

## Statement of qualifications

### Introduction

The following statement, together with the attached curriculum vitae, demonstrates the qualifications of Mr Chile Eboe-Osuji, nominated by the Federal Republic of Nigeria, and endorsed by the African Union and the Economic Community of West African States, as a candidate for election as a judge of the International Criminal Court in the 2011 judicial elections.

### I. Character, judicial disposition and qualifications

**Qualification required:** “The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices” (article 36 (3) (a) of the Rome Statute).

**Candidate’s qualification:** Mr Eboe-Osuji is of high moral character and possesses the judicial qualities of impartiality and integrity.

- He has never faced a charge of criminal or professional misconduct.
- He possesses qualifications required for appointment as a judge of the Supreme Court of Nigeria, being one of the highest judicial offices in Nigeria.

### II. Relevant competencies

**A. Qualification required (List A):** Every candidate for election to the Court shall “have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings ...” (article 36(3) (b)(i)).

#### Candidate’s qualification

Mr Eboe-Osuji has established competence in the following areas relevant to List A:

- He has established considerable competence in substantive criminal law and criminal procedure. His competence derives from twenty-five years of experience and familiarity with professional advocacy in the courtroom, with specific reference to criminal proceedings. In addition, he has worked in senior legal advisory capacities to the United Nations, and rendered legal advisory services to the Government of Nigeria and foreign governments, on questions of international law.
- He has practised criminal law in both the national and the international legal arenas.
  - In the national arena(s) he has practised in the courts of Nigeria and Canada. For many years, he appeared as counsel in serious criminal, constitutional and civil cases. He has litigated cases in magistrates’ courts in Nigeria and provincial courts in Canada; superior courts in Nigeria and Canada; the Court of Appeal for Ontario (Canada) and the Supreme Court of Canada.
  - In the international arena, he has litigated cases before the International Criminal Tribunal for Rwanda (ICTR), Special Court for Sierra Leone (SCSL) and the European Court of Human Rights. His experience includes fifteen years of practical work in the field of international criminal law. In that regard, he has performed functions including in the capacities of senior prosecution trial counsel at the ICTR and senior prosecution appeals counsel at the SCSL. Prior to working in those higher-level positions, he had worked as prosecution counsel in several cases at the ICTR, at the pre-trial stage.
- In addition to his advocacy work before judges of international criminal courts, he also has extensive experience, in a senior legal advisory capacity behind the scenes, assisting ICTR trial and appellate judges in the drafting of many judgments and decisions.

- His specific areas of competence include the following: international criminal law (with specific reference to genocide, crimes against humanity, and war crimes); international humanitarian law; international human rights law; public international law; criminal law of Nigeria, criminal law of Canada, and criminal law in the common law world.
- He also has expertise in international law relating to the crime of aggression, in virtue of his research and legal advisory assistance to the Delegation of Nigeria to the ICC Assembly of States Parties Special Working Group on the Crime of Aggression.

**B. Alternative qualification (required for List B):** “Every candidate for election to the Court shall (as an alternative to List A qualification) ... (h)ave established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court” (article 36(3)(b)(ii)).

### **The candidate and the alternative qualification**

Although a candidate who has the qualification required for List A is not required to also have the alternative qualification required for List B, it is notable that in addition to his practical experience and competences in criminal courtroom work that qualify him for List A, Mr Eboe-Osuji also has very strong competences and experience in the alternative qualification that also qualify him for List B. A summary appears below:

- He is currently the senior advisor to the United Nations High Commissioner for Human Rights, on matters of international law and international legal policy. In that capacity, he regularly assists and advises the High Commissioner on questions of law and policy that attend her mandate to protect and promote human rights all over the world. In this regard, Mr Eboe-Osuji regularly advises and assists the High Commissioner in relation to the role of the ICC and the other international criminal courts and tribunals, as well as regional and national courts, in the fight against impunity;
- He has taught international criminal law at the Faculty of Law, University of Ottawa, Canada. As well, he has appeared as guest lecturer or speaker on numerous speaking engagements on the subject of international criminal law;
- He provided legal advisory assistance to Nigeria’s delegation to the Special Working Group on the Definition of the Crime of Aggression;
- He has also provided professional legal advisory services to foreign governments on questions of international law;
- He has an extensive record of research and publications in the area of international criminal law, international human rights law and public international law. His research and writing include, but are not limited to the following topics:
  - Definition and analysis of rape in international criminal law;
  - Rape as genocide;
  - Rape and superior responsibility in international law;
  - Forced marriage and international criminal law;
  - Reparation for sexual violence against women during war;
  - Prosecution of sexual violence as part of transitional justice efforts in post-conflict societies;
  - Superior responsibility at the ad hoc tribunals;
  - Joint criminal enterprise in international criminal law;
  - The role of the Security Council in prosecuting the crime of aggression;
  - International law, mercenary activities and conflict prevention in Africa;
  - Vague indictments and questions of justice at the international criminal tribunals;
  - Murder as a crime against humanity;

