



Reference: ICC-ASP/8/S/18

The Secretariat of the Assembly of States Parties presents its compliments to Permanent Mission of ... to the United Nations and has the honour to refer to the decision of the Bureau of the Assembly of States Parties, taken at its first meeting, on 14 January 2009, regarding the election of members of the Board of Directors of the Trust Fund for the benefit of victims, which will take place at the eighth session of the Assembly.

The Bureau decided to fix the nomination period, which would run for 12 weeks, from 20 May to 11 August 2009 (Central European Time). Nominations received by the Secretariat before or after the nomination period shall not be considered.

The relevant resolutions for the nomination and election of the members of the Board are: ICC-ASP/1/Res.6 of 9 September 2002 (see annex I) and ICC-ASP/1/Res.7 of 9 September 2002 (see annex II).

Paragraphs 2 and 3 of the latter resolution read as follows:

“2. States Parties shall nominate candidates during the nomination period, which shall be fixed by the Bureau of the Assembly of States Parties.

“3. Nominations submitted before or after the nomination period shall not be considered.”

It may be recalled that, pursuant to paragraph 2 of the annex to resolution ICC-ASP/1/Res.6, the Board has five members, elected for a term of three years, who serve in an individual capacity on a pro bono basis and who may be re-elected once.

Furthermore, paragraph 3 of the annex to the above-mentioned resolution and paragraph 8 of resolution ICC-ASP/1/Res.7 read, respectively, as follows:

“3. The Assembly shall elect the members of the Board, all of whom shall be of a different nationality, on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes.”

“8. Bearing in mind the requirements of paragraph 3 of the annex to the resolution establishing the Board of Directors, the distribution of seats shall be as follows:

- African States, one seat;
- Asian States, one seat;
- Eastern European States, one seat;
- Group of Latin American and Caribbean States, one seat;
- Western European and Other States, one seat.”

Paragraph 6 of resolution ICC-ASP/1/Res.7 provides that “each nomination shall specify how the candidate fulfils the requirements of paragraph 1 above”, namely “that the candidates be of high moral character, impartiality and integrity and have competence in the assistance to victims of serious crimes.” In that regard, the Secretariat wishes to underscore that the Bureau of the Assembly, at its seventh meeting, held on 7 April 2009, decided to invite States Parties to ensure that their nominations include persons that are dynamic and available to carry out their functions on a regular basis, that possess relevant practical experience in the subject-matter of the work of the Trust Fund and, where applicable, that have experience in fundraising. States Parties are encouraged to specify how their candidates comply with either of these characteristics in their nomination materials.

Furthermore, in accordance with paragraph 5 of the above-mentioned resolution, nominations shall be communicated through diplomatic channels to the Secretariat of the Assembly of States Parties, International Criminal Court, Room C-0690, Maanweg 174, 2516 AB The Hague, The Netherlands (or via fax + 31-70-515-8376 or via e-mail to [asp@asp.icc-cpi.int](mailto:asp@asp.icc-cpi.int)). If feasible, the Secretariat would appreciate receiving an electronic copy of the nomination and supporting documents.

The Hague, 24 April 2009

## Annex I

### Resolution ICC-ASP/1/Res.6

#### Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims

*The Assembly of States Parties,*

*Bearing in mind* the provisions of article 79, paragraph 1, of the Rome Statute,

1. *Decides* to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims;
2. *Decides also* that the Trust Fund shall be funded by:
  - (a) Voluntary contributions from Governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;
  - (b) Money and other property collected through fines or forfeiture transferred to the Trust Fund if ordered by the Court pursuant to article 79, paragraph 2, of the Statute;
  - (c) Resources collected through awards for reparations if ordered by the Court pursuant to rule 98 of the Rules of Procedure and Evidence;
  - (d) Such resources, other than assessed contributions, as the Assembly of States Parties may decide to allocate to the Trust Fund;
3. *Decides further* to request the Board of Directors established pursuant to the annex to the present resolution to develop suggestions for further criteria for the management of the Trust Fund for consideration and adoption by the Assembly of States Parties as soon as possible;
4. *Adopts* the annex to the present resolution relating to the management of the Trust Fund.

#### Annex to the resolution

1. The Assembly of States Parties hereby establishes a Board of Directors of the Trust Fund for the benefit of victims provided for in article 79 of the Rome Statute.
- 2.<sup>1</sup> The Board shall have five members who shall be elected for a term of three years and may be re-elected once. They shall serve in an individual capacity on a pro bono basis. If the term of office of the members of the Board would otherwise expire before the date of the session when the Assembly would proceed with an election for members of the Board, the members shall continue to serve until the date of the election.
- 3.<sup>2</sup> The Assembly shall elect the members of the Board, all of whom shall be of a different nationality, on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes. 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 Board of Directors of the Trust Fund for the benefit of victims. The procedure shall apply mutatis mutandis, subject to the following provisions:

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<sup>1</sup> As amended by resolution ICC-ASP/4/Res.7.

