



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Ninth meeting

via WebEx remote-link

9 October 2020

Agenda and decisions

The meeting was chaired by the President of the Assembly, Mr. O-Gon Kwon. The Vice Presidents of the Assembly, Ambassador Jens-Otto Horslund (Denmark) and Ambassador Michal Mlynár (Slovakia) also participated.

1. Election of the Prosecutor – the next steps

The Bureau continued its consideration of the way forward with respect to the election of the next Prosecutor scheduled to take place at the nineteenth session of the Assembly of States Parties.

The President recalled that the Committee on the Election of the Prosecutor had submitted its report,¹ containing an unranked shortlist of four candidates, on 30 June 2020. Hearings for the shortlisted candidates with States Parties and civil society were held on 29 and 30 July 2020. On 7 August 2020, the President wrote to States Parties outlining the modalities for the consultation process to identify a consensus candidate as foreseen in the Terms of Reference for the Election of the Prosecutor.² An update on the consultations had been provided during the joint meeting of The Hague and New York Working Groups on 8 September 2020, and during the seventh meeting of the Bureau on 11 September 2020.

The Bureau received a further update from Vice-President Mlynár, who noted that he had led extensive informal bilateral consultations over recent weeks with the primary aim of gathering views on the shortlisted candidates. Vice-President Mlynár noted that, based on those consultations, it did not seem possible at this stage to build consensus around one of the four shortlisted candidates under the current process. The Vice-President stated that broadening the consultations to include those longlisted by the Committee therefore seemed the most reasonable and sound way forward. Accordingly, the President noted that Bureau members had received a paper entitled “Consultations on identifying a consensus candidate for the post of the ICC Prosecutor: Elements for the way forward”, dated 7 October, which had been prepared by the President in consultation with the two Vice-Presidents. Before moving to the next stage of consultations, and in order to enhance the possibility of achieving consensus, the President recommended that the longlist of ten candidates interviewed by the Committee should be released, provided those candidates gave their consent, along with their curricula vitae and cover letters. Public hearings would then be organized with up to fourteen candidates, employing the same modalities as the first public hearings. Informal consultations

¹ ICC-ASP/19/INF.2, Add.1 and Add.2.

² ICC-ASP/18/INF.2.

would then continue, led primarily in New York by Vice-President Mlynár on a bilateral basis. The President would appoint three to five focal points to assist the Vice-President with the consultations. The timeline for the consultations would be subject to further decisions to be taken by the Bureau on the organization of the nineteenth session of the Assembly.

Different views were expressed on the next steps. A view was expressed that it was extremely premature to conclude that consensus was not possible on one of the shortlisted candidates at this stage. The point was made that if additional candidates were to be considered, then information on the assessment of those candidates by the Committee and Panel of Experts should also be released in order to ensure fairness and transparency. In relation to the focal points, Bureau members expressed a preference for all of the regional groups to be represented, in order to ensure all regions were engaged. It was noted that the next steps, once agreed, would need to be clearly set out in writing and communicated to all.

It was agreed that the Bureau would consider the next steps further through a written procedure or, if necessary, at a future meeting. Some Bureau members stressed the need to preserve the transparent, fair and merit-based nature of the process when deciding the way forward.

The Bureau agreed that the nomination period for the election of the Prosecutor would be extended for a further period of one month, i.e. until 22 November 2020, in order to allow additional time for the consultation process. A note would be circulated to inform States Parties in due course. It was reiterated that formal nominations by States Parties were not expected or encouraged at this stage.

2. Other matters

a) Modalities for the roundtables with candidates for judicial elections

The Bureau continued its consideration of the arrangements for the roundtables with candidates for judicial elections in light of the paper entitled “Modalities for 2020 Public Roundtables for Judicial Candidates”, dated 4 August 2020, which had been approved by the New York Working Group.

The Bureau agreed that the roundtables would be held over a period of four days, from 26 to 29 October, for a duration of two and a half hours each day, beginning at 08.00 New York time / 13.00 The Hague time. Each roundtable would have five candidates. The President would draw lots to compose the roundtables at random, during a brief virtual meeting which would be convened in the latter part of the week of 12 October, at 08.00 New York time / 14.00 The Hague time. All States Parties would be invited to attend that meeting.

b) Complementarity- assignment of the mandate on sexual and gender-based crimes

The Bureau took note that, since no comments had been submitted on the President’s proposal during the silence procedure, on 1 October 2020 the mandate contained in paragraph 57³ of the omnibus resolution (ICC-ASP/18/Res.6) had been assigned to the Complementarity facilitation.

³ Para. 57 provides as follows: “Recognizes the importance of achieving accountability for all Rome Statute crimes while recalling that there is no hierarchy between them, encourages the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the nineteenth session of the Assembly”.

c) Multilingualism

The point was made that multilingualism is very important and it was recalled that a recently-held 5 October 2002 joint panel discussion on strengthening cooperation with the Court had benefitted from the provision of simultaneous interpretation. Since this tool was now available, efforts should be made to ensure that interpretation was provided for the meetings of the Bureau. Further, it was noted that the report of the Group of Independent Experts contained a recommendation on multilingualism.⁴

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⁴ See: Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report, paras. 234-236 and recommendation 100: https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/IER-Final-Report-ENG.pdf