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**Report of the Committee on the Election of the Prosecutor**

**Addendum**

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## A. Carlos Castresana Fernández (Spain)

[Original : English]

### 1. Letter of motivation

November 2019

Esteemed Members of the Committee:

I wish to present you a brief account of the reasons why I believe that I meet the conditions to serve as Prosecutor of the International Criminal Court.

#### **Motivation**

I am persuaded that the ICC must become a robust model of justice, centred in the protection of victims, and a moral reference to the international community. Its performance in the last two decades has not met this standard. In the face of this challenge, I believe that my many years of professional experience dedicated to the service of justice while confronting situations of systemic impunity can help the Court achieve its goals. Additionally, my candidacy is an opportunity to contribute to the debate on the measures to be taken towards strengthening the Office of the Prosecutor.

The ICC must frequently intervene in conflict-affected and fragile countries, where mass atrocities have been or are being committed and in which the security and justice systems have virtually collapsed. In these situations, the OTP can decisively contribute to the prevention and transformation of conflicts by helping to build capacity and political will and enabling and facilitating domestic mechanisms of justice. Only when the threshold of positive complementarity has been reached and when the mechanisms of restorative and transitional justice have failed to produce results, should the ICC exert its own jurisdiction and serve as enforcer of the guarantee of non-recurrence by providing effective and timely retributive justice.

To this fundamental purpose, the Court should increase its coordination with the OTP and the Registry. The three organs should also strengthen their cooperation with the ASP, the UN Security Council, the member States and their justice systems, civil society and representatives of victims.

The OTP must provide tangible deterrence. To this end, it must be conspicuously successful, bringing cases for trial and gaining convictions. It should recruit a committed team of experienced practitioners and be positioned and equipped to build cases with 21st-century evidence and victim-centred strategies, involving fewer witnesses and incorporating more scientific, forensic and technological resources. The OTP - a powerful engine without wheels - can only achieve this goal by forging an operational partnership with the prosecutorial authorities of member States, whose cooperation is indispensable for carrying out investigations, gathering strong evidence, making arrests, conducting searches, and confiscating assets.

The OTP needs also to develop a jurisdictional network, enabling universal jurisdiction within the judicial authorities of member States in order to bring cases to trial not only in the State of the territory or the national State of the perpetrator, but also in any State that would normally exercise jurisdiction.

The structure of the OTP should be reformed. It should establish temporary field offices where investigations are being conducted, with a reduced permanent team in The Hague. Personnel could then be hired locally, ad hoc, and mostly from the same region. Member States should contribute with secondments of specialists. Cooperation with highly respected law firms supporting the OTP pro bono is desirable. These measures should certainly reduce the financial costs and improve the management.

Justice must be served and be seen to serve. The ICC should engage broad constituencies, victims and civil society, in order to develop strong outreach strategies to build inclusive narratives of justice, reconciliation, tolerance and peaceful settlement of disputes, and thus restoring the core values obliterated by the crimes.

### **Relevant experience**

I became a licensed attorney in 1980, and have dedicated my career to the practice of criminal law, as a lawyer, a judge, a magistrate, and since 1989, a Public Prosecutor. In 2005 I was appointed Prosecutor of the Supreme Court of Spain. As prosecutor, I have dedicated myself to prosecuting organized crime, corruption, and international crimes.

This practice has given me extensive experience in the domestic and international judicial field. I have worked in cooperation with the authorities of different countries, with the highest standards of sophisticated technical evidence, respecting always the guarantees of fair trial, building strong cases and joint prosecutorial strategies, and acting in courtrooms including the Spanish Supreme Court. My performance resulted in convictions in more than 80% of the cases.

For example, in the Pinochet case, of which I filed the first complaint and further filings on every legal aspect of the case, the Spanish National Court confirmed the indictment and its own extraterritorial jurisdiction. After a prolonged debate, the British House of Lords waived the immunity of General Pinochet and the London High Court granted his extradition.

In 2007, the UN Secretary General appointed me as Commissioner (Assistant Secretary General) of the International Commission Against Impunity in Guatemala, an international prosecutor's office mandated to present its cases before domestic courts in partnership with local prosecutors.

At the outset, the Commission was unable to find reliable counterparts and had to vet institutions, train policemen, prosecutors and judges, facilitate witness protection, wiretapping and other technical devices, and simultaneously convince the Guatemalan people that justice was possible.

For three years at CICIG, I directed an international team of 200 investigators, prosecutors and analysts, representing 27 distinct nationalities. I faced countless challenging situations, worked under constant threats and conducted my mandate assuming my responsibility while ignoring political pressure, and thus gaining the respect of my team. Under my leadership, we designed highly successful prosecutorial strategies, and created effective and productive synergies with civil society, developing 27 complex criminal investigations of high-profile cases, achieving 139 arrest warrants, and convictions in 100% of the cases. As a result of the CICIG's performance, the rate of violent deaths in Guatemala dropped almost 50%, from 46 to 26 murders per 100.000 inhabitants/year.

Since 2010, I have served as a senior legal advisor and conducted extensive missions, promoting issues concerning the rule of law, transitional justice, institutional strengthening, and anticorruption and prosecutorial strategies in Colombia, Nepal, Philippines, Sri Lanka, Ukraine and Bahrain on behalf of UNDP, UNODC, UNICRI, the European Union and the Swiss Government, and have trained young prosecutors and other legal practitioners from more than forty post-conflict countries.

