

Report of the Consultative Group to the President of the Human Rights Council relating to the vacancies of mandate holders to be appointed at the fortieth session of the Human Rights Council

25 January 2019

I. Background

1. In paragraph 47 of the annex to its resolution 5/1, the Human Rights Council decided to establish a Consultative Group 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 mandate 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 pursuant to paragraph 50 of the annex to resolution 5/1.

2. The members of the Consultative Group for the selection of mandate holders to be appointed at the fortieth session of the Human Rights Council (25 February to 22 March 2019) are: H.E. Mr. Negash Kebret Batora (Ethiopia), Mr. Alejandro Dávalos (Ecuador),¹ H.E. Mr. Kok Jwee Foo (Singapore), H.E. Mr. Vaqif Sadiqov (Azerbaijan) and H.E. Ms. Aviva Raz Shechter (Israel). The working cycle of the current Consultative Group commenced on 1 April 2018 and will end on 31 March 2019, pursuant to paragraph 1(b) of Council decision 30/115.

3. A total of four vacancies are to be filled at the Council's fortieth session as follows (listed in alphabetical order):

Four members of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)
[[HRC resolution 33/25](#)]:

- 1. EMRIP member from Africa**
- 2. EMRIP member from Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia**
- 3. EMRIP member from Central and South America, and the Caribbean**
- 4. EMRIP member from the Pacific**

4. The first vacancy listed above, relating to the EMRIP member from Africa, was not initially foreseen and arose due to resignation of the mandate holder, Mr. Albert Kwokwo Barume (Democratic Republic of the Congo), from his post as the EMRIP member from Africa, which was effective from 20 October 2018. It was decided that the new mandate holder would serve out the remainder of the term of the previous EMRIP member from Africa in order to respect the staggered terms for the membership as provided for in paragraph 5 of Human Rights Council resolution 33/25.

II. Process

5. The application period for the submission of applications for these four mandates was from 5 November to 18 December 2018.

6. The Consultative Group considered 33 individual applications from 33 eligible candidates submitted for the four aforementioned specific vacancies in accordance with the relevant paragraphs

¹ Mr. Dávalos replaced the previous member, H.E. Mr. Victor Arturo Cabrera Hidalgo.

of Human Rights Council resolution 16/21. The applications of eligible candidates were made public on the designated OHCHR web page² of the Consultative Group as provided for in paragraph 22 (b) of the annex to Council resolution 16/21 (see annex I of this report).

7. In accordance with established practice, it was decided that each member of the Consultative Group would individually 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 also Council resolution 33/25 relating to the specific mandates under consideration. As a result of this ranking exercise, a shortlist of candidates to be interviewed was established for each mandate.

8. The Consultative Group held six formal meetings on 11, 16, 17, 18 and 21 January 2019 to consider and interview candidates for the aforementioned vacancies. Due to scheduling conflicts, H.E. Mr. Negash Kebret Batora (Ethiopia) participated in the shortlisting but not in the interviews for these mandates, and H.E. Mr. Vaqif Sadiqov (Azerbaijan) participated in the shortlisting for all mandates and in the interviews only for the EMRIP member from the Pacific.

9. Following the Group's previous decision, the chairing function for the interview and selection process of the mandate holder positions scheduled for appointment during the period 1 April 2018 to 31 March 2019 continued to be equally shared amongst the five members on a rotational basis according to the overall number of mandates to be considered during this cycle. The chairing arrangements for the specific mandates are noted below in each corresponding section.

10. The members of the Consultative Group took into full consideration the technical and objective requirements as stipulated in paragraphs 39-41, 44-46, 48, 50-51 of the annex to Human Rights Council resolution 5/1, decision 6/102 and paragraph 22 of resolution 16/21, and also Council resolution 33/25 relating to the specific mandates under consideration. In particular, the Group took into consideration the recommendation made in paragraph 6 of Council resolution 33/25 that, in the selection and appointment process, due regard be given to recognized competence and experience in the rights of indigenous peoples, experts of indigenous origin, and gender balance, in addition to the criteria for nominating, selecting and appointing mandate holders established by the Human Rights Council in paragraphs 39 to 53 of the annex to its resolution 5/1. Accordingly, the Group gave due regard, inter alia, to the indigenous origin of the candidates as per their self-identification in their application forms.

