



Bundesrechtsanwaltskammer
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Reference: DSS/2010/81

Date: 1 April 2010

Re: Election of members of disciplinary organs

Dear Sir/Madam,

I am delighted to inform you about the election of members of the disciplinary bodies instituted by the Code of Professional Conduct for Counsel practising before the Court, which was adopted by the Assembly of States Parties on 2 December 2005.

Pursuant to article 36(3) of the Code (annexed), "[t]he Registry shall make appropriate arrangements for the elections [of the members of the Disciplinary Board], provided for in paragraph 4 of this article, in consultation with counsel and, as appropriate, national authorities." Article 44 (3) (annexed) confers the same mandate in reference to the election of members of the Disciplinary Appeals Board.

Pursuant to articles 36 (4) and 44 (5), members of the two bodies are elected for a four-year term from amongst "persons with established competence in professional ethics and legal matters", whereas those eligible to vote are counsel admitted to the list of counsel created and maintained by the Registrar in accordance with rule 21 (2) of the Rules of Procedure and Evidence.

In view of the end of the mandate of the existing members of the disciplinary organs, and in conformity with the procedure set out in Regulations 147 and 148 of the Regulations of the Registry (annexed), the Registry is hereby seeking to initiate the process to elect three members of the Disciplinary Board, that is, two permanent members and one alternate member, as well as the three members of the Disciplinary Appeals Board, again consisting of two permanent members and one alternate member.

The permanent members of the Disciplinary Board previously elected are not eligible for re-election in accordance with Article 36.6 of the said Code. The same is true for the elected members of the Disciplinary Appeals Board.

We at this juncture seek your assistance in informing qualified members of your bar or association of the current elections and the procedure detailed below so as to enable them to stand for the elections in good time.

The period for announcing candidacy in the elections via either postal or courier service will commence as of the date of this letter. Please note that declarations of candidacy, accompanied by

the relevant documentation, must reach the Registry of the Court within ninety (90) days of the present letter, that is, no later than 1 July 2010. Any declarations of candidacy received after this date shall be disregarded.

Candidates should send their declarations of candidacy to the following address:

Re: Election to disciplinary bodies
Counsel Support Section
International Criminal Court
Maanweg 174
2516 AB, The Hague (the Netherlands)

The candidates should duly provide the following documents:

- a detailed *curriculum vitae*, and
- A statement describing in detail their particular competence in professional ethics and legal matters.

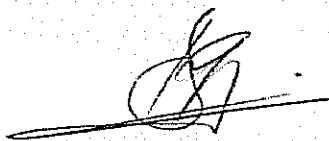
Upon expiry of the above-mentioned period, the Registry will draw up a list of candidates, which will be sent to all counsel on the Court's List of Counsel so that they can exercise their right to vote within the forty-five (45) calendar days that will follow. Please note that if there are less candidates than the members of the Disciplinary Board or the Disciplinary Appeals Board to be elected, all counsel on the List of Counsel who indicated on their application forms that they had been members of a disciplinary body or have had specific responsibilities in relation to professional ethics, will be considered to have declared their candidacy and will be eligible subject to articles 36 (6) and 44 (8) of the Code.

All the necessary details on the procedure can be found in the documents annexed to this letter.

Thank you in advance for your invaluable cooperation in forwarding this letter, along with its accompanying materials, to all members of your bar or association.

Should you have any questions, please do not hesitate to contact the Counsel Support Section at the e-mail address css@icc-cpi.int.