Carlos Castresana

## **2. Curriculum vitae<sup>1</sup>**

Public Prosecutor, Attorney and Professor of Criminal Law

### **I. Education**

Graduated in Law, 1974-1979, from the School of Law of University Complutense of Madrid. In 1978 pursued a course of studies at the Institut International des Droits de l'Homme. Strasbourg. France. From 1986 to 1989, after preparing and passing the competitive National Exam, gained access to the Judicial School of Spain, becoming Member of the Career of Public Prosecutors. Appointed Assistant Prosecutor in 1990, Senior Prosecutor in 1996, and Prosecutor of the Supreme Court in 2005.

<sup>1</sup> Mr. Castresana submitted an updated curriculum vitae to the Committee on 16 November 2020.

## **II. Professional activity as Public Prosecutor**

I began my career as Public Prosecutor in 1990 in the Circuit Courts of Barcelona, and then Madrid, dedicated to the investigation, prosecution and trial in criminal matters. I specialized in the prosecution of corruption.

In 1993 I was selected by the Attorney General to become a member of the Special Prosecution Office against Drug Trafficking. I gained a wide experience in investigating, prosecuting and bringing to trial before the National Court of Justice transnational criminal organizations responsible for international drug smuggling and money laundering offenses. I acquired a vast experience in international judicial co-operation.

In 1995, after another appointment by the Attorney General, I was transferred to the Special Prosecution Office against Corruption and mandated with investigations and prosecutions, (including trial phase, appeal and cassation) of high-level corruption cases before the National Court of Justice. I led the staff, worked with police investigators, forensic and expert witnesses in complex investigations involving taxes, accounting, public budget and expenditure, banking and other financial matters. I addressed substantive issues of corruption, diplomatic and state immunity when indicting Mr. Silvio Berlusconi. During this period, I also acquired experience in extradition, EU and international law, and asset recovery.

I was appointed Public Prosecutor of the Supreme Court by Royal Decree 727 June 20th, 2005. I was assigned to the Criminal Affairs Section and dealt with investigations, prosecutions and courtroom interventions in criminal cases against high-level government officials and members of parliament, and also with appeals in cassation.

In October 2019, after five years of licensed private practice and international consultancies, I re-joined the Career of Public Prosecutors. I was appointed by the Government of Spain as Prosecutor of the Court of Auditors (Tribunal de Cuentas). Royal Decree 994/2020 of 10 November 2020, State's Official Journal (Boletín Oficial del Estado) 11 November 2020.

## **III. Other services in the Administration of Justice and as Attorney-at-Law**

I was incorporated as a litigating lawyer for the first time in 1980, working mostly as public defender, until I was appointed in 1986 - simultaneously with the preparation of the exam for access to the School of the Judiciary - substitute Magistrate of the Territorial Court of Madrid. Since 1987, I have served as temporary District and Investigating Judge in civil and criminal proceedings.

In 2014 I requested the status of *excedencia* - absence without salary – with regard to my career as Prosecutor. I then became a practising Attorney-at-Law at Ejaso ETL Global - a prestigious law firm based in Spain and Portugal, member of the European Tax and Law (ETL) Group - and an international consultant, until recently when I resumed my career.

## **IV. International Commission Against Impunity in Guatemala. 2007-2010**

On September 14th 2007 I was appointed by the UN Secretary General of the United Nations as Commissioner - equivalent to UN Assistant Secretary General - of the International Commission Against Impunity in Guatemala (CICIG), a treaty-based, international and independent prosecutorial body. The CICIG was intended as an innovative hybrid rule of law UN mechanism to strengthen the law enforcement institutions of Guatemala.

We began our task by creating Special Police Units, a Special Prosecution Office, and Courts of Expanded Jurisdiction. The CICIG also developed a database for analysis and intelligence.

We promoted vetting processes for public institutions. In the National Civil Police, we supported the Government's dismissal of the Director, Deputy Director and 10% of the staff; in the Attorney General Office, the Attorney General and ten Chief Prosecutors were asked to recuse themselves; in the Judiciary, three Justices and three candidates of the Supreme Court, and twenty Magistrates of Courts of Appeal were removed.

I brought proposals for legal amendments to the Congress, including laws on arms and ammunitions control, the prosecution of organized crime and plea bargaining, witness protection and wiretapping, and creation of Courts of Expanded Jurisdiction for high risk cases.

We began to investigate and prosecute 27 high-impact cases (trans-national drug trafficking, networks of professional killers, the dismantling of civil police and military criminal clandestine structures, judicial and political corruption, extrajudicial killings, forced disappearances, illegal adoptions and human trafficking networks). We secured 139 arrest warrants, (105 arrests, 74 defendants held without bail) including a former President of the Republic, former Ministers of Defence and Finance, four Ministers of the Interior, several generals and other officers of the army, congressmen and other politicians and high-ranking officers, lawyers, businessmen, drug traffickers. During my tenure, seven high-profile cases were brought to trial, and seven convictions were granted, 100% (statistical rate of convictions in the country at the time, 2%).

My team and I faced a wide variety of very difficult situations and worked under constant threats, but successfully carried out our mandate. I made extensive efforts to preserve the independence of the Commission and the impartiality of our prosecutions by refusing to bow to political pressures, by assuming the responsibility for the CICIG's performance, and thus gaining the respect of a cohesive multinational team of committed professionals - 200 investigators and prosecutors, lawyers and police, economists, analysts and administrators, representing 27 distinct nationalities. I worked with them to build confidence and mutual support; designing successful work plans and strategies for the dismantling of illegal structures, while creating synergy with political parties, trade unions, indigenous organizations, the business sector, and some 35 civil society organizations and engaging with with diplomatic representatives.

