



Thirteenth session

New York, 8-17 December 2014

Report of the Advisory Committee on Nominations of Judges on the work of its third meeting

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I. Introduction

A. Opening of the session

1. The third meeting of the Advisory Committee on Nominations of Judges (“the Committee”) was opened by the Chairperson of the Committee, Mr. Philippe Kirsch (Canada) and was held at United Nations Headquarters, New York, from 8 to 12 September 2014.
2. The Committee observed one minute of silence to mark the passing of a member of the Committee, Judge Árpád Prandler (Hungary), on 4 February 2014.
3. The Committee also took note that another member, Mr. Leonardo Nemer Caldeira Brant (Brazil), had resigned from the Committee on 18 June 2014 since the Government of Brazil had nominated him as a candidate for election as a judge of the Court at the thirteenth session of the Assembly.

B. Adoption of the agenda

4. The Committee adopted the following agenda:
 1. Opening of the session
 2. Adoption of the agenda
 3. Scope of the mandate
 4. Organization of work
 5. Consideration of the nominations submitted to elect six judges at the thirteenth session of the Assembly
 6. Other matters
5. The following members participated in the meeting:
 - (a) Mr. Hiroshi Fukuda (Japan);
 - (b) Mr. Philippe Kirsch (Canada) (Chairperson);
 - (c) Mr. Daniel David Ntanda Nsereko (Uganda);
 - (d) Mr. Ernest Petri (Slovenia);
 - (e) Ms. Mónica Pinto (Argentina) (Vice-Chairperson);
 - (f) Mr. Bruno Simma (Germany); and
 - (g) Mr. Raymond Claudius Sock (Gambia)

C. Scope of the mandate

6. The Committee recalled its mandate, set out in document ICC-ASP/10/36:¹

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

[...]
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).”

[...]

¹ Report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court (ICC –ASP/10/36), annex, paras. 5, 7 and 11.

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.”

7. The Committee agreed that its mandate was self-explanatory and did not require any elaboration.

D. Organization of work

8. The Committee decided that it would hold face-to-face interviews with each candidate of 60 minutes duration, to be followed by a discussion period after each interview. Simultaneous interpretation into English or French was available for the candidates who so requested.

9. The Committee’s consistent experience has been that the interviews with candidates have revealed important elements relating to how they fulfill the requirements of article 36 of the Rome Statute and to the relevance of their professional experience to the work of the Court, elements which were not otherwise detected in the written submissions.

10. The Committee was informed that it was not possible for one candidate to be present for the face-to-face interview. While stressing the importance to its work for candidates to appear in person before the members, the Committee agreed, on an exceptional basis, to conduct the interview via a telephone call. The Committee expressed concern at the possible precedent of the non-appearance of candidates for future elections and urged States Parties to ensure that their candidates appear before the Committee at its future meetings convened for the purpose of assessing candidates for election to the Court.

11. The Secretariat of the Assembly of States Parties (“the Secretariat”) provided the substantive servicing for the Committee, and the Director, Mr. Renan Villacis, acted as Secretary.

II. Consideration of the nominations submitted to elect six judges at the thirteenth session of the Assembly

12. The Committee recalled that, at its 18 April 2013 meeting, it had expressed the view that candidates should be present at the venue where the Committee would meet for interviews.² The Committee conducted interviews with the 17 candidates presented for the election of six judges to be held during the thirteenth session.

13. The Committee conducted face-to-face interviews of 60 minutes duration each, with all but one of the following candidates:

- (a) Alapini-Gansou, Reine Adelaide Sophie (Benin)
- (b) Bahloul, Abdelkade (Tunisia)³
- (c) Benneh, Emmanuel Yaw (Ghana)
- (d) Birmontien , Toma (Lithuania)
- (e) Brant, Leonardo Nemer Caldeira (Brazil)
- (f) Chung, Chang-ho (Republic of Korea)
- (g) ur evi , Zlata (Croatia)
- (h) Gontšarov, Pavel (Estonia)

² Report of the Advisory Committee on Nominations of Judges on the work of its first meeting (ICC-ASP/12/23), para. 12.

³ The Committee interviewed Mr. Abdelkade Bahloul (Tunisia) via telephone call.