11. On gender balance, the Consultative Group duly took note of the Guidelines on Gender Parity³ adopted by the 2015 Consultative Group, whereby a quota was established so as to list no more than three candidates out of five of the same sex. The current Consultative Group decided not to adopt these Guidelines formally but to take them into consideration during the interview process.

12. In connection with the aforementioned, the Consultative Group reaffirmed its commitment to ensuring that the most qualified candidates are recommended to the positions under considerations, that the process of selection is objective, transparent, ensures equal treatment of all candidates, and that the recommendations to the President are public and substantiated pursuant to Council resolutions 5/1 and 16/21.

13. Based on the decision of the Consultative Group on the actual or perceived conflict of interest that may arise when a member of the Group has the same nationality as an eligible candidate, Mr. Alejandro Dávalos (Ecuador) did not participate in the shortlisting of the candidates to be interviewed

² See <https://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/HRC40.aspx>

³ Annex to the letter from the Consultative Group to the President of the Human Rights Council (dated 23 December 2015).

for the mandate of the EMRIP member from Central and South America, and the Caribbean. In view of the fact that the two candidates from Ecuador were not shortlisted, Mr. Dávalos subsequently took part in the interview process.

14. The Consultative Group discussed the issue of the impact of candidates lobbying members directly and decided to follow a self-disclosure procedure in situations where any member has been approached with regard to the applications of candidates. The Consultative Group decided to strongly discourage meetings of individual candidates with members of the Group, and inform candidates that this is the practice of the current Group. However, the Group decided that – if a meeting takes place – the candidate would be informed that its taking place and its contents would be shared with the other members of the Group. This principled position has been included in the frequently asked questions section on the OHCHR nomination and selection of special procedures website.⁴

15. In accordance with paragraphs 44 and 46 of the annex to Human Rights Council resolution 5/1, the Consultative Group sought to address consistently the potential for conflict of interest of all candidates holding decision-making positions in Government or in any other organization or entity as well as the principle of non-accumulation of human rights functions. These issues were clarified during interviews to ensure, inter alia, that if appointed, the candidate should state what steps he or she would be prepared to take with regard to any functions or duties that may give rise to an accumulation of human rights functions and/or any potential conflict of interest.

16. The Consultative Group held a total of 14 interviews with 14 shortlisted candidates for the aforementioned vacancies (see annex II of this report). These interviews were held on 16, 17, 18 and 21 January 2019, pursuant to paragraph 22 (c) of the annex to Human Rights Council resolution 16/21. 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 resolution relating to the specific mandates under consideration.

17. The decisions of the Consultative Group were taken by consensus.

III. Candidates proposed by the Consultative Group to the President for the mandate of the Expert Mechanism on the Rights of Indigenous Peoples, member from Africa

18. Meetings held by the Consultative Group in relation to this mandate were chaired by H.E. Mr. Kok Jwee Foo (Singapore). There were eight eligible candidates for this vacancy. Of the three candidates interviewed, the Consultative Group decided to recommend them all as best qualified to fulfil the mandate, ranking them in the order of preference below.

