

Motoc, Iulia Antoanella (Romania)

[original: English, French]

Statement of qualifications

The Government of Romania has the honour to nominate Judge Iulia Motoc for the election of judges of the International Criminal Court (ICC) for the years 2024-2033, at the twenty-second session of the Assembly of States Parties, to be held at the United Nations Headquarters, New York, from 4 to 14 December 2023.

This statement of qualifications is submitted pursuant to article 36 paragraph (4) (a) of the Rome Statute of the International Criminal Court and paragraph 6 of the resolution of the Assembly of States Parties 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).

1. Requirement of ‘high moral character, impartiality and integrity’ (Art. 36 paragraph (3)(a))

Judge Motoc is well regarded by her peers as a person of high moral character, impartiality and integrity. During the course of her 34-year career, multiple public bodies at the national and international levels have appointed her to positions for which the highest moral qualifications are a requirement. This includes her election as the Special Rapporteur of the UN Commission for Human Rights for the Democratic Republic of the Congo in 2001, to the Human Rights Committee in 2006, to the Constitutional Court of Romania in 2010, and to the European Court of Human Rights (ECHR) in 2013. Beyond that, as president of the Committee on the Status of Judges of the ECHR, judge Motoc actively shaped the codification and progressive development of ethical standards for international judges. Under her leadership, the Committee put in place new guidelines on judicial ethics. She also authored a report on the situation of judges after their 9-year mandate.

2. Requirement of ‘qualifications required in their respective States for appointment to the highest judicial offices’ (Art. 36 paragraph (3)(a))

Pursuant to Art. 143 of the Romanian Constitution, judges of the Constitutional Court must have graduated in law, possess high professional competence and at least eighteen years of experience in the legal profession or in academic activities. Judge Motoc fulfils these requirements by possessing high professional competence and 34 years of experience in the legal profession. Moreover, she already held this office, having been elected to the Constitutional Court in 2010.

3. 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 paragraph (3) (b)(ii))

Judge Motoc is an established expert in human rights, international humanitarian law and general international law. On top of her broad education, she has a plethora of academic and practical experiences at both national and international level.

Judge Motoc holds five academic degrees, including a master’s degree, a Ph.D., and a *habilitation* in public international law. Furthermore, she holds a Ph.D. in Moral Philosophy with a focus on ethics in international relations.

Judge Motoc has built on this profound educational basis an impressive academic career. She has been teaching public international law with a focus on human rights and humanitarian law at the University of Bucharest for 28 years. Reflecting her achievements, the University appointed her Full Professor in 2002. She has complemented this career with international teaching positions in 12 universities on 3 continents, including as a Senior Jean Monnet Fellow at the New York University and as visiting professor at the UN University in Tokyo. In 2019, The Hague Academy of International Law invited her as a Visiting Professor for the session of 2024.

Likewise, Judge Motoc has held an array of research positions in top-accredited institutions in the fields of public international law and human rights, including at Yale University School of Law and the Sorbonne's Research Institute of International and European Law. In 2021, she was elected as member of the *Institut de Droit International*. Drawing on the international perspectives gained through these experiences, judge Motoc authored more than 80 books, book chapters, and articles in the fields of human rights, humanitarian law and general international law.

In addition to her academic credentials, judge Motoc has 34 years of practical legal experience on the national, regional and international levels. From 1989 to 1995, she served as a prosecutor and judge in Romania. In this role, she mainly dealt with sexual offences against women and children and with the implementation process of Romania's transitional justice laws. Beginning with 1996, judge Motoc has continually served as an expert in human rights and humanitarian law for multiple international organisations, including 18 years of service for the United Nations, 10 for the Council of Europe, and 2 for the European Union.

Most relevant regarding the work of the ICC, from 2001 to 2004, she served as UN Commission for Human Rights' Special Rapporteur on Human Rights in the Democratic Republic of the Congo. In this capacity, she undertook several field visits to the DRC and the neighbouring countries. Her reports, which stressed the importance of considering vulnerable groups such as women and children, were widely quoted.

For the last 16 years, Judge Motoc has continuously held positions in judicial and quasi-judicial international bodies. From 2007 to 2013, she served on the Human Rights Committee, including two years as its Vice-President, where she heard cases pertaining to the universal human rights system. In this capacity, she focused her work on mass violations of human rights with broad intersections to humanitarian law and international criminal law.

Since 2013, Judge Motoc has been serving as the judge elected in respect of Romania at the European Court of Human Rights. In this role, judge Motoc has managed an impressive caseload of over 2,500 cases from a wide array of member States, including common law jurisdictions. Meanwhile, she has continued to carve out a speciality for mass violations of human rights and international humanitarian law in conflict zones. One of her most high-profile cases in this regard is *Ukraine and the Netherlands v. Russia*, which concerned the military events in the Donetsk and Luhansk regions of Ukraine beginning in 2014. Judge Motoc's experience clearly demonstrates her competence to deal with cases in conflict zones which raise complex factual and legal issues.

Likewise, judge Motoc also focused on cases involving fundamental principles of criminal law through the lens of human rights instruments and on the protection of vulnerable groups such as women and children.

During her tenure at the ECHR, judge Motoc has been active in fostering inter-judicial dialogue. In 2015, she founded the Public International Law Group at the ECHR to provide more outreach to scholars and practitioners of general international law. She has also maintained active contact with criminal courts, including the ICC, through her involvement in the ECHR's Criminal Law Group. Lastly, judge Motoc has led the ECHR's efforts to cooperate with non-member States, and particularly with developing countries.