- (i) Hofma ski, Piotr (Poland)
- (j) Kovács, Péter (Hungary)
- (k) Mindua, Antoine Kesia-Mbe (Democratic Republic of the Congo)
- (l) Pereira, Maria Natércia Gusmão (Timor-Leste)
- (m) Perrin de Brichambaut, Marc Pierre (France)
- (n) Ratiaraisoa, Harimahefa (Madagascar)
- (o) Schmitt, Bertram (Germany)
- (p) Thelin, Krister Hans (Sweden)
- (q) Ugrehelidze, Mindia (Georgia)

14. The Committee took note that one of its members shared the nationality of one of the candidates. Taking into account the precedent of national courts in some jurisdictions of a judge being given the opportunity to recuse himself, and aware of the importance of perception, the Committee decided to ask the member whether, in his view, there was any reason for him to recuse himself from the assessment of the candidate presented by his State. The member of the Committee indicated that while he was of the same nationality, he did not know the candidate and he was not aware of any circumstances that would affect his objectivity. The Committee agreed that he would participate in the assessment.

15. The Committee recalled that at its 18 April 2013 meeting, it had expressed the view that candidates should be present at the venue where it would meet for interviews,⁴ and that at its second meeting, it had welcomed the opportunity to have face-to-face interviews with the candidates.⁵ The Committee, mindful of its mandate, reiterated the importance that it attached to face-to-face interviews in order to conduct a proper analysis, strictly of a technical character, on the suitability of candidates, which would be made available to States Parties.⁶ The Committee urged nominating States to avoid the precedent of their candidates failing to appear before the Committee.

16. The recommendations of the Committee following its assessment of the candidates pursuant to its mandate are set out in annex I.

17. The Committee welcomed the decision of the Assembly that the nomination period for judicial candidates shall open 32 weeks before the elections⁷ and noted that this decision reflected its recommendation at its second meeting.⁸ The amended time limit had greatly facilitated its work in 2014 by enabling it to address potential difficulties of inadequate time to thoroughly assess the candidates presented for election to the six vacant seats and enabling it to report to the Assembly well in advance of its thirteenth session.

III. Other matters

A. Proposal to fill a casual vacancy on the Advisory Committee

18. The Committee noted that its terms of reference did not provide for the filling of a casual vacancy on the Committee, and that the issue was receiving the attention of the Bureau. The Committee decided to recommend that the practice of the Assembly with respect to vacancies on other subsidiary bodies of the Assembly be followed, i.e. the Board

⁴ Report of the Advisory Committee on Nominations of Judges on the work of its first meeting (ICC-ASP/12/23), para. 12.

⁵ Report of the Advisory Committee on Nominations of Judges on the work of its second meeting (ICC-ASP/12/47), para. 11.

⁶ Report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court (ICC-ASP/10/36), annex, para.7.

⁷ Resolution ICC-ASP/12/Res.8, operative paragraph 29 and annex II. The amended paragraph 3 reads: "The nomination period shall open 32 weeks before the elections and shall last 12 weeks."

⁸ Report of the Advisory Committee on Nominations of Judges on the work of its second meeting (ICC-ASP/12/47), para. 12.

of Directors of the Trust Fund for Victims and the Committee on Budget and Finance, whereby the Bureau may fix a nomination period shorter than that fixed for the regular elections and may itself elect the member (see annex II, appendix I).

B. Continuity of the work of the Committee

19. The Committee recalled the provisions of the terms of reference relating to duration of the mandate, whereby Committee members would normally be designated for three-year terms, with the possibility of re-election only once. The terms of reference further provide that “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”.⁹

20. The Committee noted that the two vacancies that had arisen during 2014 related to two members who would have been eligible for re-election for another three-year term. The Committee recommended that, with the aim of having continuity in its work, the Assembly waive the impediment of the four members of the Committee to be nominated at the fourteenth session.

C. Proposal to amend the terms of reference of the Committee

21. The Committee recommended that, in order to avoid the perception of conflict of interest in its proceedings, its terms of reference be amended to reflect that an interval of three years should be observed with respect to the nomination of former members as candidates for election to the Court (see annex II, appendix II).

⁹ ICC-ASP/10/36, annex, para. 6. At its eleventh session, the Assembly had, by the drawing of lots, designated the following four members to serve only for one three-year term: Mr. Hiroshi Fukuda (Japan), Ms. Mónica Pinto (Argentina), Mr. Bruno Simma (Germany) and Mr. Raymond Claudius Sock (Gambia).

