

BÎRSAN, CORNELIU (Romania)

[Original: English]

Statement of qualifications

This statement is submitted pursuant to article 36, paragraph 4 (c), of the Rome Statute, regarding the process of preparing the election, by the Assembly of States Parties, of the members of the Advisory Committee on nominations of judges of the International Criminal Court and in accordance with the Terms of reference for the establishment of an Advisory Committee on nominations of judges of the International Criminal Court, respectively ICC-ASP/10/36.

Professor Emeritus PhD Corneliu Bîrsan meets, in all respects, the criteria for nomination set out in paragraph 2 of the above mentioned resolution: he is of unimpeachable moral character, probity and integrity and has extensive experience as a guardian of fundamental rights and freedoms of the individual, who has constantly sought to find a balance between views asserting human rights as universal rights on one hand, and relative rights emphasizing pluralism, on the other hand.

Professor Emeritus PhD Corneliu Bîrsan has comprehensive experience in both criminal and civil law, with demonstrable knowledge of Romania's national legal system, public international law, public law, Strasbourg law and human rights.

As a judge of the European Court of Human Rights, Professor Emeritus PhD Corneliu Bîrsan tirelessly pursued, during his judgeship, to enhance the legitimatization of the European Court of Human Rights in the eyes of the judicial and political professions in the Contracting States, placing the Court's "moral capital" at the highest possible level and thus strengthening its claim to legitimacy on the societal level.

Throughout his judgeship he demonstrated ample aptitude for working as part of a team in an international environment in which several legal systems are represented. With overwhelming professional charisma and etiquette, he used his interpersonal and communication skills to exert judicial impartiality within the Court. Professor Emeritus PhD Corneliu Bîrsan is able to communicate in either official language of the Court (English and French) and to understand and draft case documents in both languages.

The fact that Professor Emeritus PhD Corneliu Bîrsan meets all the moral criteria necessary for discharging this important position is strengthened by the fact that his impeccable credentials constituted a prerequisite for the position of ECtHR judge, pursuant to the Declaration of Character, stated in article 21(1), of the European Convention on Human Rights, that sets out the criteria for office as a judge of the Court and states "judges shall be of high moral character".

Professor Emeritus PhD Corneliu Bîrsan always observed his obligations as judge of the ECtHR with impartiality, the cornerstone of any effective international jurisdiction.

Furthermore, the influence of the European Court of Human Rights' Case Law on International Criminal Law is undisputable, the human rights system promoted by The Strasbourg Court representing a key element in generating a normative balance between criminal procedures and awarding protection and human rights guarantees to individuals.

Corneliu Bîrsan has held many academic, legal and judicial positions beyond that of ECtHR judge. He is an emeritus Professor at the University of Bucharest Faculty of Law and full professor, at the Chair of private Law at the "Nicolae Titulescu" Faculty of Law and member of the Ph.D. examining

board of the Faculty of Law, University Robert Schuman, Strasbourg III, universities of Nice-Sophia Antipolis and of Paris I Panthéon-Sorbonne.

From 1997 to 1999 he was a member of the teaching staff of the Institute of Advanced International Studies, Robert Schuman University (Strasbourg III), giving lectures and seminars on the reception and implementation of international human rights conventions in Romania. In 1994, 1996 and 1998, professor Bîrsan held the position of lecturer in international human rights protection at Pantheon-Sorbonne University (Paris I) for the Diploma of Advanced Studies in Comparative Constitutional Law.

Other judicial posts include a membership of the ex-European Commission of Human Rights (1995-1998) and of the Permanent Court of Arbitration at The Hague (1990-present).

At an academic level, he has been continuously involved in coordinating and reforming the higher education system. The most important contributions he has made include the 1994-1998 mandate within the National Academic Assessment and Accreditation Council, as well as in the position held as member of the National Council for Education Reform, between 1998-2008. These mandates have confirmed the trust of the competent authorities in his abilities to harmonize and develop the Romanian higher education system, abilities based on his extensive teaching and management experience.

Besides his judicial, academic and doctrinal activity unfolded throughout his career, he has also carried out legislative consultancy activity, being appointed on drafting committees for legislative projects, the most important being the Commission for drafting the Civil Code and the Family Code within the Ministry of Justice (1975-1986). He was also a member of the Legal Council of the Ministry of Foreign Trade (1982-1985).

After extending his specialization in the field of international trade, Professor Emeritus PhD Corneliu Bîrsan was consequently appointed, in 1977, in the body of arbitrators of the International Commercial Arbitration Commission of the Chamber of Commerce and Industry of Romania, in which he filled the position of arbitrator, until 1990, a quality regained in 2014, after the end of his mandate as a judge at the European Court of Human Rights. He is currently enrolled on both the list of arbitrators and supra-arbitrators of the International Arbitration Commission at the Chamber of Commerce Romania.

This demonstrates professor Bîrsan's prodigious capacity to adapt to the requirements of any professional endeavor, taking into account the profound difference between judge and arbitrator. While judges derive their jurisdiction and authority from the state, arbitrators derive their jurisdiction from the parties involved and use international arbitration to provide a neutral, adjudicative dispute resolution process where arbitrators independently apply the law to facts, and this in turn promotes the legitimacy of international arbitration.

He also promotes international arbitration mechanisms, such as mediation and negotiation through which he achieves the objectives of international arbitration more efficiently.

The corollary of his substantial contribution to the doctrinal development of private and public law, both in Romania and internationally, is represented by his appointment, in 2017, as corresponding member of the most prestigious national academic institution, The Romanian Academy.

Professor Emeritus PhD Corneliu Bîrsan has demonstrated his irreproachable moral character, impartiality and integrity throughout a prestigious career, spanning for more than five decades, in which he has diligently served the cause of human rights, contributing to the development of an international legal system based on the principles universality, indivisibility, participation, accountability, transparency and non-discrimination.
