

LORDKIPANIDZE, Gocha (Georgia)

[original: English]

Statement of qualifications

In accordance with article 36(4)(a) of the Rome Statute of the International Criminal Court and paragraph 6 of the resolution on the Procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court (ICC-ASP/3/Res.6, as amended by ICC-ASP/18/Res.4 on 6 December 2019), the Government of Georgia has the honour to present the following statement of qualifications of Mr. Gocha Lordkipanidze as candidate for the election of judges of the International Criminal Court, at the nineteenth session of the Assembly of States Parties, United Nations, New York, 7-17 December 2020.

a) Requirement of ‘high moral character, impartiality and integrity’ (art 36(3)(a))

The path Mr. Lordkipanidze has followed during his extensive professional and academic career is self-explanatory and attests to his high moral character, impartiality and integrity. His high reputation, which has been recognized in professional and public life, both in Georgia and internationally, is evident from the fact that his candidature was supported by a wide margin by the Parliament of Georgia (91 votes in favour, 0 against).

b) Requirement of ‘qualifications required in their respective States for appointment to the highest judicial offices’ (art 36(3)(a))

Mr. Lordkipanidze fully satisfies the required qualifications for appointment to the highest judicial offices in Georgia. The Selection Procedure adopted by Governmental Ordinance №59 combined the criteria and procedures of the nomination of candidates to the Constitutional Court of Georgia and the Supreme Court of Georgia.

According to Article 7 of the Law on Constitutional Court of Georgia, any citizen of Georgia from the age of 35 with a higher legal education, 10 years’ professional experience, and outstanding professional qualifications, may be a member of the Constitutional Court. According to Article 34 of the Organic Law on General Courts, a competent citizen of Georgia may be appointed (elected) as a judge of the Supreme Court, if he/she is of 30 years of age, has a higher legal education with at least a master’s or equal academic degree or higher education diploma, and at least five years of work experience as a legal specialist.

Given these criteria, a candidate from Georgia was expected to meet the maximum requirements envisaged for judges of the Constitutional Court of Georgia and the Supreme Court of Georgia: the minimum age and requisite experience were determined in line with the requirements of the Constitutional Court of Georgia, while the requirement of higher education and capacity in accordance with requirements of the Supreme Court of Georgia. Consequently, a candidate for nomination by Georgia for election of judges at the Court shall have a high moral and professional reputation, be a national of Georgia of no less than 35 years age, and shall have legal capacity and excellent knowledge of at least one of the working languages of the Court (English or French). He/she shall also meet the requirements for candidates under List A or List B described in detail below, under the nomination procedure and the elements of that procedure.

c) Requirement of ‘established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court’ (art 36(b)(ii))

Mr. Lordkipanidze fully meets the requirements of article 36(b)(ii) to be elected as a judge under List B, as is evident from his curriculum vitae.

Through international law as his official, professional, and also personal, project he has sought to contribute to a rules-based international order, creating and strengthening mechanisms of international justice. In addition, he has extensive experience in assisting victims of serious crimes both in terms of policy and practice.

He holds a Master's Degree in International Human Rights Law from the University of Essex (United Kingdom) and a Master's Degree in International Legal Studies from Harvard Law School (United States) with a focus on international law, international human rights law and international humanitarian law. From 2011 to 2013, he has been a S.J.D candidate and Doctoral Fellow at Fordham Law School, New York, United States.

He has more than 20 years experience of working with international courts and international organizations in international criminal law, international humanitarian law and international human rights law: 12 years with the International Criminal Court, including 1 year on the Board of Directors of the Trust Fund for Victims; 3 years dealing with issues related to the International Criminal Tribunal for Yugoslavia; 2 years with the International Criminal Tribunal for Rwanda; 19 years with the United Nations; 10 years with the Council of Europe; 10 years with the European Union; and 10 years with the Organisation for Security and Co-operation in Europe. His experience and substantial involvement with international law, and international criminal law and procedure at the Ministry of Foreign Affairs, started with the implementation of UN SC resolutions on the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). In particular, he contributed to national measures to enhance Georgia's co-operation with international tribunals in 1997, including proposals concerning changes and amendments to the legislation of Georgia.

