

**Nineteenth session, second resumption**

New York, 12 February 2021

Election of the Prosecutor of the International Criminal Court: guide for the third election**Note by the Secretariat**

1. The present note has been prepared pursuant to resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, concerning the procedure for the nomination and election of the Prosecutor of the International Criminal Court.
2. The Secretariat has prepared the voting instructions and a sample ballot paper for the purposes of the third election of the Prosecutor of the International Criminal Court.
3. Article 42, paragraphs 3 and 4, of the Rome Statute provide as follows:
 - “3. The Prosecutor and the Deputy Prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.
 4. The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled. Unless a shorter term is decided upon at the time of their election, the Prosecutor and the Deputy Prosecutors shall hold office for a term of nine years and shall not be eligible for re-election.”
4. Paragraphs 28 to 35 of resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, provide as follows:
 - D. Nomination of candidates for the Prosecutor**
 28. The procedures for the nomination of candidates for judges shall apply *mutatis mutandis* to the nomination of the Prosecutor.
 29. Nominations for the post of the Prosecutor should preferably be made with the support of multiple States Parties.
 30. Each nomination should be accompanied by a statement specifying in the necessary detail how the candidate fulfils the requirements of paragraph 3 of article 42 of the Statute.
 - E. Election of the Prosecutor**
 31. The Bureau of the Assembly of States Parties shall fix the date of the election.
 32. The Secretariat of the Assembly of States Parties shall prepare a list of candidates in English alphabetical order.

33. Every effort shall be made to elect the Prosecutor by consensus.
34. In the absence of consensus, the Prosecutor shall be elected, in accordance with paragraph 4 of article 42 of the Statute, by secret ballot by an absolute majority of the members of the Assembly of States Parties.
35. In the interest of a timely conclusion of the election, if after three ballots no candidate has obtained the required majority, the balloting shall be suspended to give an opportunity for any withdrawal of candidatures. Before such suspension, the President of the Assembly of States Parties will announce when balloting shall resume. Upon resumption of balloting, if no candidate obtains in the first ballot the majority required, further ballots shall be taken, which shall be restricted to the candidates obtaining the two largest number of votes.”

Annex I

First ballot: Election of the Prosecutor of the International Criminal Court

Voting instructions

1. Please place an “X” in the box to the left of the name of the candidate for whom you wish to vote. Only those candidates whose names appear on the ballot are eligible.
2. Vote for a maximum of 1 candidate. Ballots containing votes for more than 1 candidate will be declared invalid.

Required majority

3. In accordance with paragraph 4 of article 42 of the Rome Statute, “[t]he Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties”. As at 12 February 2021, the total number of States Parties to the Rome Statute of the International Criminal Court is 123.¹ The required majority will therefore be 62 votes.

¹https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&lang=en.

SAMPLE BALLOT PAPER

VOTE FOR A MAXIMUM OF 1 CANDIDATE

- Mr. Carlos CASTRESANA FERNANDEZ (Spain)
- Mr. Fergal GAYNOR (Ireland)
- Mr. Karim KHAN (United Kingdom of Great Britain and Northern Ireland)
- Mr. Francesco LO VOI (Italy)