

Statement of qualifications

Statement pursuant to article 36, paragraph 4 (a), of the Rome Statute and paragraph 6 of resolution ICC-ASP/3/Res.6

a) Dr. Silvia A. Fernández de Gurmendi is a widely acclaimed jurist and diplomat. In all her posts she has discharged her duties with impartiality and moral integrity. She possesses the qualifications required for appointment to the highest judicial offices in the Argentine Republic.

She combines (i) established competence and experience in international criminal law and procedures with (ii) established competence and professional experience in international law, international humanitarian law and human rights.

Her knowledge and experience of international criminal law stem in large measure from her close and long-standing involvement in the process of establishing the International Criminal Court. As a result of her extensive and active participation in the whole process of creating and setting up the International Criminal Court and her subsequent work in the Office of the Prosecutor, she has acquired in-depth knowledge and understanding of the system of the International Criminal Court, including the applicable law, the functioning of each of the Court's organs and the way they interact among themselves and with the States and other actors of the international community. As a result, in particular, of her involvement in the development of the criminal procedure of the Court, Dr. Silvia Fernández de Gurmendi possesses wide theoretical and practical knowledge of the complex procedural system governing the institution, indeed she presided over the entire process of drawing up the criminal procedure envisaged in the Statute (parts 5, 6 and 8) and, following the Rome Conference, went on to lead the work on drawing up the Rules of Procedure and Evidence. On completion of this latter instrument, she took on the chairmanship of the Working Group on the Crime of Aggression.

From 2003 to 2006, Dr. Fernández had the opportunity to put into practice, in the Office of the Prosecutor of the International Criminal Court, the provisions established in the Rome Statute and the Rules of Procedure and Evidence. As Director of the Jurisdiction, Complementarity and Cooperation Division, she was involved in the preliminary analysis of situations and cases, in developing systems to receive and process communications on international crimes, in obtaining international cooperation and judicial assistance, and in conducting missions to regions relevant to the situations under analysis or investigation.

By virtue, also, of the other activities and duties she has performed in the course of her professional career (including Director General for Human Rights, Deputy Director General for Human Rights and Deputy Legal Counsel in the Ministry of External Affairs of the Argentine Republic), Dr. Silvia Fernández de Gurmendi has built up expertise in areas relating to international law, international humanitarian law and human rights.

In her current post, as Director General for Human Rights, she continues to be involved in issues pertaining to transitional justice and the prevention of genocide and other international crimes. Her other responsibilities include representing the Argentine Republic on global and regional human rights bodies, and acting as representative or agent of the State in proceedings before organs of the inter-American system for the protection of human rights (Inter-American Commission on Human Rights and Inter-American Court of Human Rights).

From 1994 to 2000, Dr. Fernández was Legal Counsellor at the Permanent Mission of the Argentine Republic to the United Nations, acting as delegate to the Sixth Committee (of which she was rapporteur in 1994) and other legal committees of the General Assembly and Security Council. In the course of this work, Dr. Fernández took part in numerous rounds of negotiations on legal matters and took on a leadership role in the work on drawing up basic instruments for combating international terrorism and promoting international humanitarian law. Dr. Fernández presided, inter alia, over the process of preparing the Declaration on Measures to Eliminate International Terrorism, 1994, and the Supplementary Declaration thereto of 1995, and all the resolutions that were successively adopted on that issue in the Sixth Committee, until she left this post in 2000. She also played an important and internationally recognized role in the negotiations on the Convention on the Security of United Nations and Associated Personnel, the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. By virtue of her special experience and knowledge of these and related matters, she was called upon by the Office of the United Nations High Commissioner to chair the international group of experts on mercenaries, to recommend ways of combating their recruitment and stepping up controls on security companies (resolution 56/232).

Dr. Fernández has been involved in teaching throughout her professional career, including as Professor of International Criminal Law at the University of Palermo and at the University of Buenos Aires, which positions she holds to the present day. She has been invited to speak or take part in panel discussions by numerous universities and national and international organizations and has published a large quantity of material in Argentina and abroad on matters pertaining to international humanitarian law, human rights and international criminal law.

Apart from Spanish, her native tongue, Dr. Fernández de Gurmendi has an excellent command of both working languages of the Court, English and French.

The candidature of Dr. Fernández is proposed in accordance with the procedure for the nomination of candidates for appointment to the highest judicial offices in the State pursuant to article 36, paragraph 4 (a) (i) of the Rome Statute.

b) For the purposes of article 36, paragraph 5 of the Rome Statute, and in view of her combination of qualifications, Dr. Fernández has chosen to appear on list A.

c) The selection of the candidature of Dr. Silvia A. Fernández de Gurmendi takes into account the need for representation of the principal legal systems of the world, equitable geographical representation and a fair representation of female and male judges, in accordance with the provisions of article 36, paragraph 8 (a) (i) to (iii) of the Rome Statute. Dr. Fernández de Gurmendi is able to contribute to an appropriate composition of the Court in that she (i) represents the civil law system, (ii) represents the Group of Latin American and Caribbean Countries, and (iii) represents the feminine gender.

In addition to the aforementioned, given the candidate's combination of knowledge and experience for both categories of judge (A and B), her election will contribute in general to the balanced composition of the Court.

d) In addition to her knowledge and general experience in international criminal law, international humanitarian law and human rights, Dr. Fernández de Gurmendi, in accordance with article 38, paragraph 8 (b) of the Rome Statute, has special experience of concrete issues of relevance to situations of transitional justice, including the right to truth, the restitution of identity to illegally appropriated children and the forced disappearance of persons.

e) Dr. Silvia A. Fernández de Gurmendi does not possess dual nationality for the purposes of article 36, paragraph 7 of the Rome Statute. Her candidature is put forward as that of a national of the Argentine Republic.
