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The Team notes that the current text does not specify whether the mandate of the ACN is strictly limited to articles 36(a), (b) and (c) of the Rome Statute or whether the body would be able to address the above issues. The Team also notes that its terms of reference provide the ACN with a mandate to meet only once candidates have been nominated by states parties, leaving a very short period to conduct assessments.

If the mandate of the expert body on judicial elections is so limited, then the Team would encourage the ASP to conduct a thorough review of election-related governance issues, including those highlighted by the report of the Independent Panel, including the nomination procedures and the service of judges.

The Team urges states parties to create clear guidelines regarding the ACN’s working methods and to keep in mind the importance of including measures to guarantee transparency of the ACN’s work. The Team would welcome the ability of the ACN to communicate directly with candidates. The Team also encourages states parties to consider affording candidates a formal right of reply and comment with respect to any assessment of their qualifications.

The Team stresses the importance of civil society involvement in the work of the ACN, aside from any confidential deliberations of the committee. The Coalition has suspended the work of the Independent Panel on the recommendation of its members, in order “for the ACN to develop the kind of independence and expertise the Panel enjoyed.” As the Chair of the Independent Panel stated, “[the] ACN should be given this opportunity and that the CICC should closely monitor its development. If, in the future, the ACN is not able to achieve its high purpose, the CICC could re activate the Independent Panel.”

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6 For example, the Team notes that one state party identified its candidate in 2011 by establishing a domestic committee of high-level legal experts including members of the judiciary to evaluate applications for the position.
C) THE ELECTION OF THE REGISTRAR

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The Registry has a critically important role to play. It is the largest of the Court’s organs, employing well over 400 staff members with varying responsibilities and mandates and provides key services to the other organs. The Registry is also an important point of contact with the Court for victims and victim communities and is responsible inter alia for ensuring fair trial rights and the meaningful representation and participation of victims through its administration of the Court’s legal aid system as well as protection of victims and witnesses, cooperation and outreach and public information, amongst a host of other varied responsibilities. The Registry is responsible for preparing the Court’s budget. The Registrar, therefore, as head of this organ has significant responsibilities in ensuring that these functions are carried out with sufficient competency, sensitivity, and vision.

The Team notes that draft recommendations are to be approved by the ASP that the plenary of judges should take into account in electing the next Registrar, pursuant to article 43(4) of the Rome Statute. Unfortunately NGOs were not privy to discussions on the recommendations, but understands that they include inter alia proven managerial skills; familiarity with governmental and intergovernmental processes and diplomatic skills; and the ability to cooperate with others. The Team welcomes in particular reference to the importance of “legal expertise on specific issues, including, but not limited to, violence against women.”

Nevertheless the Team is disappointed that the recommendations did not go further in reiterating the importance of skills and qualifications detailed in the vacancy announcement, as was the case with its recommendations adopted in 2007, or make any recommendations that went further in articulating additional skills and qualifications specific to this role. The Team believes therefore, that the ASP should consider expanding the present recommendations before endorsing them. While the plenary of judges are not bound by the ASP recommendations, they do set an important bench mark and constitute a declaration by the ASP of the skills and expertise it believes are of importance for a Registrar to possess.

In this respect, the Coalition has circulated questionnaires to the candidates. While the responses are primarily to inform the plenary of judges and to encourage an informed choice of Registrar, the questions themselves provide an indication of the skills most needed in the Registrar of the Court, which the ASP should take note of. These include, but are not limited to:

- Vision for the Court and the Registry;
- Experience in court administration, particularly management at a senior level of a large number of staff and large scale budget;
- Expertise in gender equality;
- Experience managing staff in a multi-cultural and international environment;
- Sensitivity towards victims of gender and sexual violence and child victims;

Experience engaging with various stakeholders, including *inter alia* the diplomatic community; civil society organisations; and victims and victim communities;

Sound administrative, policy and human resource experience, and

Experience in managing and developing effective legal aid systems, managing outreach initiatives and victims support functions would also be considered highly desirable.

For future Registrar elections, the Team suggests that the ICC Presidency – which is responsible for reviewing the applications – indicate the basis on which they shortlist candidates, and whether importance was placed on ensuring adequate gender and geographic diversity. The Presidency may also wish to use its good offices to encourage the recruitment of more highly qualified female candidates and those from underrepresented states.

