

## Generic Section

1. Name: **Alvina Gyulumyan**

2. Nationality: **Armenia**

3. Current Position: **Judge, Constitutional Court of the Republic of Armenia**

4.a. Are you currently holding any position on behalf of, or for, your Government? If so, please, give details:

**No, since the Constitutional as a highest institution of constitutional justice does not form of Government or Executive.**

4.b. Have you held any position on behalf of, or for, your Government? May any of your previous positions compromise your actual or perceived independence and impartiality? If so, please, give details:

**No, I have started my career as a practicing attorney (defense lawyer) followed by more than thirty years of experience as a judge of the Supreme Court of Armenia, European Court of Human Rights and the Constitutional Court of Armenia.**

4.c. Please, indicate any current or potential conflict of interest that may prevent you from exercising independence and impartiality on your work as a member of a UN treaty body.

**No such conflict of interest exists.**

5. What was the nomination process for your candidacy? Was civil society consulted?

**Having learned about this opening and being motivated to serve the promotion of rights protected under the ICCPR, I took initiative and sent a motivation letter to the Ministry of Foreign Affairs of Armenia, and upon reviewing my credentials they have decided to nominate my candidacy.**

6.a. UN languages spoken fluently: **English, Russian, French (not fluently)**

6.b. Level of English: **Advanced**

7. Link to your full resume: <http://concourt.am/armenian/structure/members/gyulumyan.htm>

8. Please, summarize your experience relevant to this position (100 words).

**After graduation from the law school, I started my professional career as a practicing attorney and defense lawyer. Later I was elected as a judge of the Supreme Court of the Republic of Armenia. I became member of the newly established Constitutional Court of Armenia in 1996. In 2003 I was elected as a judge of the European Court of Human Rights by the Parliamentary Assembly of the Council of Europe. From 2012 to 2014 I was a vice-president of a section of the European Court of Human Rights. Currently I am a judge of the Constitutional Court.**

**Throughout my career as a judge, I used to teach human rights and other related courses. Simultaneously, I have actively participated in public awareness raising activities on human rights, democracy and the rule of law.**

9. During your possible service as a Committee member, what other positions or professional activities do you intend to engage in?

**Judge at the Constitutional Court; Lecturer of Law (Human Rights Law).**

## Treaty – specific section

## **International Covenant on Civil and Political Rights (ICCPR)**

1. Why do you want to be a member of the Human Rights Committee?

**My motivation to become a member of the Human Rights Committee derives from different factors. First, based on comprehensive understanding of the mandate and objectives of the Human Rights Committee, as one of UN human rights treaty bodies. I truly consider it as one of the most important UN human rights instruments that exercises its monitoring activities through inter-state communications and individual complaints. Secondly, my professional record clearly demonstrates my commitment to human rights, democracy and the rule of law, values that are placed at the center of the philosophy of the European Convention of Human Rights and its supervisory mechanism, the European Court of Human Rights, where I was an elected judge by the Parliamentary Assembly of the Council of Europe. Being a member of the Human Rights Committee would allow me to follow my passion by advancing human rights and freedoms on a global level and beneficially transmitting my judicial experience both at the European Court and the Constitutional Court to global level that Human Rights Committee encompasses. Last but not least, the status of the Human Rights Committee members as independent experts and their ability to serve in their personal capacity is another reason that can explain my motivation to become a member. This is probably the most appropriate setting for efficient application of my knowledge and skills in human rights that has been accumulated throughout decades of judicial experience both internationally and domestically.**

2. What are your specific areas of expertise in relation to the ICCPR? Please, provide examples as appropriate. In particular, please, specify if you have any expertise or knowledge in handling individual complaints/communications.

**Specific areas of my expertise equally relate both to the substantial and the procedural prongs of the ICCPR. Substantive rights, such as right to life, prohibition of torture and other ill-treatment, prohibition of slavery and forced labour, right to liberty and security, right to freedom of movement, right to a fair trial, right to respect for private and family life, freedom of thought, conscience and religion are substantial rights that relate both to the ICCPR and the ECHR. As a judge of the European Court of Human Rights in the formation of single judge I examined and delivered decisions on admissibility of individual applications, and as a judge in general I sat in a chambers and participated in delivering of more than 2000 judgments. As a vice-president of a section of the European Court of Human Rights I was a duty judge to decide on requests for application of interim measures in individual applications. The full list of the judgments, decisions, concurring or dissenting opinions that I have presented may be found under the official database of the judgments of the European Court of Human Rights. It is beyond any doubt that in-depth knowledge and sufficient experience of examining complaints alleging violations of substantial rights may provide an essential advantage for any candidate seeking this position. Nevertheless, procedural aspects such as handling individual complaints and communications shall not**

be undermined. Both the ICCPR and the ECHR provide for the possibility of individual complaints, and having served as a judge rapporteur in numerous cases I dealt with hundreds of individual complaints and communications.

3. What do you think are the emerging issues and challenges in the implementation of the ICCPR? Please, provide 1-2 examples.