1. Belkacem LOUNES (M) (Algeria)

Indigenous origin: Amazigh

2. Mukwiza Felix NDAHINDA (M) (Netherlands)

Indigenous origin: not applicable

3. Adele WILDSCHUT (F) (South Africa)

Indigenous origin: Khoi

19. **Belkacem Lounes** is Professor of Economic and Social Sciences at the University of Grenoble, France, and holds a doctorate in Economic and Social Sciences from the same university. Since 2016 he serves as expert member of the Working Group on Indigenous Populations/Communities in Africa

⁴ See <http://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/BasicInformationSelectionIndependentExperts.aspx>

of the African Commission on Human and Peoples' Rights. He is a former Chairperson of the World Amazigh Congress and in this capacity he participated in drafting the United Nations Declaration on the Rights of Indigenous Peoples. He authored and co-authored studies and publications on issues related to indigenous peoples. The Consultative Group noted the candidate's vast knowledge of the mandate, and the candidate's realistic appreciation of the challenges of the EMRIP and ideas presented on how to address them. The candidate demonstrated good knowledge of both the United Nations and the operating environment in Africa. The Consultative Group noted the candidate's comprehensive approach to integrating gender issues into the mandate of EMRIP. The candidate also suggested specific areas where EMRIP could focus upon to make its mandate more effective.

20. **Mukwiza Felix Ndahinda** is Director of the Research, Policy and Higher Education Program of the Aegis Trust in Kigali, Rwanda, as well as Associate Professor of the University of Rwanda. He holds a Ph.D. in Law from the International Victimology Institute of the School of Law of Tilburg University, the Netherlands. He has published extensively on the rights of indigenous peoples in Africa. The Consultative Group noted the candidate's strong academic background and practical experience in Africa. The candidate presented practical suggestions on how to promote cooperation with the mandate, both within and outside the United Nations system, including civil society and indigenous peoples. The Consultative Group also noted the candidate's ability to present a clear vision of the challenges involved, and the candidate's emphasis on promoting dialogue between all stakeholders.

21. **Adele Wildschut** is an independent freelance consultant in executive education, coaching and high level advocacy. She holds a Masters in International Relations from Vienna School of International Studies. She was a member of the African and Global Indigenous Peoples Caucus at the United Nations Working Group on the Draft Declaration on the Rights of Indigenous Peoples. The Consultative Group noted the candidate's academic and professional experience. The candidate expressed clear views on how the EMRIP could be a platform to promote rights of indigenous people, in particular with States and academic institutions. The candidate highlighted the importance of engaging with the States of the region and promoting cooperation with all stakeholders.

IV. Candidates proposed by the Consultative Group to the President for the mandate of the Expert Mechanism on the Rights of Indigenous Peoples, member from Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia

22. Meetings held by the Consultative Group in relation to this mandate were chaired by H.E. Mr. Kok Jwee Foo (Singapore). There were nine eligible candidates for this vacancy. Of the four candidates interviewed, the Consultative Group decided to recommend the following three candidates as best qualified to fulfil the mandate, ranking them in the order of preference below.

1. Rodion SULYANDZIGA (M) (Russian Federation)

Indigenous origin: Udege

2. Borys BABIN (M) (Ukraine)

Indigenous origin: not applicable

3. Vasilii NEMECHKIN (M) (Russian Federation)

Indigenous origin: Mordovian people

23. **Rodion Sulyandziga** is Director of the Center for support of indigenous peoples of the North. He holds a Ph.D. in Social Science from the Institute of Sociology of the Russian Academic of Science, Moscow. He served as Chair of the Board of the Arctic Council Indigenous Peoples'

Secretariat and Co-chair of the Indigenous Peoples' Global Coordination Group for the Alta preparatory meeting of indigenous peoples of the world. He was member of the Board for the World Bank Facility Grant Program for Indigenous Peoples. He has published on the rights of the indigenous peoples of the North, Siberia and Far East of the Russian Federation. The Consultative Group noted the candidate's ability to present clear and practical ideas on how to better promote the interests of indigenous people in the EMRIP, including ways to cooperate with different United Nations human rights mechanisms. The Consultative Group also noted the candidate's vast experience collaborating with different communities of indigenous people. The candidate understood the importance of promoting dialogue and cooperation with States, and demonstrated awareness regarding the weaknesses and challenges of the EMRIP and how to address them.

24. **Borys BABIN** is Scientific Consultant at the Institute of Legislation of Verkhovna Rada of Ukraine, the Ukrainian Parliament in Kyiv. Before that he was Representative of the President of Ukraine in the Autonomous Republic of Crimea. He holds a Ph.D. in Constitutional Law from the Donetsk Law Institute. He previously litigated on behalf of the Ukrainian Government before the European Court of Human Rights. The Consultative Group noted the candidate's academic and professional credentials. The candidate underscored the importance of implementing the mandate with State Members, and the need to develop new legislation to properly implement the United Nations Declaration on the Rights of Indigenous Peoples. The candidate demonstrated good knowledge of various issues important to different groups of indigenous peoples, and expressed clear ideas on what other matters affecting indigenous peoples EMRIP should address.

25. **Vasilii Nemechkin** is Chair of Legal Disciplines at Ogarev Mordovia State University, in Saransk, Russian Federation. He holds a Ph.D. in Law from the same university. He authored publications on the rights of indigenous peoples and minorities. The Consultative Group noted the candidate's clear vision of the challenges involving the EMRIP and the candidate's ideas on what new issues should be discussed by the EMRIP. The candidate recognized the importance of providing more information on the work of EMRIP to relevant stakeholders. The candidate also paid particular attention to the need of improving cooperation between EMRIP and other relevant United Nations entities and with other organizations.

V. Candidates proposed by the Consultative Group to the President for the mandate of the Expert Mechanism on the Rights of Indigenous Peoples, member from Central and South America, and the Caribbean

26. Meetings held by the Consultative Group in relation to this mandate were chaired by H.E. Ms. Aviva Raz Shechter (Israel). There were 10 eligible candidates for this vacancy. Of the four candidates interviewed, the Consultative Group decided to recommend the following three candidates as best qualified to fulfil the mandate, ranking them in the order of preference below.

1. Erika YAMADA (F) Brazil

Indigenous origin: not applicable

2. Olga MONTÚFAR CONTRERAS (F) (Mexico)

Indigenous origin: Nahuatl

3. Anexa ALFRED CUNNINGHAM (F) (Nicaragua)

Indigenous origin: Miskitu people

27. **Erika Yamada** is currently the Chair of the Expert Mechanism. She is consultant for the facilitation of workshops on Indigenous Protocols for Consultation in Brazil and research coordinator for the International Organization for Migration in Brazil on the legal aspects of the migration of

indigenous peoples from Venezuela to Brazil. She obtained her doctoral degree as Doctor of Juridical Science, Indigenous Law and Policy Program, from the University of Arizona, in Tucson, United States of America. She published extensively on the rights of indigenous peoples. The Consultative Group noted the candidate's vast experience and depth of knowledge on the mandate's coverage and the broader United Nations system. The candidate articulated clear proposals on how to advance the EMRIP mandate, paying particular attention to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, especially at the local level. The candidate also highlighted the importance of promoting dialogue with all relevant stakeholders. The Consultative Group noted the candidate's emphasis on gender mainstreaming in the mandate of the EMRIP.

28. **Olga Montúfar Contreras** is President of Paso a Paso Foundation, an organization specialized in education for persons with special needs and disabilities. She serves as an expert from civil society for the supervision of the Action Plan for Persons with Disabilities of the Organization of American States. She participated in drafting and evaluating laws and policies related to indigenous peoples and indigenous peoples with disabilities. She holds a Masters in Social Policies and Development from Autonomous University of Hidalgo, Mexico. The Consultative group noted the candidate's extensive knowledge on the human rights of indigenous women with disabilities. The candidate underscored the importance of EMRIP paying more attention to the rights of indigenous women with disabilities. The candidate is cognizant of the importance of dialogue between civil society and governments, as well as the need to promote cooperation with other United Nations human rights mechanisms and with other regional organizations. The candidate underscored the importance of providing EMRIP with new perspectives such as the human rights of indigenous women with disabilities.