Furthermore, serving as a focal point of the Georgian negotiating team on the Rome Statute, he made major contributions to shaping Georgia's positions, especially as regards continued international crimes, drafted the mandate of the Georgian delegation for negotiation of the Rome Statute at the Rome Conference, proposed and advocated Georgia's joining of the Like-minded Group of States, and as Georgia's representative he worked on proposals and supported the Group on substantive issues of the Rome Statute, including the inherent jurisdiction of the Court over the 'core' crimes of genocide, crimes against humanity, war crimes etc. He also participated in negotiations leading to the adoption of the Rome Statute in 1998. Following the Rome Conference, as a legal counsellor at the Permanent Mission of Georgia to the United Nations, he represented Georgia and participated in the work of the Preparatory Commission for the International Criminal Court in New York (1999-2002) on the relationship agreement between the Court and the United Nations, the Financial Regulations and Rules of the Court, the Agreement on the Privileges and Immunities of the Court, the Rules of Procedure and Evidence, and the crime of aggression. At the Permanent Mission of Georgia, he was in charge of the Third Committee (human rights), Sixth Committee (legal) and Special Committee on the Charter of the United Nations, whose work complemented the Preparatory Commission by setting international principles and standards relevant to the International Criminal Court as an international organization.

As a professor in international law, a diplomat, and the current Deputy Justice Minister of Georgia (a high-level legal counsel of the State), he has gained extensive and in-depth experience at the intersection of international law, international humanitarian law, and international criminal law. Since joining the Ministry of Foreign Affairs of Georgia in 1991, he has held various key positions that required legal work and involvement. Amongst others, he has proposed joining and contributed to the negotiations, ratification and implementation of international treaties and agreements, with a focus on international human rights, international humanitarian law, and international crimes. He has also frequently represented the Ministry of Foreign Affairs at various UN and OSCE human rights fora, including the UN Human Rights Commission. Concurrently, as a board member of Georgian Red Cross Society, he has made efforts to raise awareness in humanitarian law at the national level.

In his current capacity as Deputy Minister of Justice since 2012, he has continued on the same path, with his portfolio being expanded to cover a wide range of issues: he represents Georgia and leads interstate litigation before the European Court of Human Rights (ECHR), and directs matters in the execution of ECHR decisions with respect to victims of violations of the European Convention on Human Rights; he represents Georgia in relations with the International Criminal Court in terms of cooperation with the ICC system; he leads the efforts of the Inter-agency Humanitarian Commission (IHL) of Georgia to further develop the national legal framework of international humanitarian law, particularly in relation to missing persons in times of armed conflict, and puts in place relevant instruments to combat and prevent sexual and gender-based violence during and after armed conflict, and promotes the protection of IDP women from sexual, domestic and gender-based violence.

He extensively dealt with issues of international relations, and international law and human rights in 2005-2007, including matters of international justice as a foreign affairs and international legal adviser to the Prime Minister of Georgia.

Other relevant experience at the Ministry of Justice of Georgia includes the drafting of, and serving as a Government Rapporteur before the Parliament of Georgia on, the draft law of the National Red Cross, as well as a set of draft laws on administrative legal proceedings on compensation, and the reopening of civil and criminal law cases pursuant to decisions of UN Human Rights Treaty bodies in 2016, which also merit mention.

As a co-chair of the Inter-agency Commission on Gender Equality, Violence against Women and Domestic Violence, his efforts are directed at coordinating inter-agency work to draft and meet commitments under the action plans on gender equality, violence against women and domestic violence, and UN Security Council resolution 1325 on women, peace and security. His track-record also includes drafting the Human Rights Strategy of Georgia (2014-2020); efforts to prepare guidelines for law enforcement agencies on human trafficking issues, with a focus on the identification of THB victims, the treatment of women and child victims, including providing/offering needs-based assistance to the victims in the framework of the Inter-agency Council against Human Trafficking.

