
Eighth session

The Hague

18-26 November 2009

**Election of judges to fill two judicial vacancies of the
International Criminal Court**

Note by the Secretariat

1. The election of two judges of the International Criminal Court will take place during the eighth session of the Assembly of States Parties, to be held in The Hague from 18 to 26 November 2009.

2. Under the terms of article 36 of the Rome Statute, the judges will be elected to fill vacancies resulting from the 16 February 2009 communication by Mr. Mohamed Shahabuddeen (Guyana), wherein he indicated that he would not be in a position to assume his duties as a judge, and the passing away of Judge Fumiko Saiga (Japan) on 24 April 2009. In January 2009, Mr. Shahabuddeen and Ms. Saiga had been elected by the Assembly of States Parties for nine year terms of office.

3. According to article 36, paragraph 4, States Parties were required to make nominations either by the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question, or by the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court. In addition, nominations were to be accompanied by a statement in the necessary detail specifying how the candidate fulfils the requirements laid down in paragraph 3 of article 36.

4. According to article 36, paragraphs 3 and 5, the judges were to be nominated from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. Every candidate for election to the Court should also have an excellent knowledge of and be fluent in at least one of the working languages of the Court. In addition, two lists of candidates have been established (see annex II to the present note):

List A - Candidates having established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings;

List B - Candidates having 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.

5. Article 36, paragraph 6, requires that the judges be elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose under article 112, and that the persons elected to the Court shall be the three candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting. In the event that a sufficient number of judges is not elected on the first ballot, successive ballots will be held until the remaining places have been filled, in accordance with the provisions of resolution ICC-ASP/3/Res.6.

6. Under the terms of article 36, paragraphs 7 and 8, no two judges may be nationals of the same State, and the States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for the representation of the principal legal systems of the world; equitable geographical representation; and a fair representation of female and male judges. In addition, States Parties are required to take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.

7. The Assembly of States Parties, at the 6th plenary meeting of its third session, on 10 September 2004, adopted resolution ICC-ASP/3/Res.6 relating to the procedure for the nomination and election of the judges of the International Criminal Court. Furthermore, the Assembly of States Parties, at the 9th plenary meeting of its resumed fifth session, on 1 February 2007, adopted resolution ICC-ASP/5/Res.5 containing an amendment to operative paragraph 27 of resolution ICC-ASP/3/Res.6.

8. In accordance with paragraph 13 of that resolution, the nomination period was opened on 5 August 2009, by a decision of the Bureau of the Assembly of States Parties, and, after being extended three times in accordance with paragraph 11 of resolution ICC-ASP/3/Res.6, closed on 28 October 2009. By the closing date of 28 October, the Secretariat had received five nominations.

9. As required by paragraph 8 of the same resolution, the Secretariat of the Assembly of States Parties placed the nominations of candidates for judges, together with the accompanying statements referred to in article 36 of the Statute and other supporting documentation, on the Internet web site of the International Criminal Court¹ as soon as possible after they were received.

10. In accordance with paragraph 9 of resolution ICC-ASP/3/Res.6, a list in English alphabetical order of all persons nominated, with accompanying documents, is contained in annex I to the present note (see ICC-ASP/8/21/Add.1). Three additional lists are provided in further annexes containing the names of the candidates organized according to list A or B (annex II), by regional group (annex III) and by gender (annex IV).

11. The procedure to be followed for the election of judges is laid down in paragraphs 15 to 25 and paragraph 27 of resolution ICC-ASP/3/Res.6.

¹ <http://www.icc-cpi.int>, under Assembly of States Parties.

Annex I

Alphabetical list of candidates (with statements of qualifications)

[see ICC-ASP/8/21/Add.1]

Annex II

List of candidates organized according to list A and B

List A	List B
<i>Name</i>	<i>Name</i>
1. FERNÁNDEZ DE GURMENDI, Silvia	1. MEDINA QUIROGA, Cecilia
	2. MONROY CABRA, Marco Gerardo
	3. OZAKI, Kuniko
	4. POLLARD, Duke E. E.

Annex III

List of candidates organized by regional group

Name (nationality)

Group of African States

n/a

Group of Asian States

1. OZAKI, Kuniko (Japan)

Group of Eastern European States**Group of Latin American and Caribbean States**

1. FERNÁNDEZ DE GURMENDI, Silvia (Argentina)
2. MEDINA QUIROGA, Cecilia (Chile)
3. MONROY CABRA, Marco Gerardo (Colombia)
4. POLLARD, Duke E. E. (Guyana)

Group of Western European and other States

n/a

Annex IV

List of candidates organized by gender

Male	Female
<i>Name</i>	<i>Name</i>
1. MONROY CABRA, Marco Gerardo	1. FERNÁNDEZ DE GURMENDI, Silvia
2. POLLARD, Duke E. E.	2. MEDINA QUIROGA, Cecilia
	3. OZAKI, Kuniko

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