

Summary of consultations

1. Introduction and methodology

In accordance with, and on the basis of, the modalities agreed upon by the Bureau on 11 December 2020, the consultations were carried out by the focal points between 11 and 16 December. Out of 123 States Parties, a total of 105 States Parties were able during this period to share their position.

The vast majority of the consultations were carried out through virtual means (phone call and video call), with a few State Parties asking for an in-person meeting and a few submitting answers in writing. As per the modalities, whenever feasible two focal points attended the consultations and/or were made aware of the answers provided by the States Parties. In some instances, the positions of States Parties were shared last minute and/or through means that prevented a second focal point from being present, although information was always shared with the other focal points.

A significant number of States Parties indicated that they were not in a position to state their preferences or not wishing to do so at this moment in time. Some States Parties in this category stressed that the period set for the first round of consultations was too short and did not allow for States Parties to formulate their positions. Other States Parties opted to stress their flexibility and willingness to contribute to the identification of a consensus candidate.

States Parties were invited to share their views on the basis of questions agreed upon by the Bureau, while being informed they could also do otherwise if they so wished. Accordingly, some State Parties presented their views in general terms, not wishing to register names under a ‘first preference’ (question 2) or a ‘second preference’ (question 4), nor even as ‘other candidates they can support’ (question 7), rather preferring to list the candidates they consider acceptable or qualified for the job under ‘other comments’ (question 10), specifically indicating they do not wish, at this stage, to see those names under any other bracket. Other States Parties, while agreeing to name candidates as preferences, indicated more than one candidate as ‘first preference’ (question 2), ‘second preference’ (question 4), or as ‘other candidates they can support’ (question 7).

2. Emerging trends

On the basis of the consultations carried out, and taking aggregated information as a guide, a few emerging trends in terms of preferences could be identified. In particular, the following merit attention:

- a) Out of the 9 candidates, **Mr. Fergal Gaynor** was mentioned the most as **preferred candidate/first preference**, closely followed by **Mr. Karim Khan**.

- b) *Mr. Carlos Castresana Fernandez* was the third most mentioned candidate as **preferred candidate/first preference**, albeit with less than half of the references received by the top two, followed by *Mr. Robert Petit*. *Mr. Morris Anyah* and *Mr. Richard Roy* were mentioned next as **preferred candidate/first preference**.
- c) *Mr. Richard Roy* was mentioned the most as **second preference**, while *Mr. Fergal Gaynor* was mentioned the most as **other candidate in a position to be supported**.
- d) *Mr. Francesco Lo Voi*, *Ms. Brigitte Raynaud* and *Ms. Susan Okalany* were the candidates mentioned the fewest times as **either first preference, second preference or other candidate in a position to be supported** (that is, the combination of answers to questions 2, 4 and 7).

3. Preliminary findings

Based on the consultations and the resulting emerging trends, the preliminary findings are as follows:

- a) First, there is a strong desire to see the next Prosecutor elected by consensus, and that all possible efforts should be carried out to that effect.
- b) Second, there is a strong sentiment that the most qualified person should be elected irrespective of his or her region. A few States Parties, however, made reference to the fact that the next Prosecutor should ideally come from WEOG.
- c) Third, while some States Parties mentioned some candidates as being unacceptable and/or problematic (all candidates were mentioned at least twice under question 8), the prevailing sentiment at this stage seems to be the wish by all States Parties to continue to engage openly in this process, exercise flexibility, and work collectively with a view to electing the next Prosecutor by consensus.
- d) Fourth, the aggregated information resulting from the first round of consultations suggests that there are two candidates that gather a greater level of support from States Parties at this stage, while other candidates gathered enough support not to be ruled out as potentially consensual.
- e) Fifth, the aggregated information from the first round of consultations revealed that some candidates, for the time being, do not seem to have enough support to put them in a position where they are likely to emerge as a consensus candidate.
- f) Sixth and finally, consensus building depends upon States Parties reflecting on the current findings and sharing their contemporary views on where consensus may lie. In this regard, State Parties' preferences in future rounds of consultations may shift in light of the outcomes of previous rounds.

4. Way forward

In spite of emerging trends being already observable, it is clear that further efforts are necessary, and that more rounds of consultations are to be carried out with a view to identifying where consensus might lie, as well as in order to build such consensus through a comprehensive outreach to all States Parties, including with a view to obtaining additional and contemporary feedback on the process and the different candidates.

Although time is of the essence, States Parties should be given sufficient time to reflect on these preliminary findings before conveying their views in a second round of consultations. Without prejudice of all candidates remaining on an equal footing, States Parties should be invited to have their views in a second round of consultations, informed by the current trends and findings, as this should be considered pertinent for the sake of consensus building.