I signed a MoU with the United Nations Development Program (UNDP) to create a Trust Fund for donor countries. During a period of three years, we met with representatives of donor States, gathering pledges for an average of 15 to 20 million USD per year. Additionally, I signed agreements for the secondment of personnel and made agreements for the free implementation of the CICIG's witness protection program, and provided States-donated equipment to our Guatemalan counterpart. CICIG was always properly funded and financially managed. Between 2007 and 2010, in my role as Commissioner, I attended almost one thousand working meetings with different stakeholders. In 2009, the CICIG was discussed 4,485 times in the Guatemalan media despite the fact that CICIG had no promotional budget.

In August 2009 the Secretary General re-appointed me as Commissioner for a new period of two more years. I resigned in June 2010 and re-joined the Spanish Supreme Court.

## **V. International consultancies after 2010**

**Bahrain.** United Nations Development Program. After the events of the Arab spring and the recommendations of the BICI (Bahrain International Commission of Inquiry) Report, the UNDP invited me to train Bahraini prosecutors. In 2014, the training transitioned to the signature of an agreement of cooperation between the UNDP and the Attorney General's Office for a project of institutional strengthening and the creation of a Special Investigative Unit (SIU) in the Attorney General's Office to prosecute torture and other cruel, inhuman or degrading treatment. I was appointed Senior Project Advisor. The SIU was created, organized with investigative prosecutorial functions, and supported by a police unit, medical and psychiatric services and a database for intelligence and analysis. The experience is to be extended to Abu Dhabi and Kuwait.

**Colombia.** Federal Government of Switzerland. After the signature of the peace agreement, the Special Jurisdiction of Peace (SJP) was created in September 2017 with the mandate of providing retributive/restorative justice for the victims of the armed conflict and of establishing the responsibilities of both State and non-State actors - in coordination with the ICC. The enormous task ahead threatened to overwhelm the Special Court. The Swiss Ministry of Foreign Affairs offered to provide an expert advisor for the SJP. This arrangement was agreed upon in April 2018. Since then, I have been advising the SJP concerning structural and organizational issues as well as on substantive matters related to the nature of the crimes, the requisites for amnesties and alternative penalties, the criteria for prioritization of cases, and prosecutorial strategy.

**Nepal.** Federal Government of Switzerland. In 2017, the Swiss Ministry of Foreign Affairs began facilitating a dialogue between the Government of Nepal, the political opposition and civil society, concerning different mechanisms of transitional justice to deal with the human rights abuses of the recent armed conflict in that country. A first round of discussions was held in Bangkok that year which I attended as a guest expert. In July 2018, representatives of the same stakeholders were invited to attend the Advanced Learning Course on Dealing with the Past in Switzerland where I serve as a guest lecturer. In November 2018 another meeting was organized in Bangkok to develop a roadmap for the implementation of the transitional justice process.

**Philippines.** Federal Government of Switzerland. The Ministry of Foreign Affairs has been accompanying the peace process after the signature of the Comprehensive Agreement on the Bangsamoro (CAB) in 2014. The Transitional Justice and Reconciliation Commission (TJRC), chaired by a Swiss expert, issued its report in December 2015. In my role as guest lecturer in the Dealing with the Past course, I have been training representatives of the signatories to the CAB for the past several years. I also participated in a workshop with the bodies responsible for implementing the recommendations of the TJRC organized in Manila in June 2019 as an expert invited by the Swiss Government. The main challenges are not only dealing with the crimes of the armed conflict, but also building a new, efficient and reliable judiciary in the autonomous Bangsamoro region, and to merge or at least to balance the application of Filipino civil law and Sharia law, as it applies to the Muslim community in the Bangsamoro.

**Ukraine.** European Union. After the Maidan protest in 2014, the European Union launched the European Union Anti-Corruption Initiative (EUACI), supporting the efforts of Ukraine to create new institutions and pass legislation to combat corruption effectively. In 2017 the EU created the International Anticorruption Advisory Board (IACAB) with the primary purpose of advising the Congress in the legislation to be approved. I was invited to join as an expert, and was appointed Chairperson of the Board, visiting Kiev on successive occasions, meeting the Government, the political opposition, civil society, and the media, and expressing the opinion of the Board, principally in the Congress.

**Sri Lanka.** International Truth and Justice Project. In 2017 the ITJP requested me to bring charges against a Sri Lankan Army general on counts of war crimes and crimes against humanity allegedly committed during the armed conflict (2008-2009). The general had been appointed after the war to serve as ambassador to several Latin American countries. I prepared and filed a lawsuit simultaneously in Brazil, Chile, Colombia and Peru, coordinating with the prosecutors in all four jurisdictions. The Sri Lankan ambassador subsequently resigned, fled the region and sought refuge in his home country.

**Government of Switzerland.** Since 2010 the Federal Department of Foreign Affairs has invited me to serve as a guest lecturer in its annual Advanced Learning Course in Dealing with the Past, designed to train its own diplomatic staff in the Human Security Division and its international partners on the topics of transitional justice. The non-Swiss participants include government and civil society representatives primarily from post-conflict contexts in Europe (Kosovo, Georgia, Bosnia and Herzegovina, Russia, Serbia, Ukraine, North Macedonia, as well as Norway, France, United Kingdom, Spain, Austria, Netherlands), Latin America (Mexico, Peru, Colombia, Guatemala), Africa (Mali, Burundi, Cameroun,

Liberia, South Africa, Chad, Tunisia, Libya, DR Congo, Egypt, Zimbabwe, Kenya and Nigeria), Middle East (Kuwait, Lebanon, Israel, Palestine) and Asia (Sri Lanka, Indonesia, Nepal, Pakistan, Kyrgyzstan, Armenia, Philippines, Myanmar and Thailand).

