



Seventeenth session

The Hague, 5–12 December 2018

**Report of the Bureau on
the Advisory Committee on Nominations****I. Introduction**

1. At its tenth session, the Assembly decided to establish an Advisory Committee on Nominations,¹ which would operate in accordance with the terms of reference annexed to the report of the Bureau on the establishment of an Advisory Committee on Nominations of Judges of the International Criminal Court (hereinafter “the terms of reference”).² The terms of reference were amended by resolution ICC-ASP/13/Res.5.³

2. At its third meeting, on 29 January 2018, the Bureau decided that the nomination period for the election of members of the Advisory Committee on Nominations (hereinafter “the Advisory Committee”) which will take place at the seventeenth session of the Assembly, on the basis of a recommendation of the Bureau, would run for twelve weeks from 6 June to 28 August 2018. On 30 August, the Bureau decided to extend the nomination period for two weeks until 11 September, with a second extension until 25 September and, a third extension until 9 October 2018.

3. On 15 November 2018, the Bureau decided to consider and evaluate the eight candidates to the Advisory Committee on Nominations and present its report.

II. Criteria

4. The Bureau had before it eight nominations, which were received by the Secretariat of the Assembly by the conclusion of the extended nomination period on 9 October 2018.

5. The Bureau was cognizant of the criteria for membership in the Advisory Committee contained in paragraphs 1 and 2 of the terms of reference, viz.:

(a) 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.

(b) 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.

¹ See paragraph 19 of resolution ICC-ASP/10/Res.5.

² ICC-ASP/10/36.

³ See paragraph 45 of the resolution.

6. Following past practice, the Bureau considered that these criteria required a two-stage assessment procedure. First, on the basis of paragraph 2 of the terms of reference, it had to assess whether the candidates submitted fulfilled the requirements of being “eminent interested and willing persons of a high moral character, who have established competence and experience in criminal or international law.” Only candidates who individually fulfilled these criteria would move to the second stage of consideration, set out in paragraph 1 of the terms of reference.

7. Regarding the second stage of its selection, the Bureau considered that it must take into account, together with the above requirements, the necessity that the Advisory Committee reflect “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.” The need to ensure continuity in the work of the Advisory Committee had to be taken into consideration as well. The Bureau would arrive at a recommendation based on a cumulative application of these criteria.

8. Furthermore, in its 2017 report the Advisory Committee had requested “States Parties which may be considering nominations of its nationals as members of the Advisory Committee to bear in mind that the composition of the Committee should reflect, *inter alia*, ‘a fair representation of both genders.’”⁴

9. The Bureau conducted an examination of each individual candidate, to see whether she or he complied with the criteria contained in paragraph 2 of the terms of reference. Members of the Bureau were given the opportunity to express which aspects of each individual candidature they perceived to be strengths, and which aspects elicited queries or comments, including in light of additional elements in the terms of reference and other relevant documents on the establishment of the Advisory Committee,⁵ such as the requirement under paragraph 3 of the terms of reference that members of the Committee act independently, or of considerations regarding language skills. Attention was also drawn to the specific competence required to fulfil the mandate of the Advisory Committee, i.e. the facilitation of the selection process for persons nominated to serve as judges of the Court.

10. There was a consensus within the Bureau that all candidates met the criteria contained in paragraph 2 of the terms of reference and that the points referred to in paragraph 7, 8 and 9 (above) were met. The Bureau considered that its mandate was to recommend to the Assembly all eight nominees for election to the Advisory Committee on Nominations on the basis of the candidatures before it.

III. Conclusions and recommendations

11. The Bureau concluded that all eight candidates before it were qualified to serve on the Advisory Committee. They therefore all met the individual criteria set out in paragraph 2 of the terms of reference.

12. The Bureau was of the view that an Advisory Committee comprised of the following eight members would meet the collective criteria set out in paragraph 1 of the terms of reference, and recommends that they be nominated for election to the Advisory Committee (in alphabetical order and with an asterisk identifying those members who have not yet served on the Committee):

- (a) BARRAK BINHAMAD, Ahmad Mohammad (State of Palestine), male*
- (b) BÎRSAN, Corneliu (Romania), male*
- (c) COTTE, Bruno (France), male
- (d) FULFORD, Adrian (United Kingdom), male
- (e) KAMBUNI, Lucy Muthoni (Kenya), female*
- (f) MONAGENG, Sanji Mmasenono (Botswana), female*
- (g) RODRÍGUEZ VELTZÉ, Enrique Eduardo (Bolivia), male*
- (h) STEINER, Sylvia Helena De Figueiredo (Brazil), female*

⁴ ICC-ASP/16/Res.6, para 70.

⁵ See Report of the Bureau on the establishment of an Advisory Committee on Nominations of judges of the International Criminal Court (ICC-ASP/10/36).

13. As regards the ninth candidate, the Assembly would elect the remaining member at its eighteenth session with the Bureau to decide on the respective nomination period. The ninth member so elected would serve for the remainder of the three-year term, i.e. 2021, with the possibility of being re-elected only once.

14. In concluding its work, the Bureau expressed its hope that the list of nominees would prove to be acceptable to the Assembly and would ultimately lead to an election of the members of Advisory Committee by consensus, in accordance with the terms of reference.
