Estonian national procedure for the nomination and selection of candidates to the post of an international judge, including the International Criminal Court

In reply to the request of the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court and, with reference to the latter's note ICC-ASP/22/SP/37 from 24 May, regarding national procedure for the nomination and election of judges to the International Criminal Court, with further references to ICC-ASP/3/Res.6 (Procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court), as amended by resolution ICC-ASP/18/Res.4 (Resolution on the review of the procedure for the nomination and election of judges), as amended by ICC-ASP/21/Res.2, the following information on national procedure and practice of Estonia is provided.

In Estonia, the selection and nomination procedure of judges to international courts is regulated by the Foreign Relations Act. The Act is in English accessible here: https://www.riigiteataja.ee/en/eli/ee/501022017002/consolide/current

Section 9 of the Foreign Relations Act stipulates the competence of the Ministry of Foreign Affairs and its subsection 9 determines the nomination procedure to international courts. The Minister of Foreign Affairs, coordinating with the Minister of Justice and after having heard the opinion of the Chief Justice of the Supreme Court, the Chancellor of Justice and the Secretary of State, presents candidates for judges of international courts to the Government of the Republic for approval.

Hereby, the practice of applying this provision is given. The Ministry of Foreign Affairs officially initiates the selection procedure by announcing an open competition to a position of an international judge and inviting applications through a public advertisement with broad distribution of information in the media and social media, with particular emphasis on professional media channels.

The Minister of Foreign Affairs forms a special selection panel to determine the best candidate to be presented to the Government for nomination to the international court. The selection panel consists of the Minister of Foreign Affairs, the Minister of Justice and the Chief Justice of the Supreme Court, the Chancellor of Justice and the Secretary of State or representatives appointed by them. The Minister of Foreign Affairs approves the rules of procedure of the selection panel and distributes them to the members of the panel.

The selection panel reviews the applications received and makes a shortlist of candidates who will be invited to interviews. After having heard the candidates in person, the panel then deliberates and decides on the best candidate who is then presented to the Government for approval. The secretary of the panel prepares the minutes of the hearing of the candidates and the minutes are also submitted to the Government together with the proposal.

The panel makes decisions by a simple majority, but the Minister of Foreign Affairs and the Minister of Justice or their representatives must cast their vote in favour of the candidate. The panel usually decides by consensus.

The panel presents to the Government the reasons why such a decision was made and why the proposed candidate is the best and satisfies the requirements of an international judge. The Government makes the final decision and approves the best candidate for the post of the

international judge; thereafter the Ministry of Foreign Affairs officially submits the nomination to the international court.

The aim of the selection procedure is to ensure the greatest possible transparency in the candidate selection procedure for a judge at an international court.

Section 20^2 of the Government of the Republic Act foresees certain particularities for the nomination of candidates for positions in the European Union but the basic principles remain the same for all international courts. The Act is in English accessible here: https://www.riigiteataja.ee/en/eli/ee/521012014008/consolide/current