



**Legal basis:**  
**Act on Nomination of Candidates from the Republic of Slovenia for Judges at International Courts**

The selection and appointment process in the Republic of Slovenia is extensively regulated and transparent. It involves various stages and institutions.

The procedure for nominating the candidates is extensively regulated in the Act on Nomination of Candidates from the Republic of Slovenia for Judges at International Courts<sup>1</sup> (hereinafter: Act on Nomination).

Article 2 stipulates that person who fulfills the conditions provided by this Act can be nominated and elected for a candidate for international court judge. If rules of an international court or an international treaty which obliges the Republic of Slovenia provide special conditions for election of international court judge, person which fulfills such conditions, as well, can be nominated and elected for a candidate for international court judge. Rules of an international court or an international treaty which binds the Republic of Slovenia regarding invitation for applications, way of nominations, number of candidates and election procedure shall be appropriately applied.

Article 3 of the Act on Nomination stipulates that a person can be considered as candidate for a judge at an international court provided that he or she fulfils the **statutory requirements for the post of a Supreme Court Judge or the position of a Constitutional Court Judge**.

Additionally, Article 3 provides that the candidate must satisfy the requirements of having active knowledge of at least one of the official languages used at the respective international court.

As regards the eligibility requirements for the position of a Supreme Court Judge, Article 8 of the Judicial Service Act,<sup>2</sup> provides that a candidate may be elected to the position of a Supreme Court Judge if he/she fulfils the following general requirements:

- “1. he/she is a citizen of the Republic of Slovenia and has an active command of Slovenian language;
2. he/she has the capacity to contract and is generally in good health;
3. he/she is at least 30 years of age;
4. he/she has obtained the professional title of a graduate lawyer in the Republic of Slovenia or has acquired equivalent education abroad, recognised pursuant to the foreign document on

<sup>1</sup>Act on nomination of candidates from the Republic of Slovenia for judges at international courts, Official Gazette of the Republic of Slovenia, No. 64/2001, 59/2002, 82/2004 - Constitutional Court Decision [http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/mp.gov.si/PDF/zakonodaja/160118\\_Act\\_on\\_nomination\\_of\\_Judges\\_from\\_Slovenia\\_eng\\_31.12.15.pdf](http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/mp.gov.si/PDF/zakonodaja/160118_Act_on_nomination_of_Judges_from_Slovenia_eng_31.12.15.pdf)

<sup>2</sup>Judicial Service Act, Official Gazette of the Republic of Slovenia, No. 94/07 – official consolidated text, 91/09, 33/11, 46/13, 63/13 in 69/13 – corrigendum, 95/14 – ZUPPJS15, 17/15 and 23/17 – ZSSve) <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO334> (Slovenian version)

- education and the attached opinion on education or by a decision on the recognition of education for the purpose of employment or by a decision on nostrification;
5. he/she has passed the lawyer's state examination;
  6. he/she had not been convicted of a deliberate crime;
  7. an indictment has not been filed against him/her nor a main hearing is to be proceeded due to a premeditated criminal offense prosecuted ex officio."

In addition, Article 12 of the Judicial Service Act prescribes the requirement of working experience / academic title for Supreme Court Judges, as follows:

"Persons who fulfils the conditions specified in the first paragraph of Article 8 of this Act may be elected to a judicial post at the Supreme Court (Supreme Court Judge) if they have successfully held judicial office for at least 15 years or have at least 20 years of working experience in legal work after passing the lawyer's state examination.

University lecturers of law who fulfil the conditions specified in the first paragraph of Article 8 of this Act may be elected Supreme Court judges provided they have been elected to at least a title of associate professor."

A person who fulfils the conditions referred to in paragraph one of Article 8 of this Act may be elected to a judicial post at the Supreme Court (Supreme Court judge) if they have successfully held judicial office for at least 15 years or have at least 20 years of experience in legal work after passing the state judicial examination.

University lecturers in law who fulfil the conditions referred to in paragraph one of Article 8 of this Act may be elected Supreme Court judge provided they have been elected to at least the title of associate professor.

As regards the eligibility requirements for the post of the Constitutional Court Judge, Article 9 of the Constitutional Court Act,<sup>3</sup> any citizen of the Republic of Slovenia who is a legal expert and has reached at least 40 years of age may be elected to the post of a Constitutional Court Judge.

The requirement of 40 years of age for the post of a judge at an international court has been challenged before the Constitutional Court as discriminatory. The Constitutional Court has dismissed the challenge and confirmed the requirement as compliant with the Constitution<sup>4</sup>. It considered the age requirement of 40 years of age non-discriminatory as the requirement is connected with the position of a judge and implies the expectation of certain life experiences.

The Slovenian Act on Nomination has been exposed as an example of good practice in items 23 and 38 of the 4.4 Guidelines of the Committee of Ministers of Council of Europe on the selection of candidates for the post of judge at the European Court of Human Rights.<sup>5</sup>

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<sup>3</sup>The Constitutional Court Act, Official Gazette of the Republic of Slovenia, Nos. 64/07 – official consolidated text and 109/12.

<http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO325> (Slovenian version)

<http://www.us-rs.si/media/the.constitutional.court.act-zusts.pdf> (English version)

<sup>4</sup>Constitutional Court Decision no. U-I-120/04 from the 1st of July 2004, Official Gazette of the Republic of Slovenia, No. 82/2004

<http://odlocitve.us-rs.si/sl/odlocitev/US23592?q=U-I-120%2F04> (Slovenian version)

<sup>5</sup>[https://www.coe.int/t/dgi/brighton-conference/documents/Guidelines-explan-selection-candidates-judges\\_en.pdf](https://www.coe.int/t/dgi/brighton-conference/documents/Guidelines-explan-selection-candidates-judges_en.pdf)

### The procedure

In accordance with the Act on Nomination the **Ministry for Justice of the Republic of Slovenia** (hereinafter: the Ministry) issues a call for applications for a vacant judicial position at an international court within the period set by a public invitation of an international court.

The call for applications is published in the **Official Gazette of the Republic of Slovenia** and prescribes the deadline for applications not shorter than 15 days. Along with their applications, the candidates must provide evidence of compliance with the application conditions and description of their professional activity subsequent to their latest professional or academic title.

Applications that are not refused or dismissed by the Ministry are transferred to the **President of the Republic of Slovenia**. After obtaining the opinions on the applicants from the **Government of the Republic of Slovenia** and the **Judicial Council of the Republic of Slovenia**, the President of the Republic must transmit his proposal with the required number of candidates to the **National Assembly of the Republic of Slovenia**. The President must provide the reasoning underlying his proposals. The candidate for an international court judge is elected by the National Assembly of the Republic of Slovenia through a secret ballot by the majority of all members of the Assembly.