

# **Report of the Consultative Group to the President of the Human Rights Council relating to the vacancies of special procedures mandate holders and a member of the Expert Mechanism on the Rights of Indigenous Peoples to be appointed at the twenty-eighth session of the Human Rights Council**

*6 February 2015*

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## **I. Background**

1. In its resolution 5/1, the Human Rights Council decided to establish a Consultative Group<sup>1</sup> comprised of Permanent Representatives identified by Regional Groups and serving in their personal capacity. The Consultative Group is mandated by the Council to propose to the President a list of candidates who possess the highest qualifications for the mandates in question and meet the general criteria and particular requirements. Recommendations to the President of the Human Rights Council are required to be made public and substantiated.<sup>2</sup>
2. **The members of the 2015 Consultative Group** are: H.E. Mr. Alexandros ALEXANDRIS, Permanent Representative of Greece; H.E. Mr. Boudjemâa DELMI, Permanent Representative of Algeria; H.E. Mr. Remigiusz A. HENCZEL, Permanent Representative of Poland; H.E. Ms. Marta MAURÁS (Chairperson), Permanent Representative of Chile; and H.E. Mr. Faisal TRAD (Vice-Chairperson), Permanent Representative of Saudi Arabia.

## **II. Process**

3. The Consultative Group held five formal meetings on 29 January and 3, 4 and 6 February 2015 to consider candidates for the three vacancies<sup>3</sup> as follows:
  - Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), member from African States [HRC res. 6/36];
  - Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights [HRC res. 27/21 and Corr.1]; and
  - Special Rapporteur on the situation of human rights in Cambodia [HRC res. 24/29].

H.E. Ms. Marta Maurás (Chairperson) chaired all the above-mentioned meetings held by the Consultative Group in this selection round, with H.E. Mr. Faisal Trad (Vice-Chairperson) replacing her for part of one meeting.

4. The Consultative Group considered 47 individual applications of 42 candidates (as some candidates applied for more than one vacancy) for the aforementioned specific vacancies in

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<sup>1</sup> As per paragraph 47 of the annex to Human Rights Council resolution 5/1.

<sup>2</sup> As per paragraph 50 of the annex to Human Rights Council resolution 5/1.

<sup>3</sup> Following a resignation, another vacancy arose on 23 January 2015 for the Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States, which will be subject of an addendum to this report of the Consultative Group once candidatures are received and candidates are interviewed.

accordance with the relevant paragraphs of Human Rights Council resolution 16/21. The applications were made public on the designated OHCHR web page<sup>4</sup> of Special Procedures as provided for in paragraph 22 (b) of annex to Council resolution 16/21 (see annex I of this report). Due to an initial limited number of applicants for these mandates, including from eligible women candidates, the application period for the submission of applications (17 November 2014 to 12 January 2015) was extended by the Secretariat until 16 January 2015.

5. The members of the Consultative Group took into consideration the technical and objective requirements as stipulated in paragraphs 39-41, 44-46, 48, 50-51 of the annex to Council resolution 5/1, Council decision 6/102 and paragraph 22 of Council resolution 16/21. In addition, for vacancies in the Expert Mechanism on the Rights of Indigenous Peoples, the Group took into consideration paragraph 4 of Council resolution 6/36, which strongly recommends that in the selection and appointment process the Council gives due regard to experts of indigenous origin. The Consultative Group also considered, as appropriate, the perspectives offered by stakeholders, including current or outgoing mandate holders, in determining the necessary expertise, experience, skills and other relevant requirements for each mandate<sup>5</sup> and paid due attention to geographical and gender balance considerations in their deliberations.
6. Whilst paying due attention to geographical and gender balance, the Group was able to contribute, albeit marginally, to addressing the geographic and gender imbalance in the overall number of mandate holders. One contributing factor, is the low number of qualified women candidates from under-represented regions or countries. The reasons behind this may need to be explored better in order to draw more interest from qualified women candidates from all regions and countries.
7. The Consultative Group discussed ways to alleviate concerns about the issue of a conflict of interest arising when, for example, a candidate of the same nationality as a member of the Consultative Group was being considered.
8. In accordance with paragraphs 44 and 46 of the annex to Human Rights Council resolution 5/1, the Consultative Group sought to consistently address the potential for conflict of interest and was vigilant on the principle of non-accumulation of human rights functions. These issues were clarified during interviews and pursued subsequently in writing, when necessary, to ensure, inter alia, that if appointed, the candidates would relinquish any functions or duties that may give rise to an accumulation of human rights functions and/or any potential conflict of interest.
9. In accordance with established practice, it was decided that each member of the Consultative Group would rank and propose a list of candidates for each vacancy drawing on the written applications received, reflecting on their stated qualifications, relevant experience, expertise, independence, impartiality, personal integrity, objectivity, availability and motivation in compliance with relevant provisions of Human Rights Council resolution 5/1, decision 6/102, resolution 16/21 and relevant Council resolutions establishing the specific mandates under consideration. As a result of this ranking exercise, a shortlist of candidates to be interviewed was established for these mandates.

