

SECRETARIAT OF THE ASSEMBLY OF STATES PARTIES

Election of the Prosecutor: Background Note

This note outlines the process for the election of the Prosecutor of the International Criminal Court which is scheduled to take place at the nineteenth session of the Assembly of States Parties in December 2020.

The normative regime for the nomination and election of the Prosecutor is contained in the Rome Statute, in relevant resolutions of the Assembly (notably resolution ICC-ASP/1/Res.2 as amended by ICC-ASP/3/Res.6 (“the nomination resolution”)) and in the Terms of Reference for the Election of the Prosecutor adopted by the Bureau on 3 April 2019.¹

According to paragraph 28 of the nomination resolution, the procedures for the nomination of candidates for judges shall apply *mutatis mutandis* to the nomination of the Prosecutor. In addition, the resolution provides that nominations should preferably be made with the support of multiple States Parties (paragraph 29), and that every effort shall be made to elect the Prosecutor by consensus (paragraph 33).

Committee on the Election of the Prosecutor

Under the Terms of Reference, the Bureau established a Committee on the Election of the Prosecutor (“CEP”), comprised of five members and assisted by a panel of five independent experts. With the assistance of the panel of experts, the CEP received applications from individuals, interviewed candidates, and submitted a report on 30 June 2020 containing an unranked shortlist of four of the most highly qualified candidates.²

Consultations to identify a consensus candidate

The Terms of Reference provided that a consultation process would be undertaken after the submission of the CEP report, led by the President in consultation with the Bureau, to identify a consensus candidate for nomination and election by the Assembly. This consultation process will include hearings for shortlisted candidates with States Parties and civil society. Further information about the arrangements for the public hearings and the consultation process will be provided in due course.

Relationship between the CEP / consultation process and the formal nomination process

The CEP and subsequent consultation process is supplementary to the formal procedure set out in the nomination resolution. Any State Party is entitled to submit a nomination during the formal nomination period. However, States Parties are strongly encouraged to refrain from making nominations until the process set out in the Terms of Reference has been completed. The Bureau decided on 30 June 2020 to open a formal nomination period which shall run for 12 weeks and expire on 22 September 2020 (Central European Time).³ The nomination period would be extended as necessary so as to allow the consultation process on a consensus candidate to attain the desired result.

Additional information and documentation is available on the Assembly website at https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx.

¹ ICC-ASP/18/INF.2, available at https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx.

² ICC-ASP/19/INF.2, Add.1 and Add.2, available at https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx.

³ See note verbale dated 1 July 2020, available at https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx.