

The Embassy of the Oriental Republic of Uruguay to the Kingdom of the Netherlands presents its compliments to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court and has the honor of referring to the Secretariat's Note Verbale ICC-ASP/19/SP/27, dated 17 April 2020, on national nomination processes for the election of judges or prosecutors of the ICC, in accordance with Resolution ICC-ASP/18/Res.4, paragraphs 5 and 6, dated December 2019.

As requested in paragraph 6 of Resolution ICC-ASP/18/Res.4, dated December, 2019, the following information is provided with regards to the procedures for the nomination of candidates which are currently in place in Uruguay.

A specific procedure was established in Uruguay in accordance with law 18.026 on cooperation with the International Criminal Court with respect to combating genocide, war crimes and crimes against humanity (published on 4 October 2006). Article 74 of the aforementioned law (on the requirements to be eligible for nomination) refers not only to the requirements set out in article 36, paragraph 3 of the Rome Statute, but also to the fact that the candidate **“must meet the requirements set out in article 235 of the constitution of the republic”**; in other words, the same requirements as to be appointed judge of the Supreme Court of Justice, which are as follows: to be a national of Uruguay; to be 40 years of age or older; to either have 10 years of experience as a lawyer or to have served the Judiciary or the Public Prosecutor's Office for at least 8 years. This is hence compliant with the mechanism under article 36, paragraph 4 (a) (i) of the Rome Statute (“procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question”).

Furthermore, article 75 of the aforementioned law establishes that it is the General Assembly who decides on the nominee, with a simple majority vote, in a session called for that purpose.

The above-mentioned law also establishes that **“candidates may be proposed to the General Assembly by: the Executive Power of Uruguay, the Legislative Power, the House of Representatives, Universities, the Uruguayan Bar Association, as well as any other non-governmental organization which is a legal entity and has as its objective the promotion, defence and study of Human Rights”**.

Hence, in the specific case of Uruguay, it is not only article 36 of the Rome Statute that rules the process, but also the procedure required by the Law of Cooperation with the ICC, **Law 18.026**. The latter has the particularity of being considerably more open and transparent, as decisions are not exclusively made at a political level by the Ministry of Foreign Affairs - the Executive Power.

As requested in paragraph 5 of Resolution ICC-ASP/18/Res.4, dated December 2019, a description is provided of the actual procedure followed to appoint the candidate of Uruguay for the nomination of judge of the International Criminal Court in 2020.

The following is an excerpt of the Statement of Qualifications submitted for Dr. Ariela Peralta Distéfano:

“Mrs. Ariela Peralta not only has the support of the Executive Power of Uruguay, but also the Legislative Power and civil society human rights organizations. This, by virtue of the national nomination system, established by the Cooperation Law with the International Criminal Court (No. 18.026), where different actors can nominate candidates, having to be endorsed by the legislative General Assembly, for the formalization of the candidacy through diplomatic channels. It is noteworthy that the current Administration, which took office on March 1 2020, and the new legislature, which took office on February 15 2020, endorsed the nomination of Dr. Peralta, backed by civil society, based on the endorsement given in 2017. At that time, Mrs. Peralta was nominated by the then Government of Uruguay, receiving unanimity of support from the entire political spectrum, at a session of the General Assembly on March 14, 2017 (1). It is important to highlight that prior to this, in 2012, Dr. Peralta had received the support, by the required special majorities, in the General Assembly of the Uruguayan Parliament when she was elected member of the first Directing Council of the National Human Rights Institution and Ombudsperson Office (collective “ombudsperson” of Uruguay, NHRI); which she later chaired until 2017.

Based on the importance of this position, the Uruguayan Law of Cooperation with the International Criminal Court (Law Nr. 18.026 - articles 73 to 75-) establishes that to be nominated as a candidate for judge or Prosecutor of the ICC, the candidate must comply with the same requirements as to be appointed judge of the Supreme Court of Justice, as well as being endorsed by the General Assembly (Senate and House of Representatives). On March 14, 2017, she was unanimously voted by the legislators present at the General Assembly session of the Uruguayan Congress (one hundred and four members of the Senate and House of Representatives; parliamentarians from different political parties).”