At the same time, he has remained in active leadership roles with international organizations and bodies throughout his career: he served as a Vice-Chairman of the Special Committee on Charter of the United Nations, New York (2001); Vice-Chairman of the 19th meeting of the States Parties to the International Convention on the Elimination of all Forms of Racial Discrimination, New York (2002); and President of the 7th session of the Assembly of Parties of the International Anti-corruption Academy (IACA), Vienna (2019). In a national capacity, he served as a head/deputy head of the Georgian delegations at the 16th, 17th, and 18th sessions of the Assembly of State Parties to the Rome Statute, New York, The Hague (2017, 2018, 2019).

Similarly, his efforts as a member of the Council of Europe Gender Equality Commission (GEC) since 2014 have focused on multiple discrimination against women and domestic violence.

Importantly, as a current Board Member of the Trust Fund for Victims, he is involved in governing the Trust Fund for Victims (TFV) in implementing its mandate with respect to reparations and assistance to victims and their families in ICC situation countries. This entails working on filings with the Court, prepared by the TFV Secretariat.

His career presents a suitable blend of academic and work-based experience. He has more than 11 years of academic and research experience relevant to the ICC. Mr. Lordkipanidze has taught courses or pursued research relevant to the ICC and its practice at some of the world's leading academic institutions and universities: in 2002, he carried out a research project on problems of definition of the crime of Aggression in the context of the Preparatory Commission for the International Criminal Court at the Max Planck Institute for Foreign and International Criminal Law, Freiburg, Germany; he conducted a research project on deficient acts of international institutions in international law, including UN and ICC cross-cutting practices, as a Fulbright visiting scholar at Columbia University Law School, New York. Furthermore, his work as an adjunct-professor at Columbia University School of International and Public Affairs (SIPA) focused on women's rights, gender mainstreaming, and the IDP's political participation, also merits mention.

As a professor in international law he has extensively taught international law, international treaty law, and the practice of international organizations with respect to Georgia, and international human rights law with strong components of international courts, at the Georgian-American University, Caucasus School of Law, and Sokhumi University in Tbilisi.

Given Mr Lordkipanidze's experience and knowledge, Georgia is confident in proposing his candidature for high-judicial office at the International Criminal Court.

d) Requirement of excellent knowledge of and fluency in at least one of the working languages of the Court (art 36(3)(c))

Mr. Lordkipanidze's excellent command of English is demonstrated by the two master degrees in law from English speaking countries (United Kingdom, United States) as well as his extensive 29 years of professional and academic experience in an English language environment.

e) Indication of nomination for List A or List B

Mr. Lordkipanidze is nominated under List B under article 36, paragraph 5, of the Statute, given his established competence in relevant areas of international law, such as international humanitarian law and the law of human rights, and his extensive experience in a professional capacity relevant to the judicial work of the Court.

f) Information relating to article 36, paragraph 8(a)(i) to (iii) of the Statute

For the purposes of article 36, paragraph 8(a)(i) to (iii) of the Statute, Mr. Lordkipanidze will represent a civil law system (also known as a continental or Romano-Germanic legal system), although he is at ease with common law, as his two master's degrees come from case-law countries, and he has experience of working in academia in UK and US. He is a male candidate nominated from the Eastern European Regional Group.

g) 'Legal expertise on specific issues, including, but not limited to, violence against women or children' (art 36(8)(b))

As a co-chair of the Inter-agency Gender Commission, Mr. Lordkipanidze contributes and coordinates inter-agency efforts to draft and meet commitments under the action plans on gender equality, violence against women, and domestic violence, and UN Security Council resolution 1325 on women, peace and security. His track-record also includes drafting the Human Rights Strategy of Georgia (2014-2020), with a strong element of women's rights, gender equality and the fight against violence against women, as a co-chair of the Inter-agency Council; coordinating inter-agency efforts in the preparation of guidelines for law enforcement agencies on human trafficking issues, with a focus on the identification of THB victims, the treatment of women and child victims, and providing/offering needs-based assistance to victims in the framework of the Inter-agency Council against Human Trafficking; leading efforts in the Inter-agency Humanitarian Commission (IHL) of Georgia to further develop the legal framework on missing persons in times of armed conflict, putting in place relevant instruments to combat and prevent sexual and gender-based violence during and after armed conflict, protecting IDP women from sexual, domestic and gender-based violence, and ensuring their access to medical, psychological and legal assistance services.