Annex I

Evaluation of the candidates

1. The Advisory Committee on Nominations of Judges of the International Criminal Court hereby submits to the Bureau of the Assembly of States Parties to the Rome Statute its assessment of the 17 candidates for the elections to be conducted during the thirteenth session of the Assembly.
2. The Committee's assessment is based on the requirements of article 36, paragraphs 3 (a), (b) and (c), of the Rome Statute. The Committee presents the following information and analysis of the suitability of the candidates in accordance with the terms of reference defined by the Assembly.
3. In reaching its conclusions, the Committee considered written material submitted by the candidates in the form of statements of qualifications and curricula vitae, and conducted face-to-face interviews with 16 out of the 17 candidates. The Committee thanked the candidates for making themselves available for the interview.
4. All the conclusions and decisions of the Committee have been reached by consensus.

General observations

5. The Committee noted that the candidates submitted their candidacies under List A and List B as described in article 36, paragraph 3, of the Rome Statute, requiring "established competence in criminal law and procedure, and the necessary relevant experience, whether as a judge, prosecutor, advocate or in other similar capacity, in criminal proceedings" or "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".
6. The Committee also recalls that article 36, paragraph 3(c), requires that "Every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court."
7. The Committee took note of article 35, paragraph 1, of the Rome Statute, which provides that "All judges shall be elected as full-time members of the Court and shall be available to serve on that basis from the commencement of their terms of office".
8. The Committee stressed the importance that judges elected to the Court be in good health and prepared to serve the whole term, and that there be no extraneous duties that could delay their assumption of office or interfere with their discharge of their duties of a judge as provided in article 40, paragraph 3, of the Rome Statute. The Committee noted that all candidates had stated that they were in good health. The Committee further noted that all candidates had indicated that they were prepared to serve for the full term of nine years. All but one candidate assured the Committee that they would be available from 11 March 2015.
9. The Committee noted that the written material submitted and the statements made asserted that the candidates are persons of high moral character, impartiality and integrity, and that they possess the qualifications required in their respective States for appointment to the highest judicial offices.
10. For the reasons indicated in paragraph 9 of the report, the Committee, as a result of its experience after two sessions, emphasizes once more the importance of face-to-face interviews with the candidates to the effective discharge of its mandate. Therefore, the Committee urges States Parties to ensure that their candidates are available for face-to-face interviews with the Committee.

List A candidates

BAHLOUL, Abdelkader (Tunisia)

1. The Committee noted that the candidate had extensive experience in criminal law and criminal procedure, having served in various relevant judiciary positions within the Ministry of Justice since 1985, including as Investigating Judge at the Court of First Instance in Sfax, as Public Prosecutor at the Courts of First Instance in Kairouan and in Sfax, as President of the Criminal Chamber at the Court of Appeal in Sfax, as Principal Public Prosecutor at the Court of Appeal in Gabès and in his current post, held since 2011, as Principal Public Prosecutor at the Court of Appeal in Tunis. The candidate clarified that the courts of appeal in Tunisia not only review cases but also retry them.
2. The Committee also noted that the candidate had dealt with complex criminal cases and had demonstrated familiarity with the provisions of the Rome Statute.
3. The Committee noted the candidate's fluency in French.
4. The interview of the candidate was conducted via a telephone call.

CHUNG, Chang-ho (Republic of Korea)

1. The Committee noted that the candidate had dealt with criminal law for most of his professional life, since 1993. He also had substantial experience at both the national and international levels in complex criminal cases and in the management of such cases. The candidate had served as Judge, Court Martial of the Korean Air Force and as District Judge and High Court Judge, dealing in the latter capacity with appeals from lower courts. Since 2011, he has also served as a judge at the Extraordinary Chambers of the Courts of Cambodia (ECCC).
2. The Committee noted that the candidate had experience in dealing with crimes within the jurisdiction of the International Criminal Court and in criminal procedure, having served as a judge at the ECCC. The Committee further noted that, while the Republic of Korea followed the civil law system, the candidate had carried out an in-depth study of the common law system at foreign universities, and worked in the hybrid system of the ECCC and was thus familiar with both the civil and common law systems.
3. The Committee noted the candidate's fluency in English.