**UNICRI** (United Nations Interregional Crime and Justice Research Institute). Based in Turin, Italy, the Institute develops academic and research programs in partnership with UN Member States on issues such as international criminal law, counterterrorism de-radicalization of extremists, prevention of synergies between terrorist and organized crime groups, cybercrime, BCRN (biological, chemical, radiological and nuclear) control. As such, the UNICRI is intended to become the UN System think-tank for developing global criminal policies to address the most serious international and transnational criminal activities. I was invited to join the Board in 2014, elected by ECOSOC, was re-elected in 2019, and have now been re-appointed as Deputy Chairperson of the Board of Trustees.

**Other relevant consultancies:** 2006. UNODC Regional Office for Mexico and Central America, Coordinator of the Project AD/MEX/03/H32 for Crime Prevention and Abuse and Illegal use of Drugs. 2003. Expert by appointment from UNODC for a Mission in Ciudad Juárez (México) concerning the murder of women in that town. 1990-2003. Council of Europe, expert and speaker at conferences and programs addressed to promote democracy, rule of law and accountability in Eastern European countries. Azerbaijan, Bulgaria, Estonia. European Union: Member of international judicial co-operation programmes organized in 1994 by the European Anti-fraud Office (OLAF). 1993-1995. Schengen Working Group on Drugs.

#### **VI. Academic activities**

2014: Guest Professor, Haverford College, Pennsylvania, United States. International Criminal Justice and Transitional Justice. 2011: Guest researcher Institut Dag Hammarskjöld. Uppsala, Sweden. 2003-2006: Professor International Criminal Law and Program Director Human Rights Center for Law and Global Justice, University of San Francisco, California. 2000-2003: Associate Professor, Universidad Carlos III of Madrid, School, Criminal Law. Speaker in courses and congresses in European and American universities, on human rights, international humanitarian law and international criminal law, invited by the World Bank, UNIFEM, the Max Planck Institute, the Lelio Basso Foundation, the Konrad Adenauer Foundation, Transparency International, Amnesty International, UC Berkeley, Yale, Stanford, NYU, Drexel, CUNY and Harvard Universities, the Open Society Foundation, the US Departments of Defence, Justice and State.

#### **VII. Pro Bono activities**

2019. Elected President of the Asociación pro Derechos Humanos de España, the most renowned human rights NGO in my country.

2017-Present. Transparency International. Designated member of the Executive Board of the Spanish Chapter of TI.

2017-Present. Institute for Integrated Transitions. Member of the Law and Peace Practice Group.

2011-Present. Harald Edelstam Foundation. Stockholm, Sweden. Member of the Board of Trustees.

2009. Expert by appointment of the Inter American Commission on Human Rights before the Inter-American Court of Human Rights. Case *Campo Algodonero v. Mexico*. Author of the written expert testimony on behalf of women victims of gender violence in the northern Mexican town of Ciudad Juárez, leading to the most important judgment of the Inter-American Court concerning the right of women to a life free of violence, and the State's duty to investigate, prosecute and punish perpetrators of gender violence and provide

reparations to victims. Expert witness in the cases *Diario Militar v. Guatemala* and *Palacio de Justicia v. Colombia*.

1996 Pinochet Case. Author of the first lawsuits against members of the former military juntas of Argentina and Chile, which gave rise to the proceedings before the Spanish National Court of Justice (Pinochet case). Author, on behalf of the Public Prosecutors' Progressive Union, of reports on genocide, terrorism, torture, enforced disappearances, crimes against humanity and against internationally protected persons, immunity, universal jurisdiction, extradition, statute of limitation, ne bis in idem, due obedience, amnesty and international legal co-operation, at the request of the Board of Prosecutors of the Supreme Court of Spain in order to obtain the detention of General Jorge Rafael Videla in Argentina and the detention of General Augusto Pinochet in London.

### VIII. Selected publications

- “Una Nueva Política Criminal para México”. Instituto Nacional de Ciencias Penales, México, 2018.
- “Justicia Transicional en Chile”. Universidad Católica, Chile, 2016.
- “Hipergarantismo: el caso de Guatemala” Instituto Nacional de Ciencias penales, México 2011.
- “Torture as a Greater Evil”, Johns Hopkins University Press, U.S.A., 2007.
- “De Nüremberg a Madrid” Revista de Jueces para la Democracia, n. 54, November 2005.
- “The Legacy of the Pinochet Case”, in the Berkeley Review of Latin American Studies. University of California, Berkeley, 2005.
- “The Role of Civil Society and the Media in Building a Culture against Corruption: the Experience of Spain” in “Global Action against Corruption, the Mérida papers”. UNODC, Vienna, 2004.
- “La Jurisdicción Universal en la Jurisprudencia de la Sala II del Tribunal Supremo” in Revista del Poder Judicial, nº 73. CGPJ. 2004.
- “Corrupción, Globalización y Delincuencia Organizada”, in La Corrupción en un mundo globalizado. Análisis interdisciplinar. Ed. Ratio Legis, 2004.
- “La Corrupción Económica en las Comunidades Europeas” in Protección de los Intereses Financieros de la Comunidad Europea. Trotta, 2001.
- “El Juicio en Cortes Extranjeras a los Miembros de las Juntas Militares Argentina y Chilena” in Justicia Penal Internacional. Universidad Iberoamericana, 2001.
- “Il caso Pinochet. I Crimini Contro l’Umanità fra Politica e Diritto”. Fondazione Internazionale Lelio Basso, 1999.
- “Fundamentación de la Competencia de la Justicia Española en Los Delitos de Lesa Humanidad” in Contra la Impunidad, en Defensa de los Derechos Humanos. Icaria, 1998.