Yours sincerely,



Didier Daniel Preira
Deputy Registrar

Code of Professional Conduct for counsel [extract]

Resolution ICC-ASP/4/Res.1, adopted on 2 December 2005

Article 36 – Composition and management of the Disciplinary Board

1. The Disciplinary Board shall comprise three members, two of whom shall be permanent and one *ad hoc*.
2. The members of the Disciplinary Board shall perform their functions under this Code in an independent and impartial manner.
3. The Registry shall make appropriate arrangements for the elections, provided for in paragraph 4 of this article, in consultation with counsel and, as appropriate, national authorities.
4. The two permanent members, as well as one alternate member who may serve as a replacement in accordance with paragraph 10 of this article, shall be elected for four years by all counsel entitled to practise before the Court. They shall be chosen from amongst persons with established competence in professional ethics and legal matters.
5. The *ad hoc* member shall be a person appointed by the national authority competent to regulate and control the activities of counsel subject to the disciplinary procedure.
6. The permanent members shall not be eligible for re-election.
7. Notwithstanding paragraph 4 of this article, at the first election one of the permanent members shall be selected by lot to serve for a term of six years.
8. After each election and in advance of the first meeting of the newly-elected Disciplinary Board, the permanent and alternate members shall elect one of the permanent members as a chairperson.
9. All members of the Disciplinary Board shall have the same rights and votes. The Disciplinary Board shall decide by majority vote. An alternate member serving on a case pursuant to paragraph 10 of this article shall have the same rights and votes as permanent and *ad hoc* members serving on the same case.
10. If one of the permanent members is unavailable to deal with the case or serve on the Disciplinary Board, the chairperson or, where the chairperson is the permanent member concerned, the other permanent member, shall request the alternate member to serve as a replacement on the Disciplinary Board.
11. Permanent members or the alternate member whose mandates have expired shall continue to deal with the cases they already have under consideration until such cases are finally determined including all appeals.
12. The Registrar shall appoint a staff member of the Registry who will render secretariat services to the Disciplinary Board. Once appointed, the relevant staff member of the Registry shall act at arm's length from the Registry and, subject to article 44, paragraph 12 of this Code, solely as the secretariat of the Disciplinary Board.

Article 44 – Composition and management of the Disciplinary Appeals Board

1. The Disciplinary Appeals Board shall decide on appeals against decisions of the Disciplinary Board.
2. The members of the Disciplinary Appeals Board shall perform their functions under this Code in an independent and impartial manner.
3. The Registry shall make appropriate arrangements for the elections provided for in paragraph 5 of this article, in consultation with counsel and, as appropriate, national authorities.
4. The Disciplinary Appeals Board shall comprise five members:

- (a) The three judges of the Court who take precedence under regulation 10 of the Regulations of the Court, not including:
 - i. the judges dealing with the case from which the complaint subject to the disciplinary procedure arose; or
 - ii. any members or former members of the Presidency who appointed the Commissioner.
 - (b) Two persons elected in accordance with paragraph 5 of this article.
5. The two members of the Disciplinary Appeals Board referred to in paragraph 4 (b) of this article, as well as an alternate member who may serve as a replacement in accordance with paragraph 6 of this article, shall be elected for four years by all counsel entitled to practise before the Court. They shall be chosen from amongst persons with established competence in professional ethics and legal matters.
6. If one of the elected members is unavailable to deal with the case or serve on the Disciplinary Appeal Board, the chairperson shall request the alternate member to serve as a replacement on the Disciplinary Appeals Board.
7. The functions of members of the Disciplinary Appeals Board are incompatible with those of members of the Disciplinary Board.
8. The elected members shall not be eligible for re-election.
9. The judge who takes precedence among the three judges referred to in paragraph 4 (a) of this article shall be the chairperson of the Disciplinary Appeals Board.
10. All members of the Disciplinary Appeals Board shall have the same rights and votes. The Disciplinary Appeals Board shall decide by majority vote. An alternate member serving on a case pursuant to paragraph 6 of this article shall have the same rights and votes as other members serving on the same case.
11. Members whose mandates have expired shall continue to deal with the cases they already have under consideration until such cases are finally determined.
12. The staff member of the Registry appointed by the Registrar pursuant to article 36, paragraph 12, of this Code to provide secretariat services to the Disciplinary Board shall also act as the secretariat of the Disciplinary Appeals Board. Once appointed, the relevant staff member of the Registry shall act at arm's length from the Registry.