GONTŠAROV, Pavel (Estonia)

1. The Committee noted that the candidate had substantial professional experience in criminal law and procedure, having served as Assistant Prosecutor and Prosecutor between 1997 and 2001. Since 2001, he has presided over criminal proceedings as a pre-trial, trial and appellate judge in cases of varying complexity. The Committee noted that in his prosecutorial role, he had dealt with a range of sensitive cases and noted further that he was familiar with the application of human rights within criminal proceedings. The Committee observed that the candidate was familiar with both the civil law and common law systems due to the shift in the legal system of Estonia from the inquisitorial to the adversarial system of trials.
2. The Committee observed that the candidate had experience in programmes relating to reforms in the justice sector. It also noted that he has, since 2010, been an ad hoc judge of the European Court of Human Rights, and since 2004 has been an ad hoc judge of the joint Supervisory Body of Eurojust, which deals with complaints of violations of rights in the transmission of information by Eurojust to States.
3. The Committee noted the candidate's fluency in English.

HOFMA SKI, Piotr (Poland)

1. The Committee noted that the candidate has substantial experience as a judge. He was first judge at the Białystok Appeals Court in 1994 and, since 1996, at the Criminal

Chamber of the Supreme Court. The candidate had gained professional experience in the Supreme Court in the practice of criminal law and procedure, the assessment of evidence and the general conduct of a trial in complex criminal cases. The Committee took note that in the candidate's national system, appellate courts may re-open cases and assess new evidence presented by the Prosecution or Defence in a trial setting. The Committee observed that the candidate was familiar with the civil law system, as well as with the common law system due to his research relating to criminal law and procedure, and the protection of the fundamental rights of the accused and of victims. He had also led two international research projects relating to the general concept of the law of war.

2. The Committee also took note that at the academic level, the candidate has more than 35 years experience in the teaching of criminal law, including as Assistant Professor and Associate Professor and since 2001, as full Professor the Chair of Criminal Procedure Law at the Jagiellonian University, Krakow.

3. The Committee noted that the candidate was also involved in other areas of professional activity, which included serving as an expert for the Polish Parliament, and as member and Deputy Head of the Codification Commission, whose main task is to monitor criminal law.

4. The Committee noted the candidate's fluency in English.

PEREIRA, Maria Natércia Gusmão (Timor-Leste)

1. The Committee noted that the candidate had 14 years experience in criminal law, having been a judge at the international and national levels, including at the United Nations Transitional Administration in East Timor (UNTAET) and at the United Nations Mission in East Timor (UNMISSET), where she was a judge on a Special Panel for Serious Crimes, Vice-President of the Superior Council of the Judiciary, of the Timorese Superior Council of Magistracy, and Justice of the Court of Appeal.

2. The Committee noted that the candidate had judicial experience of dealing with the crimes within the jurisdiction of the International Criminal Court since the UNTAET Regulations replicated the relevant provisions of the Rome Statute. She was familiar with the civil law system of her State and had applied the hybrid legal system of the UNTAET Regulations. The Committee further noted that her work in UNMISSET had exposed her to the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Court. The Committee noted that the candidate has experience in the administration of courts, was a lecturer in civil and criminal procedural law at the National University of Dili, and has worked on violence against women in those contexts.

3. The Committee questioned whether the candidate's oral proficiency in English, one of the working languages of the Court, while sufficient for the purposes of the interview, met the high standard prescribed under article 36, paragraph 3 (c), of the Rome Statute.

SCHMITT, Bertram (Germany)

1. The Committee noted that the candidate had been dealing with criminal law and procedure for his entire professional life, from 1991 as judge at the Regional Court of the State of Hesse, then as Presiding Judge in 1999, and thereafter as judge at the German Federal Court of Justice (Supreme Court) from 2005 to date. He had also been active as a scholar in the field and had co-authored a widely used commentary on German criminal procedure.

2. The candidate also demonstrated his considerable experience in dealing with complex cases, including those involving organized crime and human trafficking. He further demonstrated familiarity with the conduct of proceedings under the Rome Statute.

3. The Committee noted that, in addition to his qualifications under article 36, paragraph 3(b)(i), of the Rome Statute, the candidate had expertise in the area of international human rights law, having served as an ad hoc judge at the European Court of Human Rights and addressed issues regarding the interpretation of the European

Convention on Human Rights at the Federal Court of Justice. He was also a member of the Joint Supervisory Body of Eurojust.

4. The Committee noted the candidate's fluency in English and his working knowledge of French.

THELIN, Krister Hans (Sweden)

1. The Committee noted the candidate's extensive judicial experience, having served at the national courts since 1972. He spent most of his professional career as a Judge of Appeal and has been serving as a Senior Judge of Appeal at the Scania and Blekinge Court of Appeal, Malmö since 1998, dealing with criminal and civil cases. The candidate clarified that the courts of appeal in Sweden are directly under the Supreme Court and that they not only review cases but also retry them.