29. **Anexa Alfred Cunningham** is Legal Adviser for the indigenous organization YATAMA. She has worked as human rights specialist at the Executive Secretariat of the Inter-American Commission on Human Rights, the Organization of American States and as Senior Indigenous Fellow at the Office of the High Commissioner for Human Rights. She holds a Masters in Indigenous Rights and Policies from the University of Arizona, United States of America, and a Postgraduate Diploma in Family Rights from Carlos III University in Madrid, Spain. The Consultative Group noted the candidate's vast experience and knowledge on matters related to indigenous peoples. The candidate is pragmatic in approach and underscored the importance of focusing on implementation. The candidate is fully aware of the importance of mainstreaming gender issues to the work of EMRIP. The candidate was able to provide specific suggestions on issues that EMRIP should focus on. The candidate is also fully aware of the importance of collaborating with other United Nations human rights mechanisms as well as other international organizations.

VI. Candidates proposed by the Consultative Group to the President for the mandate of the Expert Mechanism on the Rights of Indigenous Peoples, member from the Pacific

30. Meetings held by the Consultative Group in relation to this mandate were chaired by Mr. Alejandro Dávalos (Ecuador). There were six eligible candidates for this vacancy. Of the three candidates interviewed, the Consultative Group decided to recommend them all as best qualified to fulfil the mandate, ranking them in the order of preference below.

1. Megan DAVIS (F) (Australia)

Indigenous origin: Cobble Cobble Aboriginal

2. Hai-Yuean TUALIMA (F) (Samoa)

Indigenous origin: Samoan

3. Hannah MCGLADE (F) (Australia)

Indigenous origin: Indigenous Noongar

31. **Megan Davis** is currently member of the Expert Mechanism. She is Pro Vice-Chancellor Indigenous and Professor of Law at the University of New South Wales in Australia and is a Commissioner of the New South Wales Land and Environment Court on Aboriginal land rights matters, and an Australian member of the International Law Association's Indigenous Rights Committee. She was the first Chairperson from the Pacific region of the United Nations Permanent Forum on Indigenous Issues (2015-2016) and an expert member for two consecutive terms (2011-2013 and 2014-2016). She participated in the drafting of the United Nations Declaration on the Rights of Indigenous Peoples. She holds a Ph.D. in Law from the Australian National University. The Consultative Group noted the candidate's extensive knowledge and experience on the work of EMRIP and other relevant United Nations human rights mechanisms. The candidate had clear ideas on how to improve the effectiveness of EMRIP. The candidate emphasized the importance of developing the capacity of EMRIP to provide technical assistance and advice to States, through ways such as developing relevant working methods and frameworks. The candidate presented concrete ideas on how to improve the cooperation of EMRIP with other United Nations human rights mechanisms. The Consultative Group noted the candidate's knowledge on gender issues and her views on gender mainstreaming to the work of EMRIP.

32. **Hai-Yuean Tualima** is a Scientia Ph.D. Scholar at the University of New South Wales, Australia, researching on the relationship of customary law, traditional knowledge and intellectual property. She was an Indigenous Fellow at the World Intellectual Property Organization. She holds a Masters of Laws from the University of Walkato, New Zealand. The Consultative Group acknowledged the candidate's knowledge and experience on the topic. The Consultative Group also noted the candidate's emphasis and clear ideas on how EMPRIP could promote and protect the human rights of indigenous peoples in the Pacific region beyond the candidate's own country. The candidate expressed realistic and concrete ideas on how EMRIP could achieve its goals in the Pacific region, in particular cooperating with United Nations entities with field presence in the region and local communities. The candidate emphasized the importance of EMRIP engaging local communities and capitalizing on local networks.