<sup>2</sup> As amended by resolution ICC-ASP/4/Res.5.

- (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.
  - (c) A member elected to fill a vacancy shall serve for the remainder of the predecessor's term and may be re-elected once.
4. The Board shall meet at the seat of the Court at least once a year.
5. The Registrar of the Court shall be responsible for providing such assistance as is necessary for the proper functioning of the Board in carrying out its tasks and shall also participate in meetings of the Board in an advisory capacity.
6. The Assembly of States Parties may, as and when the workload of the Trust Fund increases, consider, on the recommendation of the Board and after consulting with the Registrar as required, the creation of an expanded capacity, including the appointment of an Executive Director, either within or outside the Registry as appropriate, to provide further assistance with the proper and effective functioning of the Trust Fund. The Assembly of States Parties shall, as part of such consideration, after consulting with the Board and the Registrar, consider the payment of expenses of the Trust Fund from the voluntary contributions accruing to it.
7. The Board shall, in accordance with the provisions of the Rome Statute, the Rules of Procedure and Evidence, and the criteria to be determined by the Assembly of States Parties, establish and direct the activities and projects of the Trust Fund and the allocation of the property and money available to it, bearing in mind available resources and subject to the decisions taken by the Court. Before establishing and directing the activities and projects of the Trust Fund, the Board shall consult, as far as possible, victims and their families or their legal representatives and may consult any competent expert or organization.
8. Voluntary contributions from Governments, international organizations, individuals, corporations and other entities shall be submitted to the Board for approval, in accordance with the criteria laid down in paragraphs 9 and 10.
9. The Board shall refuse such voluntary contributions envisaged in paragraph 8 that are not consistent with the goals and activities of the Trust Fund.
10. The Board shall also refuse voluntary contributions whose allocation, as requested by the donor, would result in a manifestly inequitable distribution of available funds and property among the different groups of victims.
11. The Board shall report annually to the Assembly of States Parties on the activities and projects of the Trust Fund and on all offered voluntary contributions, regardless of whether they were accepted or refused.
12. The Committee on Budget and Finance shall examine the budget of the Trust Fund annually and submit to the Assembly of States Parties a report and recommendations for the best possible financial management of the Trust Fund.
13. The Financial Regulations and Rules shall apply *mutatis mutandis* to the administration of the Trust Fund, except as otherwise provided in the present resolution.

## Annex II

### Resolution ICC-ASP/1/Res.7

#### Procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims

*The Assembly of States Parties,*

*Bearing in mind* its resolution establishing a Board of Directors of the Trust Fund for the benefit of victims,

*Mindful* of the Rules of Procedure of the Assembly of States Parties,

*Approves* the following procedure for the election of members of the Board of Directors:

#### **A. Nomination of candidates**

1. The Secretariat of the Assembly of States Parties shall circulate through diplomatic channels the invitations for nominations of members of the Board of Directors. The invitations shall specify that the candidates be of high moral character, impartiality and integrity and have competence in the assistance to victims of serious crimes.
2. States Parties shall nominate candidates during the nomination period, which shall be fixed by the Bureau of the Assembly of States Parties.
3. Nominations submitted before or after the nomination period shall not be considered.
4. If at the end of the nomination period the number of candidates remains less than the number of seats, the President of the Assembly of States Parties shall extend the nomination period.
5. States Parties to the Statute shall communicate nominations for the election of the members of the Board of Directors through diplomatic channels to the Secretariat of the Assembly of States Parties.
6. Each nomination shall specify how the candidate fulfils the requirements of paragraph 1 above.
7. The Secretariat of the Assembly of States Parties shall prepare a list in English alphabetical order of all persons thus nominated, with accompanying documents, and shall circulate it to States Parties through diplomatic channels.

#### **B. Distribution of seats**

8. Bearing in mind the requirements of paragraph 3 of the annex to the resolution establishing the Board of Directors, the distribution of seats on the Board shall be as follows:
  - African States, one seat;
  - Asian States, one seat;
  - Eastern European States, one seat;
  - Group of Latin American and Caribbean States, one seat;
  - Western European and Other States, one seat.

**C. Election of members of the Board of Directors**

9. The election of members of the Board of Directors shall be a matter of substance, and subject to the provisions of article 112, paragraph 7 (a), of the Statute.

10. Every effort shall be made to elect the members of the Board by consensus. In the absence of consensus, the election shall be by secret ballot. This requirement may be dispensed with if the number of candidates corresponds to the number of seats to be filled, or in respect of candidates endorsed by the respective regional groups, unless a delegation specifically requests a vote on a given election.

11. In the event of a tie for a remaining seat, there shall be a restricted ballot limited to those candidates who have obtained an equal number of votes.

12. The persons elected shall be the candidate from each group who obtains the highest number of votes and a two-thirds majority of States Parties present and voting, provided that an absolute majority of the States Parties constitutes the quorum for voting.