2. The Committee also noted the candidate's competence in international criminal law acquired as a judge ad litem at the International Criminal Tribunal for the former Yugoslavia (ICTY) from 2003 to 2008, obtaining necessary relevant and substantive experience as well as management of complex criminal cases comparable to those of the International Criminal Court.

3. The Committee noted that, in addition to his qualifications under article 36, paragraph 3(b)(i), of the Rome Statute, the candidate acquired expertise in human rights law as a member of the Human Rights Committee of the International Covenant on Civil and Political Rights (ICCPR) from 2008 to 2012. In 2010, he was also elected as ad hoc judge of the European Court of Human Rights.

4. The Committee noted the candidate's fluency in English and his working knowledge of French.

UGREKHELIDZE, Mindia (Georgia)

1. The Committee noted that the candidate served as the President of the Supreme Court of Georgia from 1990 to 1999, which examined civil and criminal cases. However, the Committee noted that his professional experience in directing the conduct of criminal proceedings was limited to the period from 1990 to 1992; in 1992 the Supreme Court no longer handled trial processes as it became a court of cassation.

2. The Committee noted, in addition to his qualifications under article 36, paragraph 3(b)(i), of the Rome Statute, the candidate's knowledge of international law and human rights law, that he served as a judge at the European Court of Human Rights from 1999 to 2008, as well as his knowledge of some areas of the law relevant to the judicial work of the International Criminal Court.

3. However, on the basis of material submitted and of the interview, the Committee questioned whether the candidate's professional experience was of relevance to the judicial work of the Court under article 36, paragraph 3(b) (i) of the Rome Statute and consequently whether the candidate's qualifications met all the requirements of the Statute for a judge at the International Criminal Court .

4. The Committee noted the candidate's fluency in English and his working knowledge of French.

List B candidates

ALAPINI-GANSOU, Reine Adelaide Sophie (Benin)

1. The Committee noted that the candidate had a good knowledge of human rights law, an area in which the candidate had been active as a lawyer in Benin since 1986 as well as in various capacities at the international level, including as member of the African Commission of Human and People's Rights and as its Special Rapporteur on the Situation of Human Rights Defenders in Africa from 2005 to 2009 and from 2011 to date.

2. The Committee took note of the candidate's field experience in several African countries with victims of massive violations of human rights, including violence against women and girls, for instance as Head of the Human Rights Component of the African Union Mission for Mali and the Sahel and as member of the Human Rights Council's commission of inquiry on the post-electoral violence in Côte d'Ivoire. The Committee further noted the quasi-judicial nature of some functions of the African Commission of Human and People's Rights.

3. The Committee noted the candidate's fluency in French and her working knowledge of English.

BENNEH, Emmanuel Yaw (Ghana)

1. The Committee noted the candidate's knowledge of international law and human rights law as well as his experience at the national level as a senior lecturer at the University of Ghana since 1990 to date and as a lecturer at the Ghana Armed Forces Command and Staff College from 2000 to 2009.

2. However, on the basis of the material submitted and of the interview, the Committee questioned whether the candidate's professional experience was of relevance to the judicial work of the Court under article 36, paragraph 3(b) (ii) of the Rome Statute and consequently whether the candidate's qualifications met all the requirements of the Statute for a judge at the International Criminal Court.

3. The Committee noted the candidate's fluency in English.

BIRMONTIEN , Toma (Lithuania)

1. The Committee noted the candidate's experience in human rights law throughout her career at the national level, as well as her knowledge of some areas of law relevant to the judicial work of the International Criminal Court. The Committee also noted the candidate's judicial experience at the Constitutional Court of Lithuania where she served from 2005 to 2014. The Committee took note of her practical and academic expertise in the areas of human rights acquired in her capacity as Director of the Lithuanian Centre for Human Rights (a nongovernmental organization) from 1995 to 2004 and as a university professor at the Mykolas Romeris University since 1979.

2. However, on the basis of the material submitted and of the interview, the Committee questioned whether the candidate's professional experience was of relevance to the judicial work of the Court under article 36, paragraph 3(b) (ii) of the Rome Statute and consequently whether the candidate's qualifications met all the requirements of the Statute for a judge at the International Criminal Court.