4. Requirement of excellent knowledge of and fluency in at least one of the working languages of the Court (Art. 36 paragraph (3)(c))

Judge Motoc is fluent in both English and French. She has published widely in both languages and holds 3 university degrees from French universities. Additionally, she has over 16 years of experience working in a judicial or quasi-judicial function in both English and French.

5. Indication of nomination for List A or List B

The Government of Romania presents judge Motoc's candidacy as a nomination for list B. However, her education and 20 years of judicial experience, including highly relevant experience in dealing with criminal cases on both national and international level, would make her equally eligible for inclusion in list A.

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

Judge Motoc will represent the civil law system. She is being nominated from the Eastern European Regional Group. She is a female candidate.

Judge's Motoc's nomination is consistent with the Rome Statute's commitment to a fair representation of male and female judges within the Court. Likewise, with the mandates of two judges from the Eastern European region ending in 2024, judge Motoc's nomination also serves the continued equitable representation of this region within the Court.

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

Throughout her career, judge Motoc has acquired special expertise relating to violence against women and children. She has published widely on the issue of violence against women and edited two books about women in international law.

During her 6 years as a prosecutor and judge in Romania, she focused on cases dealing with sexual offences against women and children. Likewise, as UN Human Rights Commission's Special Rapporteur on Human Rights in the Democratic Republic of the Congo, she paid special attention to crimes and human rights violations perpetrated against women and girls and gave these vulnerable groups an international forum in her reports. These reports were widely cited, including by the Prosecutor of the ICC and several UN bodies such as UNICEF, which relied on her findings on its 2005 report on "The Impact of Conflict on Women and Girls in West and Central Africa and the UNICEF Response." Likewise, several non-governmental organisations made use of her report, including Human Rights Watch in its 2002 report "The War Within The War: Sexual Violence Against Women And Girls In Eastern Congo." Lastly, her work was well-received by leading scholars in the fields of women's and children's rights. Thus, Kerry F. Crawford's 2017 book on "Wartime Sexual Violence: From Silence to Condemnation of a Weapon of War" and Stephen Nmerugini Achilihu's 2010 work "Do African Children Have Rights? A Comparative and Legal Analysis of the United Nations Convention on the Rights of the Child" also quoted judge Motoc's reports.

During her mandate at the ECHR, she sat in several cases regarding domestic violence and helped to develop the court's case law in this field.

8. Nationality under which the candidate is nominated (Art. 36 paragraph (7))

Judge Motoc is a Romanian national. She is being nominated on behalf of Romania.

9. 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)

Judge Motoc was selected to be Romania's candidate for the ICC judicial elections under a competitive, transparent and merit-based procedure approved by the Government of Romania. The selection procedure comprised several stages and involved several national authorities. The candidate was finally confirmed by decision of the Government of Romania.

On 15 November 2022, the Government of Romania approved the Procedure for the nomination of the Romanian candidate for the position of judge at the International Criminal Court ("the Procedure").

The public call for applications and the Procedure for the nomination of the Romanian candidate for the position of judge at the International Criminal Court were published on the websites of the Ministry of Foreign Affairs, the Ministry of Justice, the Superior Council of Magistracy and the High Court of Cassation and Justice.

The applications submitted were examined by the Selection Committee, in accordance with article 5 paragraph 2 of the Procedure. 4 candidates were pre-selected on the basis of the criteria defined by article 36 paragraph 3 of the Rome Statute.

The results of this stage were also published on the websites of the Ministry of Foreign Affairs, the Ministry of Justice, the Superior Council of Magistracy and the High Court of Cassation and Justice.

The individual interviews were held on 30 January 2023. The interviews took place in Romanian, French and English.

The selection was made in accordance with Article 6 paragraph (6) point (3) of the Procedure, on the basis of the following criteria: a) the candidate's legal qualifications and knowledge of the Rome Statute of the International Criminal Court and ICC case-law; b) professional experience; c) ability to perform judicial functions; d) language skills; e) ability to work in a multicultural environment reflecting different legal systems; f) absence of any doubt as to the candidate's independence, impartiality, probity and integrity.

At the end of the hearings, in accordance with Article 7 of the Procedure, the Selection Committee selected judge Iulia Motoc as the Romanian candidate for the nomination as a Judge at the ICC, as well as two reserve proposals.

The Selection Committee was composed of the following members:

- Secretary of State for Global Affairs and Diplomatic Strategies, Ministry of Foreign Affairs (MFA), President of the Commission;
- Secretary of State, Ministry of Justice (MoJ), Vice-President of the Commission;
- President of the Superior Council of Magistracy, member;
- Judge, High Court of Cassation and Justice, member;
- Director General, Legal Affairs Department, MFA, member;
- Director, Directorate of International Law and Judicial Cooperation, MoJ, member;
- Lecturer, Faculty of Law, University of Bucharest, member.

The Government of Romania approved the proposal of the Selection Committee. The results were published on the websites of the Ministry of Foreign Affairs and the Ministry of Justice.

As authority of the Nominating State overseeing the nomination process, the Ministry of Foreign Affairs of Romania acknowledges the information regarding the fulfilment, by the candidate, of each of the requirements in article 36, paragraph 3 (a), (b) and (c) of the Rome Statute.

10. Commitment to take up full-time service

Judge Motoc is prepared to take up full-time service at the International Criminal Court at its seat in The Hague.