**After the World War II numerous human rights mechanisms have been created both on global and regional levels. Today most countries of the world are bound by the UN or other regional treaties promoting human rights, freedoms and liberties. However, there are several factors that serve as a root for newly emerging issues and challenges in implementation of those human rights mechanisms and ICCPR in particular. Economic globalization, military conflicts, scientific and technological postindustrial revolution, social, demographic and behavioral shifts present new challenges for human rights mechanisms.**

- **Individual states' overall attitude toward implementation of substantial rights and procedures under the ICCPR. Many countries still continue to invoke their local culture and social values as a shield to conceal gross human rights violations. Others may resist international human rights cooperation out of concern that higher human rights standards can be detrimental for businesses and corporations. I believe that ICCPR and its monitoring mechanism shall adopt more proactive strategies in engaging countries, improving their reporting practices and expanding the ICCPR implementation.**

- **Strengthening ICCPR's supervisory mechanism is one of the most urgent issues. ICCPR shall use more effectively its persuasive authority while trying to introduce more legally binding elements regarding implementation of its recommendations by the states concerned.**

- **Enhancing cooperation with other UN treaty mechanisms and regional human right protection instruments.**

4. What do you think are the challenges in the implementation of the ICCPR at the national level (for example normative, legal, structural, ideological or cultural)? Please, provide 1-2 examples.

**Although the recent developments in international law tend to increase the role of non-state actors in global affairs, states still remain the traditional actors of international legal system, thus bearing the primary responsibility for protecting human rights and freedoms. The states are under a duty to respect, protect and fulfill human rights. This is a difficult task especially under light of geopolitical, cultural, religious, ethnic and other differences that affect implementation of international human rights treaties at the national level. Ongoing armed conflicts, dysfunctional governments, weak rule of law, marginalization and violence against minorities create obstacles for ICCPR effective implementation at the national level. These factors may be resulted from cultural, ideological and structural issues. However, I would like to emphasize also legal or normative challenges to the national implementation of the ICCPR. In this context the main challenge is the vast differences between the legal systems of the state parties to the ICCPR throughout the world. Article 2 of ICCPR shall be given more weight in domestic legal and institutional reforms. The implementation of the ICCPR shall not be merely based on negative duty of forbearance but rather on introduction of more active mechanisms. In particular, creation of independent and effective domestic mechanism will allow to extend better protection**

for individual rights and freedoms deriving from international human rights instruments such as the UN treaties and regional human rights conventions. By their very definition judicial bodies shall serve this purpose and in this context judicial capacity building and strengthening independence of judiciary shall be treated as a top priority. Independent implementation mechanisms are crucial as they will enhance direct effect of rights protected under ICCPR not only through judicial mechanisms, but also by employing other national human rights instruments such as human rights defenders, parliamentary commissions, civil society organizations, etc.

5. State parties to the ICCPR are required to take steps to implement the Covenant. How do you propose that the Committee should help guide States in the effective implementation of Covenant standards?

**Strengthening the dialogue between the Human Rights Committee and relevant domestic authorities would be my first recommendation. Human Rights Committee can provide its expertise and guide national partners both in adopting measures of a general nature, such as constitutional, legal and institutional reforms, or help them to solve individual situations by eliminating individual human rights violations and providing adequate redress in each single case.**

**It is crucial that the Human Rights Committee continues its cooperation with national civil society organizations. The shadow reports have always been an important source of information necessary for human rights situation assessment, and empowering domestic civil society organization can have a multiplying effect on Human Rights Committee's effectiveness.**

**I would refrain from prioritizing rights protected by ICCPR one over the other as any single human rights violation shall receive due attention. Nevertheless, in guiding States in the effective implementation of Covenant standards I would emphasize the importance of eliminating hate speech in all its forms. Hate speech and incitement to hatred undermine the fundamental principle of substantive equality among human beings, and are capable of adversely affecting of joint efforts under the ICCPR aimed at eliminating discrimination on the basis of sex, race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. States shall consistently strengthen their efforts to combat all forms of discrimination.**

6. What can the Committee do to further strengthen its engagement with other stakeholders including National Human Rights Institutions (NHRI), members of Parliament, judicial actors, civil society and UN agencies?

**Some aspect of this question have been covered above. National Human rights Institutes in different jurisdiction and different parts of the world take various forms, such as human rights commissions, ombudsmen, consultative and advisory bodies, human rights institutes and centers. As a part of state apparatus most of them have a constitutional or legislative mandate to promote and protect human rights. National Parliaments and judicial actors play important role in advancing human rights. Adding to this list civil society organizations and the UN agencies makes it obvious that this institutional diversity is a major challenge for the Human Rights Committee to find and maintain the right balance of cooperation with these stakeholders. Based on geographical, thematic, historical, political or cultural criteria or background of a given state, their NHRIs and**

**other stakeholders may have various mandates that can ultimately affect the effectiveness of their engagement by the Human Rights Committee. In any event, wide and extensive dialogue among these stakeholders will allow to increase public awareness on human rights and incorporate international best practices in protecting, respecting and fulfilling human rights and freedoms.**

7. How do you see the Human Rights Committee strengthening the domestic and international environment for holding business/private actors responsible for violations under the Covenant?

**As mentioned above, state shall be deemed primary actors to respect, protect and fulfil international human rights obligations by creating effective domestic mechanisms and institutions. The non-interference by authorities with human rights and freedoms is not sufficient to ensure that many of those rights are fully and effectively safeguarded. In this respect, the State Parties are expected to be more active in the guaranteeing the rights and freedoms and the international human rights institutions have to reinforce the duty of States to take steps that should help to prevent substantive violations of the rights and freedoms to encourage States to target potential human rights violations at their roots.**

**However, international law shall not ignore the threats that private actors and businesses can pose to the enjoyment of human rights under ICCPR and other international covenants. In this context it shall be mentioned, that with a very few exceptions, international law does not directly impose duties on private actors.**

**The creation or strengthening of existing legal frameworks for holding private actors responsible generally is the most effective solution to this problem. As a member of the Human Rights Committee I will certainly promote creation of such domestic mechanisms that enable states and public bodies to take measures against private and business actors for human rights violations.**