### IX. Principal Honours and Awards

- 1997. Human Rights National Award, Spain.
- 2003. Doctor Honoris Causa, University of Guadalajara, Mexico.
- 2004. Certificate of Honor. City Council of San Francisco, California.
- 2006. Doctor Honoris Causa, Central University Santiago de Chile.
- 2006. Medal of Honor of the Vice Presidency of the Chilean Senate.
- 2010. Order of the Legion of Honor. Republic of France, grade Official.
- 2010. Order of the Stella della Solidarietà, Repubblica Italiana, grade Commendatore.
- 2010. Order of the Quetzal, República de Guatemala, grade Gran Cruz.
- 2010. Order of the Mérito Civil. Kingdom of Spain, grade Encomienda de Número.
- 2016. Prize for Transparency, Integrity and Fighting Corruption by the General Counsel of Attorneys of Spain and Transparency International.
- 2018. Doctor Honoris Causa, National Institute of Criminal Sciences, Mexico.



## **B. Karim A. A. Khan (United Kingdom of Great Britain and Northern Ireland)**

[Original : English]

### **1. Letter of motivation**

I am asked to explain my motivation for applying to be the next Prosecutor of the ICC, as well as to provide a summary of my relevant experience.

I am a member of the English Bar and a Queens' Counsel, a worldwide Ambassador of the African Bar Association, and a former President of the ICCBA. I am presently serving as the Special Adviser and Head of the Investigative Team established by the UN Security Council through Resolution 2379 (2017) to Promote Accountability for Crimes committed by Da'esh/ISIL (UNITAD).

My 27 years of legal practice have granted me the privilege of leading investigations, prosecuting, representing victims, and accused persons in numerous international fora including the ICTY/R, SCSL, STL, ECCC, SPSC (UNTAET) and the ICC. I have demonstrable experience successfully handling some of the most complex cases arising from situations in the Middle-East, Asia, North, East and West Africa and also Europe.

The OTP is a critical organ of the Court. It must not only be effective but also be seen to be effective. We have witnessed many instances of survivors – as well as the international community and civil society – being promised much, but receiving little. It is simply not acceptable that survivors so often feel short-changed. If the promise of the Rome Statute to put victims “at the centre” of investigations and prosecutions is not to be rendered meaningless, we must acknowledge that we need to do better and that change is needed

The OTP is the engine of the Court and it runs on the quality of its investigations. No number of eloquent submissions at trial or wonderfully drafted legal arguments will overcome gaps, flaws or contradictions in investigations. By contrast, an OTP that can conduct independent and impartial investigations and build cases on solid evidence is one that will meet expectations and help foster fair trials.

I apply to be the next Prosecutor of the ICC because I would like to lead an effort to refocus and re-energise the OTP. Having been involved and led various cases in the ICC and in other national and international courts, I have seen what constitutes a good prosecution, and I have seen how inadequate ones get as far as they do. I have directly interviewed numerous survivors of SGBV and realise how important it is to ensure specialised handling of these witnesses during both the investigative and trial stages. Armed with this experience, I will ensure that the cases my office investigate and present are credible, robust and capable of withstanding the scrutiny they must rightly be subjected to in the crucible of the courtroom. One of the principle reasons I have managed to successfully lead many cases, is an acute awareness that, when I commence a new investigation, I am a student. I need to listen and learn in order to understand. As Prosecutor, I would ensure that cases are investigated with sufficient participation of lawyers and investigators from the country concerned. The culture, history, politics and other undercurrents in a country must be fully understood at the investigative stage, if properly focused and factually accurate cases are to be presented to the court.

I consider myself privileged to have acted for the prosecution, the victims and the defence in various international courts. The ICC is not a one-situation court. I have had the experience of simultaneously leading large cases in different continents and before different international courts. This proven ability to determine the correct strategies, marshal the facts, give direction to members of these different teams and to present diverse cases effectively in the court room, is an essential and necessary requirement if the Prosecutor is indeed to “provide excellent leadership for the OTP” as required by the present vacancy.

I will be committed to an OTP that will be recognised by, and known for, its competence and integrity. It will seek to consolidate relationships that exist and forge new bonds based upon mutual respect and constructive dialogue. As Prosecutor, I will also seek to restore trust with states that has been eroded over the years and build trust where there was none. There is no reason for discussions to be invariably based on a zero-sum game between an

OTP asserting jurisdiction and a state continuing unaided or being overwhelmed or doing nothing. In short, there must surely be a way in which the experience, capacities, and knowledge of the OTP can help support and enhance domestic or regional efforts for accountability. Such efforts would not only be cheaper, more effective and closer to survivors and their communities, but would also be more consonant with the principle of complementarity that underpins the Rome Statute. This, in turn, will lead to improvements in cooperation.