Likewise, his efforts as a member of Council of Europe Gender Equality Commission (GEC) since 2014 have focused on multiple discrimination against women and domestic violence.

Furthermore, his work as adjunct-professor at Columbia University School of International and Public Affairs (SIPA) has focused on women's rights, gender mainstreaming, and the IDP's political participation.

h) Nationality under which the candidate is nominated (art 36(7))

Mr. Lordkipanidze holds citizenship of Georgia, does not possess nationality of any other State, and is nominated by Georgia.

i) Indication of the nomination procedure under article 36, paragraph 4(a)(i) or paragraph 4(a)(ii), and the elements of that procedure (National Selection Process)

The national selection process was conducted in full compliance with article 36 of the Rome Statute and the Procedure for the Nomination and Election of Judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court (ICC-ASP/3/Res.6, as amended by ICC-ASP/18/Res.4, 6 December 2019). Furthermore, the best practices of national selection processes were taken into account.

Article 36, paragraph 4, of the Rome Statute requires that nominations of candidates for election to the Court shall be made either: (i) by the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; *or* (ii) by the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.

Since Georgia does not have designated members of the Permanent Court of Arbitration, a prerequisite for applying the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that

Court, Georgia has chosen to apply “the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question” under article 36(4)(a)(i).

To this end, on 30 January 2020, the Government of Georgia adopted Ordinance №59 on the Procedure for the Nomination of Candidates for Election of Judges of the International Criminal Court 2020 (hereinafter the ‘Selection Procedure’) having incorporated the procedure and criteria determined for the nomination of candidates to the Constitutional Court and Supreme Court of Georgia. Ordinance №59 was officially published and became publicly available on the Legislative Herald of Georgia (www.matsne.gov.ge). By adopting this Ordinance, Georgia introduced a legal framework with clearly defined procedures and criteria for the nomination of judicial candidates to the ICC, in order to ensure open, transparent and merit-based processes at the national level.

The Selection Procedure is fully consistent with articles 36(3) and 36(4) of the Rome Statute. Specifically, under Article 2 of the Selection Procedure, Georgia established minimum requirements for national selection for both ‘List A’ and ‘List B’ applicants:

Article 2. A candidate for judge to be nominated from Georgia for election to The Hague Court shall be a legally capable citizen of Georgia of high moral principles and professional reputation, who has attained the age of 35, is fluent in one of the working languages of The Hague Court (the English or French languages) and meets the requirements determined by paragraphs (a) (Category A) or (b) (Category B) of this Article:

a) Category A:

- a.a) holds an academic degree of Master of Laws, where the degree programme covered criminal law or international criminal law;
- a.b) has not less than 10 years experience working as a judge, prosecutor and/or lawyer in the area of criminal law or in a similar position in the area of criminal procedure;
- a.c) has a thorough knowledge of the Rome Statute and the relevant case law;

b) Category B:

- b.a) holds an academic degree of Master of Laws, where the degree programme covered public international law, especially international human rights law and international humanitarian law;
- b.b) has not less than 10 years experience working with international courts, or international organisations and international courts, on issues of international criminal law, international humanitarian law and international human rights law;
- b.c) has a thorough knowledge of the Rome Statute and the relevant case law, as well as public international law in the areas of international humanitarian law and international human rights law.

On 3 February 2020, in accordance with the Selection Procedure, LEPL Training Centre of Justice (TCJ) took necessary measures to publicly disseminate the call for candidates through its own webpage (www.tcj.gov.ge), its social media page on Facebook, and widely used job portals in Georgia (www.jobs.ge, www.hr.gov.ge). In addition, letters were sent to the Constitutional Court of Georgia, the High Council of Justice of Georgia, the Supreme Court of Georgia, the Prosecutor’s Office of Georgia, the Georgian Bar Association, and the Georgian Association of Mediators. The information was also conveyed to the non-governmental organization Georgian Young Lawyers’ Association (GYLA), and the Chair of the Georgian Coalition for the International Criminal Court (GCICC) with the aim of dissemination among the non-governmental member organizations of the GCICC and other interested non-governmental organizations. Information about the public call was also circulated among universities teaching law programmes (29 law schools in total).

