

## **Prost, Kimberly (Canada)**

[Original: English]

### **Statement of qualifications**

*Statement submitted in accordance with article 36 (4) of the Rome Statute of the International Criminal Court and paragraph 6 of the resolution of the Assembly of States Parties on the procedure for the nomination and election of judges of the International Criminal Court (ICC-ASP/3/Res.6).*

The Government of Canada has decided to nominate Ms. Kimberly Prost for election as a judge of the International Criminal Court (ICC) for the years 2018 – 2027. The elections will take place during the sixteenth session of the Assembly of States Parties in December 2017.

Ms. Prost is nominated for inclusion in List A, pursuant to article 36, paragraph 5, of the Rome Statute. Her nomination was approved in accordance with the procedure established in article 36 paragraph 4(a)(ii), following the decision of the Canadian National Group of the Permanent Court of Arbitration.

As a member of the Law Society of Upper Canada, with almost 19 years of domestic criminal practice experience, Ms. Prost possesses the necessary qualifications required in Canada for appointment to the highest judicial office. She is a native English speaker and has advanced level French.

Ms. Prost is a Canadian national and does not possess the nationality of any other State. She is committed to be available to take up full time service when the Court's workload so requires.

Ms. Prost meets the requirements of article 36, paragraph 3, and her exceptional qualifications and experience would make her a valuable contributor to the Court, and help advance the aims and values of the Rome Statute. Her nomination is also consistent with the commitment of Canada and other States Parties to ensuring the gender balance of the Court.

Ms. Prost is well regarded as a person of high moral character, impartiality, and integrity. Her 35-year career has been equally divided between practice within Canada and service with international organizations, and her background and experience demonstrate an established competence in criminal law and procedure as she has practised extensively in this field, both domestically and internationally, for much of her career.

Ms. Prost worked for 19 years with Canada's Department of Justice in a variety of pertinent roles. She began her career as a prosecutor, presenting and arguing a broad range of cases under federal jurisdiction, at both the trial and appellate levels. Of particular relevance is her service with the then newly formed Crimes against Humanity and War Crimes section. In this capacity, she led a team in preparing and analyzing potential cases for prosecution, developing particular expertise with respect to the prosecution of cases of war crimes, crimes against humanity and genocide.

During her time with the Department of Justice, Ms. Prost also worked extensively in the field of international cooperation in criminal matters, serving for eight years as the Director of the International Assistance Group (IAG), Canada's central authority for extradition and international evidence gathering (mutual legal assistance). As a practitioner in this field, she gained detailed insight into criminal law practice and procedures domestically and under the different legal traditions of the world.

This knowledge of international comparative law in the criminal law context was further enhanced through participation in the negotiation of over 40 bilateral treaties on extradition and mutual legal assistance. Ms. Prost was also a member of the Canadian delegation for the negotiation of multilateral penal law conventions including, most notably, the Rome Statute which established the ICC, and its related Rules of Procedure and Evidence and Elements of Crimes.

Following her distinguished career at Canada's Department of Justice, Ms. Prost has worked extensively at the international level. She has been a judge of the International Criminal Tribunal for the former Yugoslavia (ICTY),

the first Ombudsperson for the United Nations Security Council Al-Qaida Sanctions Committee, managed the Legal Advisory Section of the United Nations Office on Drugs and Crime (UNODC), and was the Head of the Criminal Law Section for the Commonwealth Secretariat. She is currently serving as Chef de Cabinet to the President of the ICC.

At the ICTY, Ms. Prost served for four years as a judge *ad litem*, sitting on the multi-accused trial conducted at that tribunal in the case of *Popovic et al.* The case involved multiple allegations of war crimes, crimes against humanity and in the case of five of the accused, genocide, related to events at Srebrenica and Zepa, Bosnia and Herzegovina, in 1995. She also managed pre-trial preparations as a single judge and served as a Presiding Judge during the pre-trial phase of the case of the *Prosecutor v Tolimir* who was a self-represented accused. As a result of this role with the ICTY, she gained not only judicial experience but specialized expertise in judicial work in an international tribunal/court which is hybrid in nature, employing criminal law and procedure stemming from different legal traditions. This experience is invaluable for an ICC judge, who will be called upon to function in a Court which is similarly hybrid and diverse in its principles and practices.

During her time at the Commonwealth Secretariat and the UNODC, Ms. Prost planned and delivered a range of programs aimed at assisting States in the development of their criminal justice systems. Her experience generated competence and expertise in international law, specifically in the areas of international criminal law, international humanitarian law and international cooperation in criminal matters.

As a judge of the ICTY, the substantive issues dealt with in the *Popovic et al.* case, ultimately addressed in a 1000-page judgement, involved the application of international criminal law and international humanitarian law definitions, principles and jurisprudence. In her work as a prosecutor in Canada in the Crimes against Humanity and War Crimes section, Ms. Prost reviewed significant parts of the Nuremberg and Tokyo transcripts and decisions and wrote extensive legal opinions touching on the interpretation and application of international humanitarian law principles in the context of the Canadian legislation. From her work with the IAG and with UNODC and the Commonwealth, she is recognized as an expert in extradition and mutual legal assistance, a central component of international criminal law.

Ms. Prost's international law expertise also extends specifically to the substantive law and procedures applicable to the ICC. In addition to participating in the negotiations for the establishment of the Court and adoption of its legal framework, she worked on the Canadian legislation, and internationally on model legislation on behalf of the Commonwealth, for implementation of the Rome Statute in domestic law. Her position as Chef de Cabinet for the President of the ICC has given her enhanced knowledge of the workings and structure of the Court. She has also written and lectured extensively on a number of subjects relevant to the Court.

Guided by her competence in the field of criminal law and procedure, the Government of Canada is confident that Ms. Prost possesses the knowledge and expertise to advance the aims and values of the Rome Statute. The breadth of Ms. Prost's combined experience and her exceptional qualifications, would make her an excellent and valuable contributor to the work of the Court and to international criminal justice more broadly.

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