For the OTP to play a meaningful role in difficult situations where communities are often polarised, it must be led by a Prosecutor who will act with unquestioned integrity and competence. This requires an honest appraisal of what is currently working in the OTP and what changes are required. This can and should be done whilst raising the morale of the office. There should be no better place in the world for a lawyer, investigator, analyst or other staff committed to international justice to be. I have repeatedly seen how morale is a force multiplier. I will, if elected, be a Prosecutor that will lead by example in the field, in the Court room and in the Office. Good management and clear direction are necessary to unleash the potential of staff and to ensure proper discharge of the responsibilities entrusted to the Prosecutor by the Rome Statute.

Whatever appointment I have held and whichever party to litigation I have represented, I have always sought to act with integrity, courage, and in accordance with the highest traditions of the legal profession. If elected as the next Prosecutor of the ICC, I resolve to serve with determination, focus and an unstinting commitment to justice in order to discharge the responsibilities of Prosecutor with complete fidelity to the Rome Statute.

## 2. Curriculum vitae<sup>2</sup>

LLB (Hons) (Lond), AKC (Lond), FSI Arb, FCI Arb, Dip. Int. Arb. (CI Arb) Barrister-at-Law

*What the Directories say:*

*“A “superb lawyer” and “frighteningly clever master strategist,” who has represented clients in international courts across the world. As a prosecutor for the ICTY and ICTR, he has vast experience of handling complex matters such as crimes against humanity, war crimes and contempt of court disputes.”; “His ability to address and sum up the most complicated legal analysis in concise yet powerful words has become legendary.”; “A very highly rated advocate who is a real force to be reckoned with. He fights his cases hard but honourably”; “Has superior knowledge of international law and is a world-class advocate and drafter. He has the ability to cut to the heart of a legal issue and identify possible solutions with precision and speed. Karim manages large teams without any drop-off in the high level of service provided, and is a fierce advocate.” **Chambers and Partners Legal Directory (extracts, 2016-2020)***

*“He ensures he has a very deep knowledge of not just the facts of an incident but of all aspects of a case, which in this field involves politics, culture and society.” **Legal 500 (2021) “Leading Silk”, Ranked Tier 1, “International crime & Extradition***

KARIM AHMAD KHAN QC is currently serving as Assistant Secretary-General of the United Nations, having been appointed by the UN Secretary General, Antonio Guterres, as the first Special Adviser and Head of the Investigative Team to Promote Accountability for Da’esh /ISIL crimes (UNITAD) pursuant to Security Council Resolution 2379 (2017).

A Barrister for 28 years, and a Queen’s Counsel since 2011, Karim has acted in some of the largest international criminal cases for the Prosecution, Defence and for Victims. He has been involved in cases before all international or hybrid international courts, including the ICC, ICTY, ICTR, ECCC, SCSL, STL, EULEX and UN SPSC in Timor Leste (UNTAET) as well as the ICJ. He has handled complex international cases in Asia, Europe and North, East, Central and West Africa. He is a Recorder (part time judge) of the Crown Court of England & Wales and previously worked as a Senior Crown Prosecutor in London and at

<sup>2</sup> Mr. Khan submitted an updated curriculum vitae to the Committee on 23 November 2020.

the Law Commission of England & Wales. Karim was the President of the International Criminal Court Bar Association (ICCBA) from June 2017 - June 2018. At the end of his tenure as President of the ICCBA, Karim was appointed the first Honorary President of the ICCBA at the ICCBA General Assembly Meeting in 2018. In July 2018 he was recognised as ‘Worldwide Ambassador of the African Bar Association’.

**Qualifications:** Barrister (called October 1992, Queen’s Counsel 2011); Benchers, Honorable Society of Lincoln’s Inn, London ; Recorder of the Crown Court; LLB (Hons), A.K.C., (King’s College, London); Inns of Court School of Law, London; Dip.Int.Rel (CIFE, Nice), FSI Arb, FCI Arb, Dip, Int. Arb (CI Arb), Advanced Diploma, International Human Rights (Abo Akademi, Turku, Finland); D Phil (candidate), Wolfson College, University of Oxford; Doctorate, *honoris causa*, University College FAMA, Pristina, Kosovo (2012); Doctorate, *honoris causa*, European University, Tirana, Albania.

## 1. International & domestic Prosecution and investigative experience

### (i) *Special Adviser and Head of the United Nations Investigative Team to Promote Accountability for Da’esh /ISIL crimes (UNITAD) since July 2018*

Pursuant to a unanimous resolution of the UN Security Council (SCR 2379) in September 2017, Special Adviser Khan has led the establishment of UNITAD, ensuring the deployment of the Team from New York to Baghdad within three months of his appointment in July 2018. 5 Reports presented to the Security Council and bi-annual briefings of Security Council members conducted. Under his leadership, UNITAD has sought to take an innovative and dynamic approach to the implementation of its mandate, drawing on strong strategic partnerships developed with Iraqi authorities, survivor groups, impacted communities, non-governmental organizations and Member States. <https://www.unitad.un.org/content/multimedia>

#### *Key achievements*

- Initial budget of \$20,000,000 secured through effective engagement with Member States (\$30,000,000 including trust fund contributions);
- Led establishment of institutional framework, staffing structure, standard operating procedures and initial investigative strategy of the Team, securing buy-in from all key stakeholders;
- Establishment of six dedicated Field Investigation Units addressing crimes committed by ISIL against a wide range of communities in Iraq;
- Establishment of specialized thematic units including the Gender Crimes and Children’s Unit (GCCU) and Witness Protection and Support Unit (WPSU), ensuring the work of the Team in these fields builds on international standards;
- Establishment of Financial Tracking unit through voluntary contributions;
- Collection of evidence previously unavailable to domestic authorities seeking to prosecute ISIL, including call data records, digital evidence extracted from ISIL electronic devices, and 3-D laser scans of crime scenes across Iraq;
- Successful provision of direct support to ongoing domestic proceedings, including facilitation of testimony before national courts via videolinks from UNITAD premises in Baghdad;
- Provision of support to national authorities in the excavation of mass grave sites in Sinjar, securing key sources of forensic evidence;
- Conclusion of MoUs and other legal frameworks with Member States, NGOs, international organizations, survivors groups and academic institutions.
- Innovative responses to COVID-19, harnessing of technology and commencement of remote interviews where necessary.

