

SECRETARIAT OF THE ASSEMBLY OF STATES PARTIES

New York Working Group

30 September 2011

Briefing by the Coordinator of the Search Committee for the position of the Prosecutor of the International Criminal Court

Summary

The President of the Assembly, H.E. Ambassador Christian Wenaweser (Liechtenstein), chaired the meeting.

The Coordinator of the Search Committee for the position of Prosecutor of the International Criminal Court, H.R.H. Prince Zeid Ra'ad Zeid al-Hussein (Jordan), expressed his gratitude to States Parties for the confidence which they had placed in the Search Committee process. He noted that the deadline for the formal nomination of candidates for the position of Prosecutor had been extended twice, due to the requirements of resolution ICC-ASP/3/Res.6,¹ both times without the submission of formal candidates. He noted that this constituted an expression of States Parties' faith in the Search Committee and underscored that a formal nomination was neither expected nor desired until such time as a consensus candidate had emerged.

The Search Committee had met on 12 September 2011 to consider the complete list of 51 potential candidates before it. Of these, 25 were nationals of States in the African region, one from Asia, one from Eastern Europe, six from the Group of Latin American and Other States (GRULAC) and 18 from the Western European and Others Group (WEOG). In total, 15 of these potential candidates were women while 36 were men. The Coordinator commended the list and noted the remarkably low incidence of applications from *prima facie* unqualified candidates.

At its 12 September meeting, the Search Committee had, through consensus decisions, arrived at a "long short-list" of 11 candidates. Of these, five were from Africa and six from WEOG. There were two women and nine men. One individual was from a non-State Party. The Coordinator emphasized that all 11 individuals were, or had been, trial lawyers of distinction. They had been invited to be interviewed, in person, by the Committee in the week starting 10 October. Eight individuals had accepted the invitation, two had declined and one answer was outstanding. Each of the interviewees had been requested to submit a detailed curriculum vitae and, if they so choose, a personal statement, as well as a list of referees.

Each potential candidate would have one detailed interview and, depending on the wishes of the Search Committee, a second interview the subsequent day. A previously-agreed catalogue of questions would be used, while also allowing for flexibility in follow-up questions. Although the members' alternates had hitherto been fully involved in the Search Committee process, they would not take part in the interviews. Rather, only the members of the Search Committee, the President of the Assembly, as an observer, and the Secretary of the Committee would participate.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third Session, The Hague, 6-10 September 2004, (ICC-ASP/3/25), part III, ICC-ASP/3/Res.6.*

The Search Committee would complete its report on Friday, 14 October, which would then be submitted to the Secretariat of the Assembly for processing. He expected the report to be released to the Bureau on or about 21 October, thus concluding the work of the Search Committee. The design of the subsequent process leading to the election of a consensus candidate would be a matter for States Parties and the President of the Assembly.

Question and answer segment

The question was raised whether those individuals who chose not to submit themselves to interviews would be removed from further consideration. The Coordinator responded that following the compilation of the long short-list, each potential candidate was contacted to ascertain his/her willingness to continue with the process. Those who had expressed a willingness to be considered would be interviewed.

A view was expressed that the right of States Parties to make formal nominations persisted, and the question of the treatment of a formal nomination was raised. The President noted that the Search Committee process was complementary to the Rome Statute and the relevant resolutions of the Assembly, and indeed without prejudice to the right of States Parties to make nominations.² This also explained the necessity for extending the nomination period. He reiterated that the fact that no formal nominations had been made should be seen as a sign of confidence in the Search Committee and a willingness to reach consensus on this question, in accordance with the provisions of the relevant resolutions of the Assembly.

The Coordinator noted that the Committee would conclude its work with the submission of its report. Once the Search Committee had submitted its shortlist of at least three suitable candidates, where possible for consideration by the Bureau, the President of the Assembly and the Bureau would have to decide on the way forward.

Responding to a question regarding the candidate from a non-State Party, the opinion was expressed that non-States Party individuals should be excluded in order to make room for nationals from States Parties.

The Coordinator emphasized that the Search Committee had been aware of the sensitivity of this question and had decided to look at candidates simply based on their experience and competence. In the case of this individual, there was no question that he/she would be on the long short-list if he/she was a national of a State Party. He also stressed that there was no statutory prohibition on a Prosecutor from a non-State Party. While nationality could not be a concern of the Search Committee, it might very well matter to the Assembly. The Search Committee, however, had chosen not to attempt to anticipate possible opinions of the Assembly.

The President reiterated that the report of the Committee, containing at its core the short-list, would be finalized on or about 21 October. He also noted that the present briefing would take the place of the regular monthly briefing to the Bureau. This would not, however, preclude the possibility of a discussion on this matter in the Bureau. He indicated that Mr. Daniel Bethlehem, member of the Search Committee, would brief The Hague Working Group of the Bureau on 5 October 2011.

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² Ibid.