

**Twentieth session**

The Hague, 6 – 11 December 2021

Election of the Deputy Prosecutors of the International Criminal Court: guide for the fourth election**Note by the Secretariat**

1. The present note has been prepared pursuant to resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, concerning the procedure for the nomination and election of the Deputy Prosecutors of the International Criminal Court.

2. The Secretariat has prepared the voting instructions and sample ballot papers for the purposes of the fourth election of the Deputy Prosecutors of the International Criminal Court.

3. Article 42, paragraphs 3 and 4, of the Rome Statute provide as follows:

“3. The Prosecutor and the Deputy Prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

4. The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled. Unless a shorter term is decided upon at the time of their election, the Prosecutor and the Deputy Prosecutors shall hold office for a term of nine years and shall not be eligible for re-election.”

4. Paragraphs 36 to 42 of resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, provide as follows:

“F. Nomination of the Deputy Prosecutors

36. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled, in accordance with paragraph 4 of article 42 of the Statute.

37. For each nomination, the Prosecutor should include a statement specifying in the necessary detail how the candidate fulfils the requirements of paragraph 3 of article 42 of the Statute.

38. In proposing the list of candidates, the Prosecutor should bear in mind, in accordance with paragraph 2 of article 42, that the Prosecutor and the Deputy Prosecutors shall all be of different nationalities. A candidate who could be regarded as a national of more than one State shall be deemed to be a national of the State in which that candidate ordinarily exercises civil and political rights.

39. The Secretariat of the Assembly of States Parties shall place the nominations of candidates for the position of Deputy Prosecutor, the accompanying statements of qualification and other supporting documentation on the Internet web site of the

International Criminal Court in any of the official languages of the Court as soon as possible after receiving them.

40. The Secretariat of the Assembly of States Parties shall prepare a list in English alphabetical order of all persons thus nominated, with accompanying documents, and shall circulate it through the diplomatic channel.

G. Election of the Deputy Prosecutors

41. The procedures for the election of the Prosecutor in section E shall apply mutatis mutandis to the election of any Deputy Prosecutor.

42. In case of an election for more than one position for the post of Deputy Prosecutor:

a) The persons elected to the post of Deputy Prosecutor shall be those candidates who obtain the highest number of votes and an absolute majority of the members of the Assembly of States Parties;

b) If the number of eligible candidates obtaining the required majority for the elections exceeds the number of positions for Deputy Prosecutor so allocated thereunder, the candidates obtaining the highest number of votes to fill the number of seats so allocated shall be considered elected.”

Annex I

First ballot: Election of the Deputy Prosecutors of the International Criminal Court

1. Voting instructions regarding ballot for list A

1. Please place an “X” in the box to the left of the name of the candidate for whom you wish to vote. Only those candidates whose names appear on the ballot are eligible.
2. Vote for a maximum of 1 candidate from List A. Ballots containing votes for more than 1 candidate from List A will be declared invalid.

2. Voting instructions regarding ballot for list B

3. Please place an “X” in the box to the left of the name of the candidate for whom you wish to vote. Only those candidates whose names appear on the ballot are eligible.
4. Vote for a maximum of 1 candidate from List B. Ballots containing votes for more than 1 candidate from List B will be declared invalid.

3. Required majority

5. In accordance with paragraph 4 of article 42 of the Rome Statute, “[t]he Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled.” As at 11 December 2021, the total number of States Parties to the Rome Statute of the International Criminal Court is 123.¹ The required majority will therefore be 62 votes.

¹https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&clang=en.

SAMPLE BALLOT PAPERS

BALLOT FOR LIST A
VOTE FOR A MAXIMUM OF 1 CANDIDATE

Ms. Sylvia DOMARADZKI (Canada)

Ms. Nazhat Shameen KHAN (Fiji)

Ms. Paolina MASSIDDA (Italy)

BALLOT FOR LIST B
VOTE FOR A MAXIMUM OF 1 CANDIDATE

Mr. Mame Mandiaye NIANG (Senegal)

Ms. Claudia PAZ Y PAZ BAILEY (Guatemala)

Mr. Alex WHITING (France)