3. The Committee noted the candidate's fluency in English.

BRANT, Leonardo Nemer Caldeira (Brazil)

1. The Committee noted that the candidate had substantial expertise in international law, including international humanitarian law and human rights law, subjects to which he had dedicated his academic career, teaching since 1994 at the Federal University of Minas Gerais and since 2002 at the Pontifical Catholic University of Minas Gerais, and as visiting professor at several universities abroad. He has also published extensively and initiated and coordinated a number of activities contributing to the dissemination of international law in Brazil.

2. The Committee took note of the candidate's experience in the field of general international law acquired at the Registry of the International Court of Justice from 2003 to 2004.

3. The candidate also demonstrated a thorough knowledge of the Rome Statute and the work of the International Criminal Court, which had been the focus of his recent research activity, including as a co-editor and author of a forthcoming article-by-article commentary of the Statute.

4. The Committee noted the candidate's fluency in both English and French, which included the ability to write in both languages.

UR EVI , Zlata (Croatia)

1. The Committee noted that the candidate had considerable experience in the field of human rights, and had conducted significant research in this field, including human rights relating to the criminal justice system, fair trial rights, and rights of the defence and the practice of various human rights bodies. She had specialized in the protection of the right to life and the prevention of torture and had recently participated in the preparatory work for a regional commission related to war crimes.

2. In addition to her qualifications under article 36 (b) (ii), the Committee noted that the candidate has been a full professor of law since 2011, Head of Department of Criminal Procedural Law at the University of Zagreb since 2007, and since 1995, has been teaching courses including the law of criminal procedure, human rights and criminal justice, European criminal law, and criminal responsibility of legal persons. She had also passed the Bar exam in 1994. The candidate had participated in the implementation of criminal law standards at the national level, with a focus on cooperation with the International Tribunal for the former Yugoslavia. The Committee also noted that the candidate had some experience in working on victims' rights in the criminal process.

3. The Committee noted the candidate's fluency in English and her working knowledge of French.

KOVÁCS, Peter (Hungary)

1. The Committee noted that the candidate had an in-depth knowledge of international humanitarian law and the law of human rights, areas on which he had been focusing in his academic career, from his first assumption of a professorship in 1997 to his current position as Head of the International Law Department of Péter Pázmány Catholic University held since 2009. He had also gained a practitioner's perspective on these areas through his work for the Hungarian Ministry of Foreign Affairs, including his participation in relevant expert committees of the Council of Europe.

2. The Committee also noted the candidate's expertise in the jurisprudence of international tribunals, especially regional human rights tribunals and international criminal tribunals, as well as his thorough understanding of the role and methods of work of the International Criminal Court.

3. The Committee noted that, in addition to his qualifications under article 36, paragraph 3(b)(ii), of the Rome Statute, the candidate had served since 2005 on the Constitutional Court of Hungary, which provided him with judicial experience.

4. The Committee noted the candidate's fluency in both English and French, which included the ability to write in both languages.

MINDUA, Antoine Kesia-Mbe (Democratic Republic of the Congo)

1. The Committee noted that the candidate had substantial knowledge of international law, including international humanitarian law and the law of human rights. The candidate's expertise had been acquired through his academic activities and professional career as a judge at the ICTY from 2006 to date as well as his work at the ICTR. The candidate was a Professor of Public International Law and International Criminal Law at the Geneva School of Diplomacy and International Relations, University Institute, Geneva, Switzerland and visiting Lecturer at the International Institute for Human Rights of the University of Strasbourg, France. He also served as Ambassador of the Democratic Republic of the Congo to the United Nations in Geneva from 2001 to 2006, and in that capacity headed his country's delegation to the United Nations Human Rights Commission; he also served as Vice-Chairman of the Executive Committee of the United Nations High Commissioner for Refugees.

2. The Committee noted that, in addition to his qualifications under article 36, paragraph 3(b)(ii), of the Rome Statute, the candidate had considerable experience in criminal law and procedure and familiarity with the work of the International Criminal Court having served as a judge at the ICTY and as a Legal Officer and Chief of the Judicial Proceedings Support Unit at the ICTR from 1997 to 2001.

3. The Committee also noted that the candidate, if elected, hoped to be available to serve at the commencement of the term of office on 11 March 2015, but may not be in view of the continuation of proceedings at the ICTY.

4. The Committee noted the candidate's fluency in English and French, which included the ability to write in both languages.

