

## **Election of judges of the International Criminal Court**

### **Frequently asked questions**

#### **1. How are judges of the International Criminal Court elected?**

Judges are elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose. The persons elected to the Court shall be the candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting.

#### **2. How many judges shall be serving in the International Criminal Court?**

There shall be 18 judges serving in the Court.

#### **3. What is the term of office for judges at the International Criminal Court?**

The judges hold office for a term of nine years and are not eligible for re-election, except for the cases provided by the Rome Statute.

#### **4. How many judges are currently serving at the Court?**

After the resignation of three judges, the Court is comprised of fifteen judges.

#### **5. What happens in the event of a judicial vacancy?**

Article 37 of the Rome Statute provides that in the event of a vacancy, an election shall be held in accordance with article 36.

#### **6. What type of election is the one scheduled to take place at the sixth session of the Assembly of States Parties?**

The election scheduled to take place at the sixth session of the Assembly of States Parties is an election to fill judicial vacancies. The vacancies resulted from the 10 December 2006 resignation of judge Maureen Harding Clark (Ireland), the resignation of judge Karl T. Hudson-Phillips (Trinidad and Tobago), effective as of 30 September 2007, and the resignation of judge Claude Jorda (France), effective as of 12 August 2007.

**7. What is the term of office for a judge elected to fill a judicial vacancy?**

The judge elected to fill the vacancy shall serve for the remainder of the predecessor term. If the period is three years or less, he/she shall be eligible for re-election for a full term of nine years.

Of the three judges to be elected at the sixth session of the Assembly of States Parties, two will serve for a period of 4 years and 3 months; and one, to be chosen by lot, will serve for a period of 15 months and would thus be eligible for re-election.

**8. What qualifications should a judge have?**

According to article 36, paragraph 3, of the Rome Statute, the judges are persons of high moral character, impartiality and integrity with the qualifications for appointment to the highest judicial offices in their countries. They shall have established competence in criminal law and procedure, and the necessary relevant experience in criminal proceedings or established competence in relevant areas of international law such as international humanitarian law and the law of human rights. Furthermore, judges shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

**9. Is it possible to have more than one judge of the same nationality?**

As indicated in article 36, paragraph 7, of the Rome Statute no two judges may be nationals of the same State.

**10. What is the list A and list B criteria?**

The Rome Statute provides in article 36, paragraph 5, that for the purpose of the election, there shall be two lists of candidates:

*List A:* Consisting of candidates with established competence in criminal law and procedures, and the necessary relevant experience, whether as judge, prosecutor, advocate, or in other similar capacity in criminal proceedings.

*List B:* Consisting of candidates with 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

**11. What criteria shall be taken into account by States Parties in the selection of judges?**

According to article 36, paragraph 8, of the Rome Statute the States Parties shall 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,
- a fair representation of female and male candidates, and
- the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women and children.

**12. How is these criteria ensure in the election process?**

The election of judges to the International Criminal Court is based on the principle of minimum voting requirements in the following categories:

- list A and list B,
- region, and
- gender

Each State Party shall vote for:

- a minimum number of candidates from list A and list B,
- a number of candidates from each regional group, and
- a number of candidates of each gender.

The minimum voting requirements are set out specifically for each election depending on the composition of the Court.

**13. For how many candidates does a State have to vote?**

During any given ballot, each State Party shall vote for no more candidates than seats to be filled. For the purpose of this election, a State shall vote for no more than 3 candidates.

**14. What are the minimum voting requirements for the election to be held at the sixth session of the Assembly of States Parties to fill judicial vacancies?**

Paragraph 20 (a) of resolution ICC-ASP/3/Res.6 sets out the method for determining the minimum voting requirements applicable for each election. For the purpose of this election, the Assembly is required to elect at least two candidates from list A. The third candidate to be elected may be from either list A or list B.

*Option 1:* candidate A + candidate A + candidate A

*Option 2:* candidate A + candidate A + candidate B

*Option 3:* candidate A + candidate A + abstain from casting the third vote

**15. Are there any regional group or gender minimum voting requirements for this election?**

For the purpose of this election, the only requirement is to elect at least two judges from list A. There are no minimum voting requirements for the regional group or gender criteria. This means that judges could be from any regional group and could be male or female.

**16. What happens if a State votes for fewer candidates than seats to be filled?**

Only ballot papers observing the minimum voting requirements shall be valid. If a State Party fulfils the minimum requirements using less than the maximum number of votes allowed for the ballot, it may abstain from voting for the remaining candidates. The result would be the one in option 3 under question 14.

Option 3: candidate A + candidate A + abstain from casting the third vote

**17. Is it possible to abstain?**

Abstentions where ballots fulfil the minimum voting requirements are possible. However, complete abstentions, whereby a ballot is cast with no vote on it, is not invalid but would not be included in the calculation of the number of States Parties present and voting.

**18. When is a ballot invalid?**

A ballot is invalid if it does not observe the minimum voting requirements of lists, regional groups and gender and if it contains votes for more candidates than seats to be filled.

**19. What is a mock election?**

A mock election is intended to give delegates the opportunity to familiarize themselves with the ballot paper, and with the voting procedure for the election of the judges. There is a mock ballot except that names and nationalities of the candidates are not reflected in the paper but replaced with flora.

**20. When is the mock election taking place?**

The mock election for the election to fill judicial vacancies to be held at the sixth session of the Assembly of States Parties is scheduled to take place on Wednesday, 28 November 2007, in conference room 4 of the United Nations Headquarters in New York.