Regulations of the Registry [extract]

Regulation 147 – Election of the members of the Disciplinary Board

The permanent and alternate members of the Disciplinary Board referred to in article 36 of the Code of Professional Conduct for counsel shall be elected as follows:

- a) At an appropriate time before an election is due under article 36 of the Code of Professional Conduct for counsel, the Registrar shall send a letter to national bar associations and, where appropriate, to any independent representative body of counsel or legal association, as well as to all counsel on the list of counsel, informing them that an election will take place and inviting announcements of candidacy. The letter shall, inter alia, set out the procedure to be followed for the election and shall state that those standing for election must have established competence in professional ethics and legal matters.
- b) Persons who wish to stand for election shall announce their candidacy to the Registrar by letter, attaching a curriculum vitae and a statement setting out their specific competence in professional ethics and legal matters. Announcements of candidacy shall be sent to the Registrar by postal or courier

services and shall be received at the Court within 90 calendar days of the date of the letter of the Registrar referred to in (a). Persons whose announcements of candidacy are received at the Court after the expiration of that 90 day time period shall not be eligible.

- c) If fewer candidates stand for election than the number of members of the Disciplinary Board who must be elected, all counsel on the list of counsel who have indicated on their application form for the list of counsel that they have been a member of a disciplinary body or had specific responsibilities relating to ethics, shall be considered to have announced their candidacy and are eligible, subject to the provisions of article 36, paragraph 6, and article 44, paragraph 7, of the Code of Professional Conduct for counsel. The Registrar shall, by letter, request such counsel to provide their curriculum vitae and a statement setting out their specific competence in professional ethics and legal matters within 30 calendar days of the date of dispatch of the letter.
- d) When the periods referred to in (b) and (c) have expired, the Registrar shall distribute the list of candidates by postal or courier services, together with the curriculum vitae and the statement setting out the specific competence in professional ethics and legal matters of each candidate as well as a confidential voting slip, to all counsel on the list of counsel and request counsel to vote within 45 calendar days of the date of dispatch.
- e) Counsel shall vote for as many candidates as there are members of the Disciplinary Board to be elected.
- f) The vote shall be secret. Counsel shall cast their vote by completing and returning the confidential voting slip to the Registry by postal or courier services within the time limit set out in (d). All correspondence received shall be treated with due regard for confidentiality. Any votes received after the expiry of that time period shall not be counted.
- g) Once the ballot is closed, the Registry shall count the votes and submit the results to the Registrar.
- h) At the first election, pursuant to article 36, paragraph 4, of the Code of Professional Conduct for counsel, the two candidates having obtained the most votes shall be elected as permanent members. The candidate having obtained the next highest number of votes shall be elected as the alternate member. If two or more candidates obtain the same number of votes, lots shall be drawn between them.
- i) At subsequent elections, the candidate having obtained the most votes shall be elected as the permanent member. Where required, the candidate having obtained the next highest number of votes shall be elected as the alternate member. If two or more candidates obtain the same number of votes, lots shall be drawn between them.
- j) The Registrar shall notify the successful candidate or candidates of their election to the Disciplinary Board, inform counsel on the list of counsel of the outcome of the election and have the results published on the Court website.
- k) Within 15 calendar days of the publication of the outcome on the Court website, a candidate who has not been elected may file a complaint with the Registrar concerning any issue relating to the election procedure. After having considered the complaint, the Registrar shall take a decision, of which the candidate concerned shall be notified.
- l) Within 15 calendar days of notification of the decision taken by the Registrar, a candidate whose complaint has been rejected may apply to the Presidency for review.
- m) The Registrar may file a response within 15 calendar days of notification of the application for review.

- n) The Presidency may ask the Registrar to provide any additional information necessary to decide on the application. The decision of the Presidency shall be final.

Regulation 148 – Election of the members of the Disciplinary Appeals Board

The election of the members of the Disciplinary Appeals Board referred to in article 44, paragraphs 4 (b) and 5, of the Code of Professional Conduct for counsel shall be governed, *mutatis mutandis*, by the provisions applying to the election of the permanent and alternate members of the Disciplinary Board under regulation 147.