The following is to elaborate on what has already been informed:

The current nomination of Mrs. Peralta to serve as judge of the International Criminal Court for the period 2021-2030 was submitted to the General Assembly by non-governmental organizations which are legal entities and have as their purpose the promotion, defence and study of Human Rights. Said organizations included: Association of Former Political Prisoners (Asociación de ex presos y presas políticos del Uruguay (CRYSOL), a key actor both in the fight against impunity for atrocious crimes and for reparations policies for victims; National Association of Non-Governmental Organizations (Asociación Nacional de Organizaciones No Gubernamentales Orientadas al Desarrollo, ANONG), which gathers together over 100 Uruguayan non-governmental organizations devoted to the promotion and defence of Human Rights as well as to national development, including learning and academic institutions, and which maintains a close relationship with international organizations, multilateral agencies and similar associations in the region; Centro de Comunicación Virginia Woolf (Cotidiano Mujer), a feminist group created in 1985 whose work has been to accompany the development of the public and cultural agenda of Uruguayan and Latin American women; and El Paso Civil Organization

(Asociación Civil El Paso), an organization committed to the defence of the Human Rights of children and teenagers, as well as women particularly affected by violence, sexual abuse and discrimination.

In their accompanying notes (please find them enclosed, 2), they mention that Dr. Peralta had already been nominated by the Executive Power in 2017 and endorsed by the General Assembly, and that they requested that said endorsement was now renewed and her nomination as candidate was once again submitted.

As a reminder, Dr. Ariela Peralta was nominated in 2017 by the Uruguayan government, under the Presidency of Dr. Tabaré Vázquez, as the Uruguayan candidate for Judge of the International Criminal Court for the period 2018-2027, and that said nomination was unanimously endorsed by the members of the General Assembly. Hence, the candidate was nominated by more than the simple majority vote required by Law 18.026, as she was unanimously voted by one hundred and four members of the Senate and House of Representatives; parliamentarians from different political parties at a session of the General Assembly on 14 March 2017, in accordance with the Law of Cooperation with the ICC, Law 18.026.

Additionally, it is to be remembered that, in the early months of 2020, during the official nomination period (which was originally from 1 January 2020 to 30 March 2020), Uruguay was transitioning both to a new government, which took office on 1 March 2020 (after the presidential elections that were held at the end of October 2019) and to a new legislature, which took office on 15 February (having held Parliamentary elections at the end of October 2019). In that sense, it was necessary to wait for the new authorities to take office before initiating nomination processes for high-level international positions such as this one.

It is noteworthy that just as the new government (a coalition of five political parties) took office, the outbreak of the pandemic caused by Covid-19 occurred and, for public health reasons, in-person meetings were temporarily restricted. Only a few days before, organized civil society had already taken the initiative by requesting that the General Assembly nominate Dr. Ariela Peralta as a candidate once again in light of her career and the fact that she had previously obtained unanimous endorsement from the Parliament in 2017 (please refer to the link to an article that appeared in the press on 3 March 2020, about said proposal) (3). No other candidates were nominated on this occasion.

Given the current extraordinary health situation that has imposed new ways of working at a global level (namely working remotely), the Presidency of the General Assembly, currently held by Ms Beatriz Argimón, Senator and Vicepresident of the Oriental Republic of Uruguay, initiated appropriate consultations with all political parties with a seat in Parliament, and obtained endorsement to once again nominate Dra. Ariela Peralta as a candidate for judge of the ICC. This reaffirmed the unanimous endorsement obtained by the candidate on 14 March 2017, at a specific session of the General Assembly, where she exceeded the majority vote required by law, and which was then publicly announced (please refer to the official picture at a session of the Commission on Constitutions, Codes, General Legislation and Administration of the House of Representatives, chaired by Member of Parliament Macarena Gelman) (4).

Therefore, on Friday 27 March 2020, the Presidency of the General Assembly informed the Executive Power, via the Foreign Minister, Mr Ernesto Talvi, Ec., of the decision of the legislative bodies to endorse the nomination of Dr Ariela Peralta once more. Said nomination was formalized through diplomatic channels on 30 March 2020, (within the original nomination period).

As proof of the respect for the professional career of the candidate, it is noteworthy that, in 2012, the General Assembly of the Parliament of Uruguay already recognized and endorsed Dr Peralta when, by means of the appropriate special majority vote, she was appointed as member of the first Board of Directors of the National Human Rights Institution and Ombudsperson Office (INDDHH), which she then went on to chair until 2017.

The Parliament, under the current health constraints as a result of the pandemic that was officially declared in March 2020, assessed that, given Dr Peralta's background, she met the requirements set out by national legislation as well as by the Rome Statute. It is important to recall that Mrs Peralta was nominated by Uruguay as a candidate for the position of judge of the International Criminal Court in 2017 under a different Administration, and she was unanimously voted for by the General Assembly. Furthermore, on this occasion she was nominated by civil society organizations, and her nomination was eventually endorsed by the new legislature and formalized by the Executive Power through diplomatic channels. It is also worth reiterating that the new Government, under the Presidency of Dr. Luis Lacalle Pou took office on 1 March 2020.

The fact that the candidate has obtained unanimous political endorsement in a process open to various actors evidences that Dr Peralta has well established competence, is a respected professional with a proven record of independence in her actions, and is of high moral character.
