the Constitution of the Republic of Slovenia. Specifically, its status, powers, organisation and composition, the procedure and conditions for the election of its members, the duration of members terms of office and termination thereof, and other issues connected with the functioning of the Judicial Council are regulated by the *Judicial Council Act*.

Within its powers, the Judicial Council decides autonomously in an authoritative and professional manner, and thus independently of the three constitutionally defined branches of government, thereby decisively contributing to ensuring the independence of the judiciary and of the judges and ensuring that the exercise of judicial power meets the highest standards. The Judicial Council is comprised of eleven members. The National Assembly elects five members on the proposal of the President of the Republic amongst university professors of law, attorneys, and other lawyers, whereas judges holding permanent judicial office elect the remaining six members amongst their own ranks: one member is elected by judges of the Supreme Court of the Republic of Slovenia, one member by judges of the Courts of Appeal, one member by judges of District Courts, one by judges of Municipal Courts and two members are elected by all judges.

The function of the Judicial Council member is performed on an honorary and non-professional basis. A member of the Judicial Council participating in the Council's work is not held accountable for any opinion expressed during decision-making.

The term of office of a member of the Judicial Council is six years. Every three years, two or three members of the Judicial Council are elected by the National Assembly and three members of the Judicial Council are elected amongst the judges performing a permanent judicial function.

The president and vice-president of the Judicial Council are elected by members of the Council by secret ballot and with a two-thirds majority. The President represents the Judicial Council, manages its work and steers the cooperation of the Judicial Council with other bodies. The Vice-President stands in for the President in his or her absence.

Composition of the Judicial Council in the term 2021–2024:

President:

Vladimir Horvat, Supreme Court Senior Judge, Supreme Court of the Republic of Slovenia

Vice-President:

dr. Urška Kežmah, Attorney, Maribor

Members:

Martina Colnar, Local Court Senior Judge, Ljubljana Local Court

Andrej Razdrih, Attorney, Ljubljana

mag. Jonika Marflak Trontelj, Higher Court Senior Judge, Administrative Court of the Republic of Slovenia

Frida Burkelc, Higher Court Judge, Celje District Court

Milan Petek, District Court Judge, Nova Gorica Local Court

dr. Erik Kerševan, Supreme Court Senior Judge, Supreme Court of the Republic of Slovenia

Andrej Rozman, Notary (retired), Idrija

mag. Emil Zakonjšek, Attorney, Ljubljana

dr. Saša Prelič, Professor, Faculty of Law, University of Maribor

Judicial Council website: <http://www.sodni-svet.si/#/eng>

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?

Requirements in Article 36(3)(a), (b) and (c) of the Rome Statute, in accordance with Article 36(4)(a) of the Rome Statute were specifically listed in the public call as conditions for the application.

When forming an opinion on individual candidates, the Judicial Council takes into account the entire documentation provided with the Application and generally known facts, and in this context also assesses the personal suitability of the candidates according to Article 2a of the Judicial Service Act in connection with Article 3 of the Nomination Act.

The Judicial Council assessed Ms Beti Hohler as personally suitable and highly professionally qualified for the position of ICC Judge.

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)?

Representatives of the different court instances, university professors of law, attorneys, and other lawyers are members of the Judicial Council, therefore it is considered that judiciary and professional associations have been consulted.

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

The decisions and opinions of the Judicial Council about the candidates are publicly available, including the result of a vote on such opinions and a short justification.

The reasoned proposal of the President of the Republic was presented to the National Assembly of the Republic of Slovenia before the vote on the nominee for an international court judge. The discussions within the National Assembly and the result of the secret-ballot vote, as indicated above, were also public.

According to the Council of Europe Steering Committee for Human Rights (Drafting Group on issues relating to judges of the European Court of Human Rights) Slovenian procedure and above mentioned Nomination act has been highlighted as an example of good practice (see page 3 at the following link: <https://rm.coe.int/updated-examples-of-good-practice-in-relation-to-the-guidelines-of-the/1680a9775b>).

Finally, the nomination of Ms Hohler prior to her confirmation in the National Assembly (as well as afterwards) was widely reported in the Slovenian media.