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<sup>4</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/HRC28.aspx>.

<sup>5</sup> As per paragraph 51 of the annex to Human Rights Council resolution 5/1. Letter from the Chairperson of the Coordination Committee of Special Procedures (dated 4 February 2015).

10. The Group spent some 11 hours interviewing a total of 14 shortlisted candidates for the three aforementioned vacancies. These interviews occurred on 3 and 4 February 2015, pursuant to paragraph 22 (c) of the annex to Human Rights Council resolution 16/21 (see annex II of this report). Each candidate was asked similar questions based on the relevant provisions of Council resolution 5/1, decision 6/102, resolution 16/21 and relevant Council resolutions establishing the specific mandates under consideration. All decisions of the Consultative Group were made unanimously.

### **III. Candidates proposed by the Consultative Group to the President for the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), member from African States**

11. The Consultative Group interviewed four shortlisted candidates for this vacancy. Consistent with paragraph 4 of Council resolution 6/36, the Group gave due regard to the indigenous origin of the candidates as per their self-identification in their applications. The Group decided to recommend the following three candidates as best qualified to fulfil the mandate, ranking them in the order of preference below.

**1. Mr. Albert Kwokwo BARUME (Democratic Republic of the Congo)**

Indigenous origin: none indicated

**2. Ms. Lucy MULENKEI (Kenya)**

Indigenous origin: Maasai

**3. Ms. Martha AGBANI (Nigeria)**

Indigenous origin: Ogoni

12. Mr. Barume is a human rights lawyer with some 20 years of experience specialised on the rights of indigenous peoples in Africa. He serves as a non-indigenous expert member of the Working Group on the Rights of Indigenous Populations / Communities of the African Commission on Human and Peoples' Rights and has published on the issue, position he is willing to resign from if appointed as member of EMRIP. He worked for the ILO as a coordinator and senior specialist for its global programme on indigenous peoples, and has provided expert assistance and advice to diplomats in preparation of the World Conference on Indigenous Peoples in 2014. He has undertaken official missions in Africa and around the world to work on indigenous peoples' rights and has engaged with officials, national human rights institutions and civil society organizations in different regions. The Consultative Group considered that his extensive experience at the international, regional and national levels on this issue, together with his demonstrated engagement with various stakeholders, including in the field, made him best suited to serve as the EMRIP member for African States. The Group decided that his non-indigenous origin was not a hindrance, attested by his long engagement in promoting the rights of indigenous peoples.

13. Ms. Mullenkei is the Executive Director of the Indigenous Information Network in Kenya and chairs the African Indigenous Women's Organization. Ms. Mullenkei has engaged with indigenous and local communities and other minority groups in Africa at various levels. Her work with indigenous peoples, especially indigenous women and youth, on human rights issues

has also included trainings and workshops. She has participated in international discussions around the United Nations draft declaration on the rights of indigenous peoples and other fora related to indigenous peoples and women's rights. The Consultative Group noted her extensive community based work and her advocacy abilities as well as her international negotiating experience.

14. Ms. Agbani is Executive Director of the Lokiaka Community Development Centre, a non-governmental organization working on the rights of indigenous peoples in Nigeria. She has also been involved with the Movement for the Survival of the Ogoni People. Ms. Agbani has led various working groups within the Niger Delta Universal Periodic Review Coalition and participated in the second cycle review of Nigeria. In addition, she has been a participant in various international forums including the World Conference on Indigenous Women in Lima or the first Forum on Business and Human Rights in Geneva. The Consultative Group noted her advocacy abilities and her dedication to the cause of the Ogoni People.

#### **IV. Candidates proposed by the Consultative Group to the President for the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights**

15. The Consultative Group interviewed five shortlisted candidates for this vacancy. The Group decided to recommend the following four candidates as best qualified to fulfil the mandate, ranking them in the order of preference below. Given the very close proximity between the rankings of Mr. Bantekas and Ms. Portela, the Consultative Group decided to rank both in the third place.