PERRIN DE BRICHAMBAUT, Marc Pierre (France)

1. The Committee noted the candidate's substantial expertise of public international law, including international humanitarian law and the law of human rights. He acquired this expertise through a variety of functions assumed during his professional life, such as: membership since 1974 in the *Conseil d'État* (supreme administrative court) which involved inter alia verification of compliance with international human rights instruments; advocacy before international tribunals; as well as serving as Director of Legal Affairs at the French Ministry of Foreign Affairs from 1994 to 1998. In his position as Secretary-General of the Organization for Security and Co-operation in Europe from 2005 to 2011 he had moreover been called upon to deal with practical aspects in humanitarian crisis situations such as protection of international personnel and of refugees.

2. During the interview, the candidate, who had participated in the negotiations leading up to the Rome Statute, demonstrated ongoing familiarity with the work of the International Criminal Court.

3. The Committee noted that, in addition to his qualifications under article 36, paragraph 3(b)(ii), of the Rome Statute, the candidate had judicial experience as a member of the *Conseil d'État*.

4. The Committee noted the candidate's fluency in both English and French, which included the ability to write in both languages.

RATIARAISOA, Harimahefa (Madagascar)

1. The Committee noted that, besides her career at the Ministry of Justice, the candidate had lectured in various educational institutions in Madagascar and had been active in the design and implementation of a national monitoring system of human rights violations and in the elaboration of reports submitted to international human rights bodies.

2. Apart from the above, the Committee noted that the candidate had begun her career as a prosecutor and became a judge in 1987, rising to her current position as a member of the Court of Cassation of the Supreme Court of Madagascar in 2009. Throughout her judicial career she had also dealt with criminal cases.

3. However, on the basis of the material submitted and of the interview, the Committee questioned whether the candidate's professional experience was of relevance to the judicial work of the Court under article 36, paragraph 3(b) (ii), of the Rome Statute and consequently whether the candidate's qualifications met all the requirements of the Statute for a judge at the International Criminal Court.

4. The Committee noted the candidate's fluency in French and her working knowledge of English.

Annex II

Recommendations of the Committee

Appendix I

Recommendations relating to a casual vacancy on the Committee

The Committee recommends the following draft resolution for the consideration of the Assembly:

Draft resolution

Procedure for filling vacancies in the Advisory Committee on Nominations

The Assembly of States Parties,

Recalling its resolution ICC-ASP/10/Res.5, operative paragraph 19, whereby the Assembly decided to establish the Advisory Committee on Nominations;

Wishing to ensure a full membership of the Advisory Committee,

Decides to amend the terms of reference of the Advisory Committee on Nominations, contained in the annex to document ICC-ASP/10/36, by adding the following text to the end of paragraph 6:

1. “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:

- (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.”

Appendix II

Recommendation concerning the amendment of the terms of reference of the Committee

The Committee recommends that the following text be inserted as a new paragraph 6 *bis* of the terms of reference contained in the annex to document ICC-ASP/10/36:

“For a period of three years after the end of the mandate of a member of the Committee, that person shall not be nominated as a candidate for election to the Court.”

Appendix III

Recommendations concerning the material submitted with the nominations and future sessions of the Advisory Committee on Nominations

1. The Committee welcomed the improvement that States made in the submission of nominations following the guidelines for the presentation of candidates as suggested in its second report,¹ particularly the template for *curricula vitae*. The Committee decided to suggest the following additional guidelines.

Statement of qualifications:

- (a) The statement of qualifications should be succinct and avoid replicating information which is already contained in the curriculum vitae;
 - (b) The statement should include a brief description of the hierarchy of the highest judicial institutions in the respective country and indicate which requirements must be met for appointment to the highest judicial offices in those institutions;
 - (c) Explain the extent to which the candidate would have met the requirements for appointment to the highest judicial institutions; and
 - (d) Explain in greater detail the procedure followed at the national level for nominating candidates for judge at the International Criminal Court.
2. After having held three sessions, the Committee was of the view that:
- (a) It was essential for the members of the Committee to meet and to have face-to-face interviews with the candidates;
 - (b) The duration of future sessions of the Committee dealing with the election of six judges should be of at least six days, so as to allow for sufficient time to have the interviews and conduct the evaluation of the candidates; and
 - (c) The provision of interpretation services had been confirmed as a requirement, since some candidates preferred to make use of interpretation for the interviews.
3. The Committee expressed its hope that the Assembly would provide the requisite resources to allow for the effective discharge of its mandate.

¹ ICC-ASP/12/47, annex III.