

*Human Rights Council
Consultative Group*

H.E. Mr. Joachim Rücker
President of the Human Rights Council

23 December 2015

Excellency,

As we come to the end of our mandate as the 2015 Consultative Group (CG), we want to thank the Human Rights Council for their trust and take the opportunity to reflect on issues we encountered in the course of our work in the last twelve months and suggest ways to further strengthen the selection and appointment of special mandate holders. In doing so, we would like to note that we build on suggestions made by Ambassador Elissa Golberg on behalf of the 2014 Consultative Group, in her letter dated 5 December 2014.

We would like to point out at the outset that we were tremendously impressed by the generally high caliber of candidates to the different positions that were advertised. We believe that this is a measure of the prestige attached to the Council's special procedures and the interest on contributing to their work.

We also believe that as experience accumulates and we build on practices improved from year to year in the selection process, confidence on the system will grow. It is clear that considerable rigor and care needs to be put to ensure that guidance provided by resolutions 5/1 and 16/21 in terms of criteria for selection is followed at the same time that the spirit and the letter of resolutions creating mandates is reflected upon, and the experience shared by former mandate holders is taken into account. This process is delicate, labor intensive and demands commitment from the CG members to screen, prepare for and undertake interviews, and reach consensus by assessing criteria and specific requirements to ensure the best qualified are put forward in the short list to the President for consultation and decision. This work is possible thanks to the valuable support of the Secretariat of the High Commissioner for Human Rights.

As has been noted in the past, it also means CG advice should be given important weight in the final selection process by the President and the Council.

We would like to add some specific comments on the following issues:

- adapting to a changing workload;
- improving on working methods;
- how to advance gender parity while keeping geographical balance;
- the issue of conflict of interest (internally in the CG and of candidates)
- language skills.

Adapting to a changing workload

While the Consultative Group 2015 did not have the same caseload as the previous CG, we did encounter an additional not expected workload given that of the total 13 appointments that we worked on, 6 were additional from the initially scheduled 7 vacancies. This represented an 85% increase on the workload that was initially planned. Out of the 6 additional vacancies, three arose from the creation of new mandates and the remaining three as a result of resignations. The CG received a total of 229 applications from eligible candidates and interviewed 70 candidates. The issue of increasing mandates will continue to impact on workload. We are confident though that the decision to streamline the future workload by extending some mandates for once, thus shifting the workload from one year to another, and the change in the calendar of work of the CG from January to March will help ease this problem (Statement by the President 29/1). Nevertheless, there will have to be vigilance to ensure that the ever-increasing creation of new mandates does not result again in disproportionate growth.

One challenge faced when mandate holders resign is that vacancies may be advertised for a shorter period. As a result the initial pool of candidates may be limited or reduced to certain categories, forcing the extension of the deadline for applications. In general, it is recommended that advertisement time and outreach is not reduced to widely ensure applications. Complicating this, interviews had to be added to the CG's schedule, some taking place the week immediately prior to the start of the Council session at which the mandate holders were to be appointed. This led to the report of the CG being finalized and made public shortly before or during the session with the result that the President of the Council had little time to carry out consultations before proposing candidates for the Council's approval. In future it is recommended that unexpected vacancies be dealt with in a separate track than the normal session of the CG, producing a separate addendum report with its recommendations to be taken up at the next possible occasion by the President and the Council.

Improving on working methods

The CG affirmed its commitment to maintaining the confidentiality of the process of selection of mandate holders while ensuring that its working methods remained transparent, to affirm the equal treatment of all candidates as well as to assess their stated qualifications, relevant experience and expertise, independence, impartiality and personal integrity, as well as availability, motivation and understanding of conditions and expectations of service.

To this end, the CG members adopted the following procedure: a) from the list initially screened by the Secretariat in terms of "admissibility", each member individually evaluated and ranked all candidates to determine those who would be short-listed for interviews, ensuring that no less than 5 candidates would be interviewed for each vacancy, b) once interviews were conducted, candidates were assessed by each member against the set criteria by giving a numeric score to each candidate and tallying the total points by all members, c) a discussion ensued on more qualitative elements arising from the interviews and to ensure due account of factors such as gender balance, equitable geographical representation and reflection of different legal systems, d) the decision was taken for the ranking of the three top candidates to be conveyed to the President for consultation and decision. It is to be noted that the 2015 CG considered the battery of questions elaborated by earlier CGs and adapted it to

present circumstances, ensuring equal application of the questions allowing some variations depending on circumstances. The selection process, including the conduct of interviews, was done by consensus at the Permanent Representative level, and in the presence of the 5 members of the CG in almost all cases.

The report of the CG, with information on the eligible, short-listed and recommended candidates, were publicly available on the OHCHR website, together with the individual application forms of all eligible candidates.

The CG also affirmed that the Secretariat should be present throughout the selection and deliberation process.

On the question of possible complaints regarding the process, the CG considers that candidates have the possibility to lodge a written complaint in relation to the selection and appointment process with the Secretariat, which will be duly attended to.

