



## **Coalition for the International Criminal Court**

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### **Questions & Answers:**

## **PROCEDURES for the NOMINATION and ELECTION of JUDGES to the INTERNATIONAL CRIMINAL COURT**

### **NOMINATION PROCEDURE**

#### **Who can nominate and be nominated?**

The Rome Statute provides that each State Party to the Rome Statute may put forward one candidate. The candidate need not be a national of the nominating state, but must be a national of a State Party.

#### **How was the nomination period opened?**

The Assembly of States Parties (ASP) - the governing body of the Court - opened the nomination process following the adoption of procedures for the nomination and election of judges to the ICC. Prince Zeid Ra'ad Zeid Al-Hussein, the Jordanian Ambassador and President of the Assembly of States Parties (ASP), formally announced the opening of the nomination period on September 9, 2002.

#### **When will the nomination period close?**

The nomination period for the first election will close on November 30, 2002. States Parties and States that deposit their instrument of ratification or accession by that date will be allowed to nominate a candidate. Nominations submitted after the nomination period will not be accepted unless the President of the Assembly of States Parties grants an extension of the nomination period due to a lack of candidates.

#### **What is the nomination process?**

Any country wishing to put forward its own national as a candidate must undertake a selection process at the national level. The Rome Statute provides that nominations of candidates for election to the Court must be made either by the procedure for the nomination of candidates for appointment to the highest judicial offices in that State; or by the procedure provided for the nomination of candidates for the International Court of Justice (ICJ) in the Statute of that Court. The Coalition is working to ensure that the nomination processes at the national level are conducted in a transparent manner, with input from civil society.

**What qualifications are necessary to be nominated?**

The Rome Statute provides that judges must be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. Every candidate for election to the Court shall have established competence in criminal law and procedure (list A) or have established competence in relevant areas of international law (list B). Candidates must also have an excellent knowledge of and be fluent in English or French (the working languages of the Court) at a minimum.

**How are nominations made public?**

According to the nomination procedures adopted by the ASP, States Parties (and states that deposit their ratification before November 30) must send nominations to the secretariat of the ASP. Every nomination must be accompanied by a statement specifying how the candidate fulfills the qualifications set out in the Rome Statute. Once the nominations have been received by the secretariat of the ASP, they will be posted on the ICC section of the UN web site ([http://www.un.org/law/icc/elections/judges/judges\\_nominations.htm](http://www.un.org/law/icc/elections/judges/judges_nominations.htm)).

**Who has been nominated so far?**

Mr. Marc Bossuyt of Belgium, Mr. Jargalsaikhany Enkhsaikhan of Mongolia, Mr. Adrian Fulford of the United Kingdom, Mr. Karl Hudson-Philips of Trinidad and Tobago, Mr. Katuala Kaba Kashala of the Democratic Republic of Congo, Mr. Philippe Kirsch of Canada, Mr. Doudou Ndir of Senegal, Ms. Barbara Ott of Switzerland, Mr. Georghios M. Pikis of the Republic of Cyprus, Mr. Mauro Politi of Italy and Mr. Almiro Rodrigues of Portugal.

**ELECTION PROCEDURE****When and where will the first election take place?**

The first election is expected to take place in New York during the resumed session of the ASP from February 3 – 7, 2003.

**How will the election be organized?**

Each State Party to the Rome Statute will be able to send a representative to vote. Voting will take place by secret ballot. It is expected that several rounds will be necessary to elect the eighteen judges.

**How many judges will be elected?**

Eighteen judges will be elected during the first election. After the first election, the President of the ASP will draw lots: one third of the judges elected will be selected to serve for a term of three years; another third will serve for a term of six years; and the remainder shall serve for a term of nine years. The Rome Statute provides for an increase in the number of judges when proposed by the President of the Court and approved by the ASP.

**What does the Rome Statute require of the outcome of the election?**

The Rome Statute requires that, when selecting judges, States Parties take into account the need, within the membership of the Court, for the representation of the principal legal

systems of the world, equitable geographical representation, and a fair representation of female and male judges, but does not enumerate how these requirements be met. States Parties must also take into account the need to include judges with legal expertise on specific issues such as violence against women or children. The treaty further states that the bench must comprise at least 9 judges from list A (competence in criminal law) and 5 judges from list B (competence in international law). This is the first time that the founding treaty of an international judicial institution spells out the need for fair representation of female and male permanent judges.

Due to this complex combination of criteria, the Assembly of States Parties, building on the work of the Preparatory Commission, adopted a creative election procedure that provides for minimum voting requirements.

**What procedures have been put in place to facilitate these requirements being met?**

Under the procedure adopted by the ASP, States must vote for a minimum number of candidates from each regional group and from each gender, which facilitates the fulfillment of the Rome Statute requirements as votes cannot be concentrated on one region or one gender. The election ballot will be organized to reflect that votes must be cast for a minimum number of candidates from each UN regional group (three from Africa, two from Asia, two from Eastern Europe, three from Western Europe and three from Latin America – a minimum number derived from the number of States Parties in each regional group) and from each gender. The minimum voting requirement for gender is set at 6, unless there are less than nine nominees from each gender. This procedure encourages a large number of nominations, which is necessary for the procedure to work smoothly. If, following the first round of voting, the minimum number of candidates required per category (organized by legal expertise, region and gender) have not been met, then subsequent ballots will be cast. Subsequent ballots will be adjusted to reflect voting requirements that have been met by subtracting the number of elected candidates in each category from the minimum number of judges required. If following four ballots 18 judges still have not been elected, these minimum voting requirements will be discontinued. Only ballots completed in conformity with these standards will be counted and candidates must receive two-thirds of the vote to be elected.

This procedure is not a quota system and does not guarantee that each regional group or each gender will get the same number of seats stipulated by the minimum voting requirements.

The Coalition is strongly encouraging governments to ensure that the pool of highly qualified candidates from each region, legal system and gender is large enough that the requirements of representation in the Statute can be met.

**About the Coalition for the International Criminal Court**

The Coalition for the International Criminal Court (Coalition) is a network of over 1,000 civil society organizations and legal associations working to support a permanent, fair and independent International Criminal Court. Established in 1995, the Coalition is a leading source of information regarding the ICC

and the regional organizations that support its formation. For more information about Coalition members and for country ratification and implementation information, please visit <http://www.iccnw.org>.