*Building a partnership between the Investigative Team, national actors and the international community:* cooperation with the Iraqi authorities is a key feature of UNITAD. It is borne from a realization that effective in-country investigations require the talents and expertise of national lawyers, investigators, interpreters and analysts to be fully harnessed. To this end, Karim prioritized the effective engagement of the Government of Iraq, Iraqi judiciary and the authorities of the Kurdistan Regional Government, securing their support for UNITAD’s work. In parallel, Karim has sought to continually engage

with all Security Council members and other member states in order to outline progress made in mandate implementation.

*Staffing and Management:* leads a team of 154 lawyers, investigators, analysts, clinical psychologists, information management experts, political advisers and support staff. Starting from scratch, UNITAD has achieved gender balance amongst its substantive and support staff, including at the highest levels of staffing. Regard has been had to geographic diversity, with staff from Africa, Latin America, North America, Europe, the Caribbean and Asia recruited to the Team.

*Engagement with communities, civil society actors and religious leaders:* prioritized the establishment of strong bonds with impacted communities, religious leaders and survivor groups. This approach is reflected in the successful facilitation by Karim and then together with the Special Adviser on the Prevention of Genocide Mr. Adama Dieng, of the adoption of the landmark Interfaith Statement on the Victims and Survivors of ISIL, which was endorsed by all major faiths in Iraq. Reflecting the priority given to its engagement with all stakeholders, Karim also led the establishment of the UNITAD-NGO Dialogue Forum, as a platform for the engagement of non-governmental organizations in the work of the Team.

*Budget Administration:* As Head of the Team, Karim has successfully defended budgets before the ACABQ and 5th Committee. He is responsible for a budget of approximately \$30 million per year comprising contributions from the United Nations regular budget and a dedicated Trust Fund established pursuant to UN Security Council resolution 2379 (2017). In relation to the latter, Karim has managed to secure significant extrabudgetary contributions, as well as seconded national experts, from States including Australia, Germany, Jordan, the Netherlands, Qatar, Saudi Arabia, Sweden, Denmark, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

*Harnessing technology and innovation in mandate delivery:* Harnessing technology in an integrated way has been a particular focus of UNITAD, born from an understanding that the massive data sets encountered in investigations must be handled with modern tools in order to ensure timely processing and analysis. In-house software has been designed where needed, as well as using proprietary and specialist software and tools. A key focus has been to ensure that innovative approaches are integrated into the overarching evidence-management systems.

**(ii) *Prosecution Lawyer, Office of the Prosecution, United Nations International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR)***

From 1997-2000 Karim was a Legal Advisor in the Office of the Prosecutor in the United Nations International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR). He worked on cases such as Delalic et al (ICTY) as a member of the trial team working to Senior Trial Attorney Eric Ostberg and subsequently Grant Niemann. Karim attended court, drafted various filings, including co-drafting the Prosecution's response to the defence no-case to answer filing at the end of the prosecution case. Karim regularly participated in the weekly legal adviser's meetings which discussed various policy and legal issues that fell for consideration in the still early days of the Tribunal's work. He also participated in various indictment reviews. In 1998, Karim was appointed one of two other lawyers based in the Hague advising and assisting the Chief Prosecutor of the ICTY & ICTR on legal issues and acting as a link between teams in Kigali, Arusha and The Hague. Working directly with Chief of Prosecutions, Mohamed Chande Othman and (the now late) Bernard Muna, Karim conducted missions to Arusha and Kigali, advised on various pre trial, and trial matters. He also worked, as legal adviser and then appeals counsel, on various landmark appeals cases including Akayesu, Kayeshemi & Ruzindana, Kambanda, Serushago (ICTR). Performance appraisals were certified "outstanding" by Chief Prosecutor Louise Arbour and Chief Prosecutor Carla del Ponte respectively.

**(iii) *2010-present: member of Temple Garden Chambers, Temple, London & Lange Voorhuut 82, Den Haag.*** TGC is a leading set recognized for its expertise in international criminal law, extradition and public inquiries. (Upon UN appointment in 2018 all private practice ceased).

(iv) **2000-2010: member of 2 Hare Court, Temple, London.** Karim prosecuted the full spectrum of criminal cases at the Bar, and was included on the “Old Bailey list” to prosecute the most serious offences at the Central Criminal Court. Included on the Attorney-General’s panel of prosecution advocates. Prosecuted cases of sexual violence and offences against the person. Also acted for the Home Secretary and for applicants in numerous immigration and refugee law cases.

(v) **1992-1996: Crown Prosecutor & Senior Crown Prosecutor, CPS, (Tower Bridge, City and Old street branch,) London.** Regularly appeared as a prosecution advocate in court. Advocacy mentor to junior staff. Reviewing lawyer of full gamut of criminal cases, murder (homicide), rape and other offences against the person. Also experienced in handling youth cases.