- Genocide, justice and the forensic sensibilities of the International Committee of the Red Cross;
- Complicity in genocide and aiding and abetting genocide;
- The jurisdiction to prosecute foreigners for crimes against humanity committed abroad;
- State immunity, state atrocities, and civil justice in the modern era of international law;
- Responsibility of States for genocide;
- The intent element of the war crime of terrorism;
- Aviation terrorism;
- Grave breaches as war crimes;
- Deliberate attacks against civilians as crimes against humanity;
- Burning as a mode of the war crime of pillage;
- Interlocutory appeals at the ad hoc tribunals;
- The 'defence' of necessity in international criminal law;
- Curbing war through law; and
- Alibi in international criminal law.

### **III. Specific expertise on questions of violence against women and children**

#### **Desirable qualification**

States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children (article 36(8)(b)).

#### **The candidate and the desirable qualification**

Mr Eboe-Osuji has expertise on various topics of international criminal law. He has developed a particular expertise on the subjected of armed conflict and violence against women. He also has experience on the subject of children and armed conflict. A summary of his practical and scholarly experience and expertise in these regards includes the following:

- His practical courtroom litigation work in relation to sexual violence against women and violence against children includes the following cases:
  - *Prosecutor v Semanza* (International Criminal Tribunal for Rwanda): as Senior Prosecution Trial Counsel he:
    - Conducted trial litigation on the count of rape
    - Conducted trial litigation on the count of rape as torture
  - *Prosecutor v Brima et al* (Special Court for Sierra Leone): as Senior Prosecution Appeals Counsel he:
    - Conducted appellate litigation on forced marriage
    - Conducted appellate litigation on duplicity of indictment regarding sexual slavery and sexual violence
  - *Prosecutor v Fofana & Kondewa* (Special Court for Sierra Leone): as Senior Prosecution Appeals Counsel he:
    - Conducted appellate litigation against Trial Chamber's denial of leave to amend indictment to add counts of sexual violence
    - Conducted appellate litigation against Trial Chamber's denial of leave to lead evidence of sexual violence during the trial
    - Conducted appellate litigation against Trial Chamber's acquittal on the count of use of child soldiers.
- He has also assisted judges at the ICTR in drafting judgments dealing with sexual violence against women during the Rwandan genocide.

- In addition to courtroom litigation experience with cases involving charges of violence against women, Mr Eboe-Osuji has a solid record of scholarly research and writing on the subject. These include the following:
  - A book soon to be published by Martinus Nijhoff under the working title of “International Law and Sexual Violence in Armed Conflict”;
  - Definition and analysis of rape in international criminal law (journal article);
  - Rape as genocide (journal article);
  - Rape and superior responsibility in international law (journal article);
  - Sexual violence in armed conflicts as the war crime of terrorism (journal article);
  - The question of forced marriage in international criminal law (book chapter);
  - Reparation for sexual violence against women during war (book chapter);
  - Prosecution of sexual violence as part of transitional justice efforts in post-conflict societies (book chapter);
  - Sexual violence against women as a particular brand of evil during armed conflict (book chapter).

#### **IV. Preferred list**

Mr Eboe-Osuji is qualified for both Lists A and B. As he is required to elect only one list, he elects to be placed on List A.

#### **V. Nationality**

Mr Eboe-Osuji is a citizen of Nigeria, where he exercises civil and political rights.

#### **VI. Native legal and geographic representation**

Although Mr Eboe-Osuji is from the common law tradition, he has working familiarity with the continental criminal law tradition.

If elected, he will be the only Nigerian ever to serve as a judge on the Court.