

## NEW ZEALAND

[Original: English]

New Zealand presents the below information pursuant to the Secretariat's note verbale ICC-ASP/19/SP/27, dated 17 April 2020, pursuant to resolution ICC-ASP/18/Res.4, which encourages States Parties to submit information and commentary on their own existing or prospective nomination and selection procedures.

New Zealand does not presently have a formal nomination and selection procedure for judicial candidates of the International Criminal Court. We note that there has not been a judge of New Zealand nationality on the Court's bench, nor has New Zealand yet nominated a candidate for election to the Court's judiciary.

Article 36(4) of the Rome Statute provides that nominations for election to the Court shall be made by any State Party, 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.

New Zealand does not have established nomination and selection procedures for judicial candidates to the International Court of Justice. However, the information below outlines the procedure for the nomination and appointment of candidates to the highest judicial office in New Zealand, i.e. the Supreme Court of New Zealand.

### *Nomination and appointment process for judges of the Supreme Court*

Judicial appointments are made by the Governor-General on the recommendation of the Attorney-General. The appointment process followed by the Attorney-General is not prescribed by any statute or regulation. The Attorney-General, by convention, receives advice from the Chief Justice and the Solicitor-General.

Although judicial appointments are made by the Executive, it is a strong constitutional convention in New Zealand that, in deciding who is to be appointed, the Attorney-General acts independently of party political considerations. Judges are appointed according to their qualifications, personal qualities, and relevant experience.

Successive Attorneys-General have announced new systems designed to widen the search for potential candidates and increase the opportunity for input. Within the past 10 years the systems adopted by Attorneys-General have resulted in a more diversified judiciary.

The convention is that the Attorney-General informs Cabinet of appointments after they have been determined. The appointments are not discussed or approved by Cabinet.

Section 94 of New Zealand's Senior Courts Act 2016 provides that no person shall be appointed a judge unless he or she has had a practising certificate as a barrister or solicitor for at least seven years. However, Judges also require much more than this experience in practice. They must be of good character, have a sound knowledge of the law and of its practice, and have a real sense of what justice means and requires in present-day New Zealand. They must have the discipline, capacity and insight to act impartially, independently and fairly.

Further information on nomination and appointments can be found online at the links below:

- <https://www.courtsofnz.govt.nz/about-the-judiciary/role-judges/appointments/>
- <https://www.crownlaw.govt.nz/assets/uploads/judicial-protocol.pdf>