



The Coalition's Team on Elections has consistently called on States Parties to uphold the principles of fair, transparent and merit based nomination and elections processes. In this regard, the Team submits the following recommendations to the Assembly of States Parties (ASP) which will see the election of six new judges and six members of the Committee on Budget and Finance at the thirteenth session.

### **Judicial elections**

As the Court's first trials are coming to an end, and the Court proceeds into its second decade, the International Criminal Court and the Rome Statute system is moving into a new stage of development and scrutiny. In order to deal with particularly complex legal proceedings and in order that the Court's judicial processes can be as efficient as possible, it is particularly important that judicial candidates have experience in criminal courtroom proceedings and courtroom management. As the scale and scope of international criminal justice expands, so too do the controversies and challenges confronting the ICC. It will remain the case that ICC chambers must be composed of the most highly respected, qualified and impartial judges in order for the ICC to be recognized as a truly independent and effective international tribunal that ensures fairness in its procedures and trials.

To make an informed decision on the most qualified candidate, States Parties have the benefit of independently-compiled data. The Team urges states parties to study these materials and resources in making their voting decisions.

During the course of the year the Coalition invited all judicial candidates to complete a comprehensive questionnaire on a broad range of issues such as expertise and experience as well as the nominee's views on a variety of issues related to the functioning of the ICC. All candidates have completed the questionnaire; the replies have been made publicly available.<sup>1</sup>

The questionnaires complement the report of the ASP's Advisory Committee on Nominations (ACN).<sup>2</sup> The work of the ACN is crucial to ensure that those nominated have the necessary experience and fulfill the statutory requirements to be a judge at the ICC. The ACN report is of a technical character, containing information and analysis on the suitability of the candidates based strictly on the requirements of article 36 paragraphs (3) (a), (b) and (c), and has been made available to States Parties and observers in ample time to allow for thorough subsequent consideration. In this regard, the Team notes that the ACN questioned whether the qualifications of four candidates met all the requirements of

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<sup>1</sup> CICC Judicial Questionnaires 2014, on:

<http://www.coalitionfortheicc.org/?mod=electionjudgeseighth2014&idudctp=21&show=all#21>

<sup>2</sup> ICC-ASP/13/2: Report of the Advisory Committee on Nominations of Judges on the work of its third meeting, 29 September 2014, on: [http://www.coalitionfortheicc.org/documents/ACN\\_REPORT\\_ICC-ASP-13-22-ENG.pdf](http://www.coalitionfortheicc.org/documents/ACN_REPORT_ICC-ASP-13-22-ENG.pdf)

the Statute for a judge at the International Criminal Court. In addition the ACN examined whether all candidates will be available to take up their seat in March 2015, an important consideration for meeting the needs of Chambers in light of the expected judicial workload in 2015. In this regard, the ACN noted that at least one candidate will not be immediately available.

The Team places great importance on the ACN report which has been issued on the nominations and therefore strongly urges states parties to pay due regard to the findings of the ACN in casting their vote.

The Team is aware of concerns expressed by one of the nominating governments to the report, but we understand that the ACN considered the issue and reconfirmed their independent assessment. The Team would welcome discussions on the ACN procedures, unique in international elections, in the Assembly. With one third of the ICC judges' terms ending every three years and new judges elected to these positions, the Team believes the ASP may wish to seek additional advice from the ACN.

The Team further notes with regret that while there is a gender minimum voting requirement of one male candidate for this election, States Parties only nominated five female candidates out of seventeen candidates in total. While designed to help ensure a fair representation of female and male judges of the Court, the minimum voting requirement with regards to gender should not become a limiting factor on women's participation at the highest levels of the ICC.

#### **Committee on Budget and Finance**

The Team notes that only seven candidates are nominated for the upcoming election of six new Committee on Budget and Finance (CBF) members. Only two of those nominated are female. ASP elections in the past, particularly insofar as the CBF is concerned, have been characterised by a process whereby States Parties identify candidates through regional consensus and the number of candidates corresponding, or being very close to the number of vacancies.

While the ASP resolutions governing the elections of the CBF encourage consensus candidates, 'clean slate elections' mean that the process is less competitive, some officials are guaranteed re-election and other States Parties are discouraged from fielding their own candidates. States Parties are encouraged to ensure that all elections are competitive, open and fair. Indeed, the practice of identifying single or consensus candidates can lend itself to candidates being identified on political grounds as opposed to qualification. Avoiding clean slate elections would also allow for fresh insight and expertise to be utilised for the good of the Court, and may help remedy the gender imbalance where it exists.