**1. Mr. Idriss JAZAIRY (Algeria)**

**2. Mr. Cephas LUMINA (Zambia)**

**3. Mr. Ilias BANTEKAS (Greece) and Ms. Clara PORTELA (Spain)**

16. Mr. Jazairy is a retired diplomat and former Permanent Representative of Algeria to the United Nations Office at Geneva (2004-2012). In this capacity, he initiated the Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council in 2004 and participated in numerous normative processes for the Human Rights Council, including the review process of the Human Rights Council (2010-2011). His numerous engagements at the international level include chairing the Workshop on the impact of unilateral coercive measures on the enjoyment of human rights organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2013. The Consultative Group considered that his extensive and senior level experience in the field of diplomacy and human rights, including his familiarity with the legal challenges in the area of the mandate, was highly relevant. The Group also noted Mr. Jazairy's statement that he was in good health and could meet up the challenges of the mandate.
17. Mr. Lumina is an Extra-Ordinary Professor of Human Rights Law at the University of Pretoria and Full Research Professor of Public Law at the University of Fort Hare in South Africa. He served as the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2008-2014). Mr. Lumina has participated in numerous international

conferences on human rights and has delivered training to a wide range of stakeholders. The Consultative Group noted his prior relevant experience as a special procedure mandate holder, and his desire to further contribute in this area.

18. Mr. Bantekas is a Professor of International Law and Human Rights at Brunel University and a senior fellow at the Institute of Advanced Legal Studies at the University of London. He has advised several international organizations (including the Council of Europe and UNDP), international law firms and non-governmental organizations on issues related to human rights, international investment and trade law. He has also assisted non-governmental organizations and other entities to submit amicus briefs and legal opinions and has published extensively. The Consultative Group noted his stated intention to clarify the legal contours of the mandate.
19. Ms. Portela is Assistant Professor of Political Science at the School of Social Sciences of the Singapore Management University. Ms. Portela's doctoral thesis dealt with the imposition of sanctions in response to human rights violations. She has authored the monograph "European Union Sanctions and Foreign Policy" (Routledge 2010) and prepared various studies and commissioned papers including for the European Parliament, with emphasis on the human rights impact of sanctions. The Consultative Group noted her extensive academic and field work in relation to the use of non-military instruments of coercion in international relations and her keen interest to evaluate their impact on human rights.

#### **V. Candidates proposed by the Consultative Group to the President for the Special Rapporteur on the situation of human rights in Cambodia**

20. The Consultative Group interviewed five shortlisted candidates for this vacancy and decided to recommend the following three individuals as best qualified to fulfil the mandate, ranking them in the order of preference below.

1. **Ms. Rhona SMITH (United Kingdom of Great Britain and Northern Ireland)**

2. **Mr. Michael O'FLAHERTY (Ireland)**

3. **Mr. Ravindran DANIEL JUSTIN (India)**

21. Ms. Smith is Professor of International Human Rights Law at Northumbria University in the United Kingdom of Great Britain and Northern Ireland and a Visiting Professor at Pannasastra University in Cambodia. She has been working with the Raoul Wallenberg Institute as an independent consultant advising on the implementation of their capacity building programme in the academic and justice sectors in Cambodia, assignment that will be finished by the time the Council decides on this mandate. Her regional and international experience includes both teaching and consultancies in China, South East Asia, Lebanon, Turkey and Belarus. She has published extensively on international human rights law. The Consultative Group was impressed by her in-depth knowledge of the country, her extensive contacts with different Cambodian stakeholders and the human rights challenges faced by the country. The Group also noted her clear vision as to how she would engage and build a constructive dialogue with the Government and other stakeholders.

22. Mr. O’Flaherty is Professor of Human Rights Law and Director of the Irish Centre for Human Rights at the National University of Ireland in Galway. He was Chief Commissioner of the Northern Ireland Human Rights Commission (2011-2013) and a member of the United Nations Human Rights Committee (2004-2012). He has held various posts with OHCHR, UNICEF and DPKO, participated as expert in regional mechanisms for the protection of human rights and served as member of advisory boards in the human rights non-governmental sector. The Consultative Group noted his long-standing interest in Cambodia and his in-depth knowledge and experience in enhancing human rights mechanisms.
23. Mr. Daniel Justin is a lawyer with more than 30 years of experience in working on human rights, including as Deputy Director of the OHCHR Cambodia Country Office where he supported previous mandate holders. His experience in the field includes positions as Human Rights Director or Regional Coordinator in United Nations missions in Libya, Sudan, and East Timor. Mr. Daniel has worked with the International Commission of Jurists and was a Director of the Asian Forum for Human Rights and Development (Forum-Asia). The Consultative Group noted his significant field experience and strong commitment for the promotion and protection of human rights.

## **VI. Concluding remarks**

24. The Consultative Group affirmed its commitment to maintaining the confidentiality and transparency of its working methods, documentation and deliberations. It further affirmed that the Secretariat should continue to assist the Group and be present throughout the selection process. The Group expressed its appreciation for the support received from the Secretariat.

