



Parliamentarians for Global Action  
Parlamentarios para la Acción Global  
Action Mondiale des Parlementaires  
برلمانيون من أجل التحرك العالمي

ICC-ASP/18/Res. [number]

Adopted at the [number] plenary meeting, on [date] December [year]

**Resolution on enhanced procedures for the nomination of judicial candidates**

*The Assembly of the States Parties,*

*Noting* that Article 122 of the Rome Statute of the International Criminal Court permits the Assembly of States Parties to adopt any proposed amendment to provisions of the Rome Statute that are of an institutional nature,

*Noting* that such proposed amendment of an institutional nature may be adopted by consensus or two thirds majority and shall enter into force for all States Parties six months after the adoption by the Assembly,

*Also noting* that article 122 of the Statute includes among the provisions of an institutional nature Article 36 paragraphs 8 and 9 on the qualifications, nomination and election of Judges,

*Noting* that this resolution reforms the procedure of nomination of Judges with the view of giving full effect to the provisions of the Rome Statute on the elections of Judges,

*Underscoring* there is a nexus of causality between the limited productivity of the ICC and the individual productivity of the highest elected officials of the ICC,

*Considering* that while there are external challenges undermining the effectiveness of judicial processes at the ICC such as the lack of effective enforcement of arrest warrants, the ICC as a judicial and prosecutorial international organization shall overcome internal challenges relating to the maximization of its human capital and of the budget deployed by States Parties to serve the best interests of the Court,

*Recognizing* that the nomination of candidates for the highest elected positions of the Court who are officials serving in the Executive branch of Government is *not* compatible with the principles and norms of the Rome Statute on judicial and prosecutorial independence and integrity, as well as with the general principle of the separation of powers, regardless of the fact that the domestic law of the nominating State may allow for a policy of “revolving doors” or “conflict of interests” for these candidates;<sup>1</sup>

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<sup>1</sup> N.B.: This preambular paragraph may be more controversial because several States nominated as candidate-Judges from the ranks of the Executive branch of Government, both under list A and list B referred to in Article 36 of the Rome Statute. Therefore, these States may perceive this language as being tantamount to criticism of past practices and may request its deletion. However, it is submitted for the sake of clarity and to underscore the importance of avoiding conflict of interests.

*Reaffirming* that the Prosecutor of the ICC is a judicial organ that is not hierarchically under the Executive arm of the Rome Statute system (the ASP) and is subject to the supremacy of the law, which includes the obligation to search equally for inculpatory and exculpatory evidence in the truth-finding process with respect to the most serious crimes of concern to the International Community as a whole;

***Decides to adopt the subsequent procedural norms informing the procedure for the nomination of Judges [and the Prosecutor].***

1. A State Party can present a candidate for election to the position of Judge under Article 36 of the Rome Statute only if the candidacy complies with the following procedural criteria:

(i) The State issued a public and open call for candidatures that was addressed to the categories of individuals present in its territory who fulfil the criteria of eligibility under List A and/or List B of Article 36 of the Rome Statute;

(ii) The State pre-established merit-based criteria for selecting the candidatures with the purpose of meeting the qualifications for the election of Judges and applied such criteria to the selection process producing an appropriate ranking-list;

(iii) The State took all reasonable measures to avoid any conflict of interests for the nomination of a qualified individual to a high judicial office at the ICC;

1. A State Party that has fulfilled the conditions of paragraph 1 may submit a proposed nomination to the Advisory Committee on Nominations at least four months before the official term of presentation of judicial candidatures. The Committee shall promptly analyse the documentation accompanying the candidature, including the full ranking-list of candidates that led to the nomination, to verify compliance with the procedural requirements of paragraph 1 and substantive requirements of Art. 36 of the Rome Statute. The Advisory Committee may:

(i) recognise the validity of the nomination or

(ii) request States to provide further information regarding the publicity of the call for applications and the application of the criteria for selection within the ranking-list or

(iii) reject the proposed nomination and request the State to provide within a specific time-limit, to be determined by the Advisory Committee, another nomination that would fulfil the procedural requirements of paragraph A and the substantive requirements on qualifications of Article 36 of the Rome Statute.

2. States not fulfilling the requests of the Advisory Committee under paragraph 1 shall not submit their judicial candidate until their nomination will receive the required validation by the Advisory Committee.