How to advance gender parity while keeping geographical balance

Considerable thought was put into this issue by the CG given the problem that a decreasing proportion of women are being appointed as special procedures mandate holders despite the fact that new mandates have been created over the years (27% more mandates compared to 2011). By way of comparison, on:

- 1 August 2011 there was a total of 62 mandate holders, 27 of whom were women or 44%;
- 1 December 2012 there was a total of 72 mandate holders, 30 of whom women or 42%;
- 1 December 2013 there was a total of 73 mandate holders, 30 of whom women or 41%;
- 1 December 2014 there was a total of 76 mandate holders, 29 of whom women or 38%;
- 1 December 2015 there is now a total of 79 mandate holders, 29 of whom women or 37%.

On the basis of its experience in the first session, the CG discussed, consulted and adopted a working procedure to ensure gender balance on the basis of **Guidelines on Gender Parity**. The Guidelines are attached to this letter. In essence, it was agreed that there should be an effort made to ensure that more women candidates apply for the vacant positions by extending the net of advertisement wider and more targeted to women networks, allowing enough time for it. Once the pool of candidates was received and sorted out for scoring, interviewing and final selection, a parity rule of no more than three candidates of one sex out of five would be applied. The final decision on candidates to be recommended needed to take also account of geographical balance.

In 2015, of the eligible candidates that applied 59% were men and 41% were women. Despite this, **the CG's gender parity policy to short-list at least three out of five of one sex, reversed the traditional trend and produced a short-list of 43% men and 57% women. As a result, for the first time more women were the first recommendation of the CG with 7 women or 54% and 6 men or 46%, out of 13.** Nevertheless, the President, within his mandate and after consultations changed in one case the order recommended by the CG with the result that in the end 7 men and 6 women were selected for positions. While the CG respects the prerogative of the President to choose from among the ranked three positions presented to him, it is advised that the President and the Council give appropriate weight to the recommendation by the CG which are carefully balanced in all respects.

It should be noted that even if the CG recommendation was followed in the case in point, the impact on overall statistics would have been minimal, but at least kept at the same level as 2014 (62% men and 38% women).

In some cases the CG provided more than three names as it found a tie in some positions. The only instance in which no men were short-listed was for the mandate of the Special Rapporteur on violence against women, its causes and consequences, given that very few men applied and none was initially pre-selected.

Conflict of interest

The CG consistently clarified the issue of actual or potential conflict of interest of candidates during the telephone interview and through the secretariat in writing to ensure compliance with the relevant provisions of Council resolutions and decisions, if the candidate were to be appointed as a mandate holder. The CG further clarified that the conflict of interest issue is a continuing obligation for special procedure mandate holders throughout their term.

The CG also discussed the issue of an actual or potential conflict of interest arising as a result of a candidate having the nationality of a member of the CG, or through other circumstances that may constitute such a conflict, i.e. a candidate being a friend or relative of a member of the CG. The members followed a disclosure procedure to declare the circumstances giving rise to such a conflict. The CG member concerned recused himself or herself from participating in the interview but not from the initial short-listing for interview and final evaluation of the candidate after the interview. The CG discussed and considered whether a member should recuse himself or herself completely from the selection process, but did not arrive at a conclusion.

Language skills

The CG faced challenges in terms of interviewing candidates who were not fluent in English and who did not have the opportunity to organize interpretation at their own cost. The CG also assessed the fluency of candidates in languages other than English (in particular when English was not the first language of the candidate) as indicated in the application form during the interview.

The issue of interpretation has now been addressed in the Statement by the President 29/1, and as from 2016, and subject to the approval of the necessary resources by the General Assembly, short-listed candidates may request to be interviewed in one of the six official UN languages. However, the CG considers that fluency in English and/or French, which are working languages of the United Nations will still be relevant in assessing the candidates.

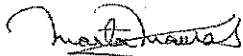
Please accept, Excellency, the assurances of our highest consideration.

H.E. Mr. Alexandros ALEXANDRIS

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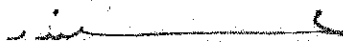
H.E. Mr. Boudjemâa DELMI

H.E. Ms. Marta MAURÁS

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H.E. Mr. Rytis PAULAUSKAS

H.E. Mr. Faisal Bin Hassan TRAD

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Annex

*Human Rights Council
Consultative Group
Guidelines on Gender Parity*

Considering General Assembly and Human Rights Council resolutions and the present situation of grave gender unbalance, the members of the Consultative Group should consider ways to achieve gender parity for appointments to be made at the 29th and 30th sessions of the Human Rights Council, in order to move towards the 2004 General Assembly target of fifty-fifty among all mandate holders and redress the reduced number of women candidates and women appointed in the last exercises, while minding geographical balance.

It is recommended to:

1. Request the Secretariat to:
 - a) enlarge the network for advertising vacancies in order to target more women making it clear that gender parity is an objective, and
 - b) extend the deadlines in cases when not enough eligible women candidates have applied.
2. Establish a quota for Consultative Gender members selection of:
 - a) their individual shortlists for interviews so as to list no more than 3 persons of the same sex out of the 5 candidates ranked for Working Groups and for individual mandates, and
 - b) their collective three-candidates short list for the President and Council's final decision ensures no more than two out of three are of the same sex.
3. Include in the report of the CG language to the effect that the CG considers that in the instances where candidates perform equally well at the interview and are both recommended, the President should be encouraged to give preference to the qualified woman candidate.

Adopted in June 2015