On 6 February 2020, the authorized representatives of these organizations were provided with detailed information about the vacancy by telephone communication.

On 11 February 2020, an information meeting was held to further discuss the details of the Selection Procedure. Representatives of the Prosecutor’s Office of Georgia, the High Council of Justice of Georgia, and the non-governmental organizations Georgian Young Lawyers’ Association (GYLA) and Human Rights Centre, all attended.

The call for the vacancy was open from 3 to 13 February 2020. During this period, nine applicants submitted applications for the vacancy. After assessing their applications in terms of the qualifications required under article 2 of the Selection Procedure, two applications were let pass to the next stage. One of the successful applicants was advised by the Training Centre of Justice to correct an error contained in his submitted documents within three days, as permitted by the Selection Procedure. The applicant, however, failed to do so, subsequently informing the Training Centre of Justice that he did not intend to pursue the application any further.

Due to the small number of qualified applications, the deadline was extended until 20 February 2020 and the relevant information was conveyed to all organizations on 14 February 2020.

On 20 February 2020, the Training Centre of Justice administered a six-hour written examination in English for the remaining candidate who fully met the requirements. The test consisted of three theoretical and three practical questions prepared by **engaged international experts** on a *pro bono* basis: the **open questions were prepared by Ekaterina Trendafilova, former judge of the International Criminal Court, and the case-based/situational questions were prepared by Herman von Hebel, former Registrar of the International Criminal Court.**¹ On the same day, the completed exam paper without the candidate's identification details was sent to those experts.

On 20 February 2020, within the extended deadline, one more application was submitted to the Training Centre of Justice. Due to an error in the application, the applicant was granted three days to correct it. The applicant agreed to partially correct the error and asked for a test to be administered in March in the foreign country of the applicant's residence. The request of the applicant was granted, and authorization was given to take the exam on 25 or 26 February in the diplomatic representation of Georgia in the respective country. However, the applicant officially requested to discontinue the application due to insufficient time to prepare for the exam.

Consequently, the exam paper of one applicant was evaluated by the engaged international experts. Since Mr. Lordkipanidze successfully passed the examination required by the Selection Procedure, the Training Centre of Justice (TCJ) submitted his documents for consideration to the Government of Georgia.

According to articles 1(3) and 4(6) of the Selection Procedure, the Government of Georgia submitted Mr. Lordkipanidze's candidature to the Parliament of Georgia, for assessment of the candidate's qualifications under article 36 of the Rome Statute, and for its approval.

Mr. Lordkipanidze was heard before the Judicial Committee of the Parliament of Georgia, where he answered questions from the members of the Parliament. To ensure transparency, publicity and security to the maximum extent possible, for a public audience in the circumstances of the coronavirus threat, the hearing was broadcast live on television and internet, and was open to questions for any interested person online.

The candidature of Mr. Lordkipanidze was approved by the Judicial Committee of the Parliament of Georgia, and subsequently by a 3/5 majority of the Parliament of Georgia (these votes are sufficient to elect both Constitutional Court and Supreme Court Judges in Georgia), without any abstentions or objections (91 votes in favour, including opposition and 0 against). Therefore, Mr. Lordkipanidze enjoys high degree of legitimacy as a candidate.

In summary, Georgia's national selection process was conducted in a manner which ensured the widest dissemination of the call for applicants among all interested parties, including the national judiciary, the legal profession, academia, and civil society. Georgia developed and established stringent procedures and criteria for the selection of candidates for ICC judicial elections, engaged former ICC officials on a *pro bono* basis to assess the competence of candidates by written examination, in order to ensure a transparent and merit-based selection process.

j) **Commitment to take up full-time service**

Mr. Lordkipanidze is committed to take up full-time service when the Court's workload so requires.

¹ The identities of the engaged international experts are revealed with their consent.