

2023 ICC Judicial Elections

Questionnaire to nominating States

Nominating state: North Macedonia

Date: 18.08.2023

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 procedure that was followed is according to Article 36.4 (a)(i) of the 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).**

North Macedonia does not have a separate legal framework or established rules of procedure for nominating candidates for international courts. Therefore, for the purposes of this nomination, which is a first one from the country, the process was organized under the terms of article 36, paragraph 4(a) (i), of the Rome Statute, and in accordance with the Constitution of the Republic of North Macedonia (Article 105, as amended by Amendment XXIX), Law on Courts, Law on Judicial Council and national Rules of Procedure of the Republic of North Macedonia for nomination of candidates for judges of the Constitutional Court and of the Supreme Court.

- The Constitution of the Republic of North Macedonia (Official Gazette No. 52/91, 1/92, 31/98, 91/01, 84/03, 107/05, 3/09 and 49/11);
- The Law on Courts (Official Gazette No.58/06, 62/06, 35/08, 83/18, 198/18 and 96/19);
- The Law on Judicial Council on Republic of North Macedonia (Official Gazette No. 102/19);
- The Law on judicial service (Official Gazette No. 43/14, 33/15, 98/15, 6/16, 198/18, 248/18 and 235/22);

For this specific nomination, which was initiated by the Ministry of Foreign Affairs, the Judicial Council established the nomination in a transparent procedure based on a merit system (decision No. 03-577/2). The proposal for nomination and the decision was made at the public plenary meeting of the Judicial Council, in the presence of journalists and non-governmental associations. This information was broadly disseminated by the media, with strongly positive support from the public. The nomination was supported also by the President of the State, who according to the Constitution proposes to the Parliament two members of the Constitutional Court. Throughout the process there has continuously been strong coverage and support by the media. The publicity and transparency of the procedure of nomination is acknowledged also by the broad support from a number of civil society organizations that are focused on criminal procedures and criminal courts.

The proposal for nomination and decision derive from the very competences of the Judicial Council (JC) in North Macedonia. The Judicial Council (JC) is independent from the executive and legislative branches, and therefore, a guarantor of the independence of the judiciary. Pursuant to Amendment XXVIII of the Constitution and Article 2 of the Law on the Judicial Council, since 2006, the JC is functioning as an independent and autonomous body of the judiciary whose main function and purpose is to guarantee the independence and autonomy of the judiciary.

The JC has a mixed composition of 15 members out of which: 8 members are elected by judges from their ranks, 3 members are elected by the Assembly, another 2 members are proposed by the President of the Republic and elected by the Assembly. The last two members are the President of the Supreme Court and the Minister of Justice who participate in the work of the Council ex officio without voting rights.

This Council is the only authority responsible for the election/appointment of judges to all the courts of the country, including to the Highest court – the Supreme Court, as well as for nominating two candidates for the Constitutional Court (who are subsequently elected by the Parliament). The JC, in addition to electing and appointing judges, has many other competences in the field of the judiciary that enable it to have full overview within the hierarchy of judges and courts, from the first instance courts up to the Supreme Court.

For example, the JC decides on the dismissal of judges, monitoring and evaluating the work of judges, decides on determining the disciplinary responsibility of a judge and court president; decides on revocation of the immunity of a judge and decides upon requests for approval of a judge's detention; reviews the annual report of the Supreme Court on the established principle positions and principle legal opinions on matters of importance for ensuring unity in the application of laws; decides on the temporary removal of a judge from performing their function and a member of the Judicial Council from performing their function; determines the number of necessary judicial posts per court; reviews and evaluates the quarterly and annual reports on the work of the courts and publishes them publicly on its website; acts on written submissions and complaints of citizens and legal entities about the work of judges, presidents of courts and courts; takes care of the reputation of judges and citizens' trust in the judiciary; and submits an annual report on the work.

Bearing these competences in mind, the JC is the only body that can take merited decisions regarding nomination of judges, be it for promotion to a higher court, or as in this case – deciding to nominate a judge for an international court. Hence, the national legal framework of the Republic of North Macedonia requires that nominations for judge to the ICC must be taken by the Judicial Council of the Republic of North Macedonia.

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

As mentioned above, the criteria and requirements for candidate judges to the ICC are the same as the criteria and requirements for judges of the highest national courts. It is to be noted that the candidate

from North Macedonia is already sitting as a judge at the Macedonian Supreme Court, confirming her fulfilment of the requirements to be nominated as a candidate judge to the ICC.

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 nomination is done according to the procedure provided for nominations of highest court of the country. In this regard, the selection process does not include a public call for applications or a vacancy announcement for the position. However, the Judicial Council having the competence of overseeing the work of all judges in the country (around 430 at the moment), it has a strong competence in determining potential candidates for this nomination based on their qualifications, experience, integrity demonstrated, complexity of cases handled, and other criteria. It is also to be noted, that the nomination procedure was highly followed by media and civil society, and the final merit based decision is publicly available (decision No. 03-577/2).

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 scrutiny and examination of the candidates' qualifications are done by the Judicial Council. The latter independence and impartiality is guaranteed by the constitution, it is not under control of the government or any other state body. The sessions of the Judicial Council are open to public, and its work has been continuously monitored by media, OCSE, NGOs working on judicial reforms, rule of law, anticorruption and related issues. The Judicial Council's mandate and composition was detailed above.

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 explained in answers under questions 2 and 4, the JC is the body that evaluates if a judge fulfills necessary criteria to be nominated in the highest courts. Among the criteria that a judge should meet is the criteria that a person has good reputation from performing judicial function, has enough professional knowledge and specialization, has demonstrated credibility and integrity in their work, including respecting the legal deadlines in procedural steps and also in making decision, preparing decisions, number of decided cases (consideration is given to the complexity of the cases), ability to address different legal issues while dealing with the case and making a decision (judgement) etc. The JC has a mechanism to receive and consider the actio popularis initiative - written submissions and complaints of citizens and legal entities about the work of judges, presidents of courts and courts; which gives the JC additional tool in assessment of the quality of judges.

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)?

As per reply to question no. 2, these bodies follow the work of Judicial Council and are present during its sessions and often give their assessment, comments or evaluations on its work publicly.

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

As mentioned prior, the session of JC where the decision was taken to nominate the candidate for position of judge of the ICC was held publicly and it was keenly followed by representatives of media, NGOs, legal professionals etc. Media coverage of the nomination was very favorable, and NGOs also reflected positive feedback regarding the nomination.

Links from media articles:

<https://time.mk/c/64b8ec605e/vladata-ja-predlaga-d-r-mirjana-lazarova-trajkovska-za-sudijka-vo-megjunarodniot-krivicen-sud-vo-hag.html>

<https://360stepeni.mk/vladata-na-predlog-na-mnr-ja-kandidira-mirjana-lazarova-trajkovska-za-sudijka-vo-megjunarodniot-krivichen-sud-vo-hag/>