**D) CLEAN SLATE ELECTIONS**

The Team notes that the nomination and election process for the Board of Directors of the Trust Fund for Victims and for the Committee on Budget and Finance (CBF) have been characterised by a process whereby states identify candidates through regional consensus and a number of candidates corresponding to the number of vacancies. For example, in the upcoming election of the Board of Directors, just five candidates have been nominated for five vacancies. Similarly, in recent elections for members of the CBF, states parties have nominated the bare minimum number of candidates required, an exception being the 10th session of the ASP in December 2011, which saw the nomination of 2 candidates competing for the single seat reserved for a member from Africa. While the Team does not seek to comment on the qualifications of the candidates put forward in these elections and notes that the relevant ASP resolutions governing these elections do not prohibit these practices, it is nevertheless concerned that such practices may not be conducive to encouraging the most qualified persons and adequate competition and choice in elections. Indeed, the practice of identifying single or consensus candidates can lend itself to candidates being identified on political grounds as opposed to qualification. The ASP as a governing body would benefit from having more choice of highly qualified candidates in all its elections.

In order to respond to this state of affairs and ensure that candidates nominated are suitable, the ASP should encourage, by way of formal resolution, that regional blocs identify more than one candidate per region in order to increase the choice of candidates. The ASP could also consider adopting some of the mechanisms employed in the election of judges, such as minimum voting [and nomination] requirements which ensure a greater choice of candidates for election.11 Such resolutions or mechanisms would encourage the identification of multiple candidates and avoid vote trading based on geographic consensus, which is not always conducive to ensuring the identification of the most suitable and highly-qualified persons.

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The Team recognizes the overall qualifications of the three candidates shortlisted by the Prosecutor in accordance with the procedure provided for in the Rome Statute. The Team notes with concern,

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- Provide advice to the ASP on the judicial expertise needs of the Court, including specific needs when they arise (such as the need for candidates suitable for the Appeals Chamber) and on general issues such as candidates with experience in trial management and courtroom efficiency.

The Team notes that the current text does not specify whether the mandate of the ACN is strictly limited to articles 36(a), (b) and (c) of the Rome Statute or whether the body would be able to address the above issues. The Team also notes that its terms of reference provide the ACN with a mandate to meet only once candidates have been nominated by states parties, leaving a very short period to conduct assessments.

If the mandate of the expert body on judicial elections is so limited, then the Team would encourage the ASP to conduct a thorough review of election-related governance issues, including those highlighted by the report of the Independent Panel, including the nomination procedures and the service of judges. The Team urges states parties to create clear guidelines regarding the ACN’s working methods and to keep in mind the importance of including measures to guarantee transparency of the ACN’s work. The Team would welcome the ability of the ACN to communicate directly with candidates. The Team also encourages states parties to consider affording candidates a formal right of reply and comment with respect to any assessment of their qualifications.

The Team stresses the importance of civil society involvement in the work of the ACN, aside from any confidential deliberations of the committee. The Coalition has suspended the work of the Independent Panel on the recommendation of its members, in order “for the ACN to develop the kind of independence and expertise the Panel enjoyed.” As the Chair of the Independent Panel stated, “[the] ACN should be given this opportunity and that the CICC should closely monitor its development. If, in the future, the ACN is not able to achieve its high purpose, the CICC could reactivate the Independent Panel.”

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6 For example, the Team notes that one state party identified its candidate in 2011 by establishing a domestic committee of high-level legal experts including members of the judiciary to evaluate applications for the position.


C) THE ELECTION OF THE REGISTRAR

The term of the current Registrar is due to expire in April 2013. In January the plenary of judges will elect, taking into account any recommendation by the ASP, the next Registrar who will serve a term of five years as per article 43 of the Rome Statute. On 22 June 2012, the ICC circulated a vacancy announcement for the position of Registrar on its website. From the 67 applications received, 11 candidates were shortlisted by the Presidency. As was the case with the Deputy Prosecutor vacancy, the Team notes that female candidates were underrepresented in the applications received as well as the final 11 shortlisted. There is also little geographic diversity among those shortlisted.

