

COSTA RICA

[Original: Spanish]

The Embassy of Costa Rica to the Kingdom of the Netherlands very warmly greets the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court, and has the honor to refer to the communication with reference number: ICC-ASP/19/SP/27, dated April 17, 2020, which refers to paragraph 6 f) of resolution ICC-ASP/3/Res.6, according to which each nomination for the election of Judges of The Court must be accompanied by a declaration indicating whether the candidacy is presented pursuant to Article 36, paragraph 4 a) i) or ii), and specifying in detail the elements of that procedure.

At the time of the submission of Mr. Sergio Gerardo Ugalde Godínez's nomination, the Government of Costa Rica also submitted information on the selection procedure in the document titled "Statement of Qualifications", and stated that it complies with paragraph 6 f) of resolution ICC-ASP/3/Res.6.

Pursuant to such Statement of Qualifications on the national selection procedure, Mr. Ugalde was subjected to a double scrutiny. He first underwent the nomination procedure carried out by the National Group in the Permanent Court of Arbitration, in accordance with paragraph 4, a), ii), of article 36 of the Rome Statute, a procedure that involved an extensive evaluation of the applicant's capabilities and experience. On January 16, 2020, the National Group in the Permanent Court of Arbitration submitted to the Ministry of Foreign Affairs and Worship an assessment of Mr. Ugalde's qualifications, recommending to the government of Costa Rica his nomination for the post of judge of the International Criminal Court.

Additionally, the Executive Power -the President of the Republic acting jointly with the Minister of Foreign Affairs, in accordance with the Law for the "Promotion of Cooperation and Judicial Assistance with the International Criminal Court", carried out a separate evaluation process to that conducted by the National Group in the Permanent Court of Arbitration, a process that lasted more than 6 months, first by the Ministry of Foreign Affairs and Worship, and later by the Presidency of the Republic.

In the case of the evaluation carried out by the Executive Power, Mr. Ugalde submitted information consistent with that required by Article 36 of the Rome Statute, and thorough evidence supporting his qualifications and his extensive experience in professional legal functions related to the judicial work of the Court. He was also interviewed for this purpose. The Ministry, in turn, prepared a set of technical criteria that was submitted to the consideration of the Presidency of the Republic. The Presidency, with the inputs received, performed another evaluation, the result of which was to endorse the nomination.

Costa Rica performed a broad and serious evaluation process, which consisted of multiple assessments, with the objective of nominating a candidate who not only fully complies with the requirements of the Rome Statute, but who also represents the country's commitment in relation to its resolute endorsement of the mission and values of the Rome Statute and the International Criminal Court.

Costa Rica notes that the procedure followed in the nomination is the one established by Article 36 of the Rome Statute. Such a procedure, regulated as it is, satisfies the national practice of carrying out an exhaustive scrutiny of the candidate's personal and professional qualities. In this case, the scrutiny was carried out by several entities, different from each other, over a period of several months. Likewise, Costa Rica notes that it made public, since October 2019, the evaluation process of the candidacy for the post of Judge of the International Criminal Court.

The Government of Costa Rica requests that this information provided be published by the Secretary and by the Advisory Committee on Nominations of Judges.

Likewise, the Government of Costa Rica supports that the Advisory Committee on Nominations of Judges makes suggestions to improve any aspect of the procedure for the selection and nomination of candidates for the position of Judge of the International Criminal Court, and at the same time communicates that it deems it appropriate that any proposal should be adopted as a generally applicable rule for all nominations, in order to provide consistency in the application of the mechanism by all the States Parties, and to insure its proper functioning.