

## **26. Establishment of an Advisory Committee on nominations of judges of the International Criminal Court (ICC-ASP/10/36, annex)<sup>1</sup>**

*The Assembly of States Parties,*<sup>2</sup>

[...]

19. Welcomes the report, adopted by the Bureau pursuant to paragraph 25 of resolution ICC-ASP/9/Res.3,<sup>3</sup> decides to adopt the recommendations contained therein, and requests the Bureau to start the process of preparing the election, by the Assembly of States Parties, of the members of the Advisory Committee on nominations of judges of the International Criminal Court in accordance with the terms of reference annexed to the report.

[...]

### **Annex<sup>1</sup>**

#### **A. Composition**

1. The Committee should be composed of nine members, nationals of States Parties, designated by the Assembly of States Parties by consensus on recommendation made by the Bureau of the Assembly also made by consensus, reflecting the principal legal systems of the world and an equitable geographical representation, as well as a fair representation of both genders, based on the number of States Parties to the Rome Statute.

2. Members of the Committee should be drawn from eminent interested and willing persons of a high moral character, who have established competence and experience in criminal or international law.

3. Members of the Committee would not be the representatives of States or other organizations. They would serve in their personal capacity, and would not take instructions from States Parties, States or any other organizations or persons.

4. The Committee will designate a coordinator to chair its meetings and organize its work.

#### **B. Mandate**

5. The Committee is mandated to facilitate that the highest-qualified individuals are appointed as judges of the International Criminal Court.

6. Committee members would normally be designated for three year terms, with the possibility of being re-elected only once. Four of the first members designated shall be asked to serve only for one three year term, so as to stagger membership and provide continuity. In the event of a vacancy, an election shall be held in accordance with the procedure for the nomination and election of members of the Advisory Committee on Nominations. The procedure shall apply mutatis mutandis, subject to the following provisions:

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<sup>1</sup> The amendments are reflected via footnotes.

<sup>2</sup> *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, para. 19.

<sup>3</sup> Report of the Bureau on the establishment of an Advisory Committee on the appointment of judges of the International Criminal Court (ICC-ASP/10/36).

<sup>1</sup> *Ibid.*, annex.

(a) The Bureau of the Assembly of States Parties may fix a nomination period which is shorter than the one used for other elections;

(b) The Bureau of the Assembly of States Parties may elect the member; and

(c) A member elected to fill a vacancy shall serve for the remainder of the predecessor's term and may be re-elected.<sup>2</sup>

6 *bis*. For a period of three years after the end of the mandate or after the resignation of a member of the Committee, that person shall not be nominated as a candidate for election to the Court.<sup>3</sup>

7. The work of the Committee is based on the applicable provisions of the Rome Statute and its assessment of the candidates will be based strictly on the requirements of article 36, paragraphs (3) (a), (b) and (c).

### **C. Working methods**

8. The Committee will convene in person, by correspondence, or via remote links, once candidates have been nominated by States. The members of the Committee shall ensure the confidentiality of all communications during the process.

9. The Committee may proceed to communicate with all candidates, including by interviewing, both orally and in writing, with regard to their qualification in accordance with the Rome Statute.

10. The evaluation procedure of the Committee shall be transparent. To that purpose, the Committee shall regularly and in detail brief the Bureau on its activities. The States Parties to the Rome Statute would be kept informed through the reporting procedures of the Bureau, and by briefings to the New York and The Hague Working Groups.

11. Once the Committee has completed its work, it will prepare information and analysis, of a technical character, strictly on the suitability of the candidates, which would be made available to States Parties and observers by submission to the Bureau, in sufficient time to allow for thorough subsequent consideration by the Assembly of States Parties.

12. Information and analysis presented by the Committee is to inform the decision-making of States Parties and is not in any way binding on them or on the Assembly of States Parties.

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<sup>2</sup> As amended by resolution ICC-ASP/13/Res.5, annex III.

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