The Registry has a critically important role to play. It is the largest of the Court’s organs, employing well over 400 staff members with varying responsibilities and mandates and provides key services to the other organs. The Registry is also an important point of contact with the Court for victims and victim communities and is responsible inter alia for ensuring fair trial rights and the meaningful representation and participation of victims through its administration of the Court’s legal aid system as well as protection of victims and witnesses, cooperation and outreach and public information, amongst a host of other varied responsibilities. The Registry is responsible for preparing the Court’s budget. The Registrar, therefore, as head of this organ has significant responsibilities in ensuring that these functions are carried out with sufficient competency, sensitivity, and vision.

The Team notes that draft recommendations are to be approved by the ASP that the plenary of judges should take into account in electing the next Registrar, pursuant to article 43(4) of the Rome Statute. Unfortunately NGOs were not privy to discussions on the recommendations, but understands that they include inter alia proven managerial skills; familiarity with governmental and intergovernmental processes and diplomatic skills; and the ability to cooperate with others. The Team welcomes in particular reference to the importance of “legal expertise on specific issues, including, but not limited to, violence against women.”

Nevertheless the Team is disappointed that the recommendations did not go further in reiterating the importance of skills and qualifications detailed in the vacancy announcement, as was the case with its recommendations adopted in 2007, or make any recommendations that went further in articulating additional skills and qualifications specific to this role. The Team believes therefore, that the ASP should consider expanding the present recommendations before endorsing them. While the plenary of judges are not bound by the ASP recommendations, they do set an important bench mark and constitute a declaration by the ASP of the skills and expertise it believes are of importance for a Registrar to possess.

In this respect, the Coalition has circulated questionnaires to the candidates. While the responses are primarily to inform the plenary of judges and to encourage an informed choice of Registrar, the questions themselves provide an indication of the skills most needed in the Registrar of the Court, which the ASP should take note of. These include, but are not limited to:

- Vision for the Court and the Registry;
- Experience in court administration, particularly management at a senior level of a large number of staff and large scale budget;
- Expertise in gender equality;
- Experience managing staff in a multi-cultural and international environment;
- Sensitivity towards victims of gender and sexual violence and child victims;

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• Experience engaging with various stakeholders, including *inter alia* the diplomatic community; civil society organisations; and victims and victim communities;
• Sound administrative, policy and human resource experience, and
• Experience in managing and developing effective legal aid systems, managing outreach initiatives and victims support functions would also be considered highly desirable.

For future Registrar elections, the Team suggests that the ICC Presidency – which is responsible for reviewing the applications – indicate the basis on which they shortlist candidates, and whether importance was placed on ensuring adequate gender and geographic diversity. The Presidency may also wish to use its good offices to encourage the recruitment of more highly qualified female candidates and those from underrepresented states.

**D) CLEAN SLATE ELECTIONS**

The Team notes that the nomination and election process for the Board of Directors of the Trust Fund for Victims and for the Committee on Budget and Finance (CBF) have been characterised by a process whereby states identify candidates through regional consensus and a number of candidates corresponding to the number of vacancies. For example, in the upcoming election of the Board of Directors, just five candidates have been nominated for five vacancies. Similarly, in recent elections for members of the CBF, states parties have nominated the bare minimum number of candidates required, an exception being the 10th session of the ASP in December 2011, which saw the nomination of 2 candidates competing for the single seat reserved for a member from Africa. While the Team does not seek to comment on the qualifications of the candidates put forward in these elections and notes that the relevant ASP resolutions governing these elections do not prohibit these practices, it is nevertheless concerned that such practices may not be conducive to encouraging the most qualified persons and adequate competition and choice in elections. Indeed, the practice of identifying single or consensus candidates can lend itself to candidates being identified on political grounds as opposed to qualification. The ASP as a governing body would benefit from having more choice of highly qualified candidates in all its elections.

In order to respond to this state of affairs and ensure that candidates nominated are suitable, the ASP should encourage, by way of formal resolution, that regional blocs identify more than one candidate per region in order to increase the choice of candidates. The ASP could also consider adopting some of the mechanisms employed in the election of judges, such as minimum voting [and nomination] requirements which ensure a greater choice of candidates for election. Such resolutions or mechanisms would encourage the identification of multiple candidates and avoid vote trading based on geographic consensus, which is not always conducive to ensuring the identification of the most suitable and highly-qualified persons.

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11 Procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court, ICC-ASP/3/Res.6