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*Annex I*

*List of eligible candidates considered by mandate<sup>6</sup>*

**Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)  
Member from African States**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>	<b>Indigenous origin</b>
Ms. Martha	AGBANI	Nigeria	Ogoni
Mr. Vital	BAMBANZE	Burundi	Batwa
Mr. Thierno Souleymane	BARRY	Guinea	none indicated
Mr. Albert Kwokwo	BARUME	Democratic Republic of the Congo	none indicated
Mr. Brian Neil Joseph	GLOVER	Mauritius	none indicated
Mr. Didier	KAMUNDU BATUNDI	Democratic Republic of the Congo	Hunde/Bambutu
Mr. Ben	KOISSABA	Kenya	Maasai
Ms. Matuna	KYOMUHENDO	Uganda	Mutwa/Batwa
Mr. Elifuraha	LALTAIKA	United Republic of Tanzania	Maasai
Ms. Naomi	LELETO	Kenya	Maasai
Mr. Benard	MUJUNI	Uganda	Munyankore
Ms. Lucy	MULENKEI	Kenya	Maasai
Mr. Tshilenge	MULUMBA	Democratic Republic of the Congo	Luba
Mr. Ojot Miru	OJULU	Ethiopia	Anywa/Anuak
Mr. Severin	SINDIZERA	Burundi	Batwa
Mr. Charles	TAKU	Cameroon	Bangwa
Mr. Danfred	TITUS	South Africa	Griqua

**Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>
Ms. Mirnesa	BAJRAMOVIC	Bosnia and Herzegovina
Mr. Ilias	BANTEKAS	Greece
Mr. Thierno Souleymane	BARRY	Guinea

<sup>6</sup> The list of mandates and candidates is provided in alphabetical order.

Mr. Samir	DAS	India
Ms. Alena	DOUHAN	Belarus
Mr. Mohab	ELSHORBAGI	Egypt
Mr. Idriss	JAZAIRY	Algeria
Mr. Cesare	LOMBRASSA	Italy
Ms. Haina	LU	China
Mr. Cephas	LUMINA	Zambia
Mr. Tshilenge	MULUMBA	Democratic Republic of the Congo
Ms. Clara	PORTELA	Spain
Mr. Babiker	TOM	Sudan
Mr. Mehdi	ZAKERIAN	Iran (Islamic Republic of)
Mr. Wei	ZHANG	China
Mr. Jean	ZIEGLER*	Switzerland

\* On 3 February 2015, the candidate informed the Secretariat of this decision to withdraw his candidacy for this post.

### Special Rapporteur on the situation of human rights in Cambodia

First name	Last name	Nationality
Mr. Saer	AMMAR	Syrian Arab Republic
Mr. Ravindran	DANIEL JUSTIN	India
Mr. Samir	DAS	India
Mr. Fernand	DE VARENNES	Canada
Mr. Brian Neil Joseph	GLOVER	Mauritius
Mr. Jose Luis	GOMEZ DEL PRADO	Spain
Mr. Patrick	HEIN	Luxembourg
Mr. Anohar	JOHN	India
Mr. Huawen	LIU	China
Mr. Khalid	MALIK	Canada
Mr. Tshilenge	MULUMBA	Democratic Republic of the Congo
Mr. Michael	O'FLAHERTY	Ireland
Ms. Rhona	SMITH	United Kingdom of Great Britain and Northern Ireland
Mr. Wanhong	ZHANG	China



*Annex II*

*List of shortlisted candidates interviewed by the Consultative Group*<sup>7</sup>

**Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)  
Member from African States**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>	<b>Indigenous origin</b>
Ms. Martha	AGBANI	Nigeria	Ogoni
Mr. Albert Kwokwo	BARUME	Democratic Republic of the Congo	none indicated
Ms. Naomi	LELETO	Kenya	Maasai
Ms. Lucy	MULENKEI	Kenya	Maasai

**Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>
Mr. Ilias	BANTEKAS	Greece
Ms. Alena	DOUHAN	Belarus
Mr. Idriss	JAZAIRY	Algeria
Mr. Cephas	LUMINA	Zambia
Ms. Clara	PORTELA	Spain

**Special Rapporteur on the situation of human rights in Cambodia**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>
Mr. Ravindran	DANIEL JUSTIN	India
Mr. Patrick	HEIN	Luxembourg
Mr. Huawen	LIU	China
Mr. Michael	O'FLAHERTY	Ireland
Ms. Rhona	SMITH	United Kingdom of Great Britain and Northern Ireland

<sup>7</sup> The list of mandates and candidates is provided in alphabetical order.