33. **Hannah McGlade** is Senior Indigenous Research Fellow at Curtin University in Perth, Australia. She was Senior Indigenous Fellow at the Office of the High Commissioner for Human Rights. She published extensively on aboriginal children and women. She holds a Ph.D. on Human Rights from Western Australia. The Consultative Group noted the candidate's experience and knowledge on the topic. The Consultative Group also noted the candidate's clear ideas on how to enhance the effectiveness and role of EMRIP. The candidate highlighted the need for EMRIP to promote and defend the rights of children of indigenous families in various regions. The candidate emphasized the importance of addressing gender related issues, such as sexual violence against indigenous women, and maintaining dialogue with all stakeholders including local governments.

Annex I - List of eligible candidates by mandate⁵

EMRIP member from Africa

First name	Last name	Nationality	Gender
Nourredine	BESSADI	Algeria	M
Shatikha	CHIVUSIA	Kenya	F
Belkacem	LOUNES	Algeria	M
Daniel	MEKONNEN	Eritrea	M
Mukwiza Felix	NDAHINDA	Netherlands	M
Irene	NJERI	Kenya	F
Severin	SINDIZERA	Burundi	M
Adele	WILDSCHUT	South Africa	F

EMRIP member from Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia

First name	Last name	Nationality	Gender
Borys	BABIN	Ukraine	M
Tatyana	DYATLOVA	Russian Federation	F
Sergey	KHARYUCHI	Russian Federation	M
Vera	KONDRATEVA	Russian Federation	F
Vasilii	NEMECHKIN	Russian Federation	M
Marina	ODZIAL	Russian Federation	F
Stepan	PETROV	Russian Federation	M
Rodion	SULYANDZIGA	Russian Federation	M
Olga	TIMOFEEVA-TERESHKINA	Russian Federation	F

⁵ The list of mandates and of candidates is provided in alphabetical order.

EMRIP member from Central and South America, and the Caribbean

First name	Last name	Nationality	Gender
Anexa	ALFRED CUNNINGHAM	Nicaragua	F
Americo Javier	AROCA	Peru	M
Alvaro	BACA	Nicaragua	M
Ricardo	BHARATH HERNANDEZ	Trinidad and Tobago	M
Sandra	CEBALLOS	Argentina	F
Olga	MONTÚFAR CONTRERAS	Mexico	F
Alexandre	SOMMER-SCHAECHTELE	France	M
Diego	TITUAÑA	Ecuador	M
Erika	YAMADA	Brazil	F
Verónica María	YUQUILEMA YUPANGUI	Ecuador	F

EMRIP member from the Pacific

First name	Last name	Nationality	Gender
Megan	DAVIS	Australia	F
Hannah	MCGLADE	Australia	F
Anne Leimala	PAKOA TAU	Vanuatu	F
Laitia	TAMATA	Fiji	M
Hai-Yuean	TUALIMA	Samoa	F
Jethro	TULIN	Papua New Guinea	M

Annex II – List of shortlisted candidates interviewed by the Consultative Group⁶

EMRIP member from Africa

First name	Last name	Nationality	Gender
Belkacem	LOUNES	Algeria	M
Mukwiza Felix	NDAHINDA	Netherlands	M
Adele	WILDSCHUT	South Africa	F

EMRIP member from Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia

First name	Last name	Nationality	Gender
Borys	BABIN	Ukraine	M
Vasilii	NEMECHKIN	Russian Federation	M
Rodion	SULYANDZIGA	Russian Federation	M
Olga	TIMOFEEVA-TERESHKINA	Russian Federation	F

EMRIP member from Central and South America, and the Caribbean

First name	Last name	Nationality	Gender
Anexa	ALFRED CUNNINGHAM	Nicaragua	F
Alvaro	BACA	Nicaragua	M
Olga	MONTÚFAR CONTRERAS	Mexico	F
Erika	YAMADA	Brazil	F

EMRIP member from the Pacific

First name	Last name	Nationality	Gender
Megan	DAVIS	Australia	F
Hannah	MCGLADE	Australia	F
Hai-Yuean	TUALIMA	Samoa	F

⁶ The list of mandates and of candidates is provided in alphabetical order.