## 2. Select experience in representing victims in court and conducting investigations

### (i) **Extraordinary Chambers of the Courts of Cambodia ECCC (Cambodia), Lead Counsel for Civil Parties (Victims)**

In 2009, Karim Khan was instructed as *pro bono* lead counsel to the largest group of civil parties (victims) in the first case before the Extraordinary Courts of the Chambers of Cambodia (*Prosecutor v Kaing Geuk Eav, alias Duch*). Duch was successfully prosecuted and Karim went on to also act as lead counsel for the victims in the subsequent appeal upholding that conviction. Karim assembled and led an international team that worked entirely *pro bono*. He was able to secure funding for the team’s national co-counsel. The representation featured in the documentary “Brother Number One”:

<https://ondemand.nzfilm.co.nz/#!/browse/film/14/brother-number-one?trailer>  
& [www.youtube.com/watch?v=39I1fBwYxIQ](http://www.youtube.com/watch?v=39I1fBwYxIQ)

### (ii) **Lead Victims Counsel, Albanian Victims**

Until 2016, Karim also led a team, instructed by an Albanian ethnic minority, in relation to possible remedies under the ECHR and other international instruments for alleged violations relating to life and property.

### (iii) **Lead International Victims Counsel, Kenya**

Lead Counsel until July 2018 to the more than 116,000 victim claimants from the Kipsigis and Talai communities seeking redress for alleged human rights committed during the colonial period. Karim led a large multi-disciplinary team of about 40 professional staff including international and Kenyan lawyers, investigators, historians, analysts, psycho-social and mental health experts. <https://www.youtube.com/watch?v=XhlQKOtSMg>

### (iv) **Lead Victims Counsel, Sierra Leone**

Lead Counsel (*pro-bono*) from 2016 for victims of historic rape and the children born of rape (now adults) by a Xaverian Priest in Sierra Leone. Compensation awarded to clients by the Church in 2018.

Lead Counsel (*pro bono*) until July 2018, for victims of torture, sexual abuse and summary execution during the conflict in 1998-1999. Active investigations conducted in Sierra Leone. The case was submitted to the Supreme Court of Sierra Leone and was featured in a documentary by Al Jazeera, “Peacekillers”:

<https://www.aljazeera.com/programmes/peopleandpower/2018/09/peacekillers-180913060801441.html>

### (v) **International counsel, Military Tribunal, Yaounde, Cameroon**

*Pro bono* counsel representing human rights defender and former UN human rights officer and SCSL Trial Chamber legal officer, Dr. Felix Agbor-Bala Nkongho. Dr Felix Bala faced various charges carrying the death penalty on account of his activity advocating for victims of human rights breaches in Cameroon. Working with former ICTR Deputy Prosecutor, the late Bernard Muna, Karim successfully sought and was granted rights of audience and made several oral submissions before the military tribunal in Yaounde. This helped lead to

the release of Dr Bala and the dropping of the capital charges against him by the President of Cameroon. (2017)

### 3. Select experience in Defending case in court and conducting investigations

#### (i) *UN Special Panel for Serious Crimes, East Timor (SPSC), Lead Counsel*

In 2001 instructed as lead defence counsel for Cancio Lopes De Carvalho, Mahidi Militia Commander before the Special Panels for serious crimes in East Timor.

#### (ii) *ICTY, Counsel and Lead Counsel*

In 2003 he was appointed defence counsel in the ICTY case of Prosecutor v Limaj, the first KLA cases before the ICTY (Limaj acquitted on all counts Nov 2005, Prosecution appeal dismissed.) Appointed by the Registrar of the ICTY as Independent counsel to the Former Chief of the Bosnia armed forces in the case of Prosecutor v Sefer Halilovic. (Halilovic Appeal to President of ICTY allowed). Karim also acted as Defence counsel at trial in Prosecutor v Prlic et al (for accused Bruno Stojic) (Bosnian Croat) in the ICTY. In May 2008, he was also instructed to represent the Minister of Culture of Kosova (Prosecutor v Haraqija) charged with criminal contempt before the ICTY. (Acquitted on all counts on appeal). Also acted for former ICTY spokesperson Florence Hartmann in ICTY contempt case. Also acted as duty counsel for former Chief of General Staff of Serbia in case Prosecutor v Momlilo Perisic.

#### (iii) *Special Court for Sierra Leone (SCSL), Counsel and Lead Counsel*

Defence counsel in the Case of Prosecutor v Alex Brima before the Special Court of Sierra Leone. Between April 2006 – June 2007 was Lead Defence counsel in Prosecutor v Charles Ghankay Taylor (Former President of Liberia) before the SCSL. Led investigations in Sierra Leone, Liberia whilst team also based in the Hague.

#### (iv) *International Criminal Court (ICC), Lead Counsel*

In November 2008, Karim Khan was appointed co-lead counsel in one of the first cases before the International Criminal Court, Prosecutor v Jean Pierre Bemba Gombo (Former Vice-President of the Democratic Republic of Congo for crimes allegedly committed in the Central African Republic.) (Article 25 charges not confirmed by ICC PTC, instead confirmation of charges under Article 28 of the Rome Statute).

Between 2008-10 was lead counsel representing Darfuri rebel leader, Bahar Idriss Abu Garda, the first ICC suspect to voluntarily surrender to the jurisdiction of the Court and the first time that a case was dismissed at the confirmation stage. (After a contested confirmation hearing, all charges were not confirmed by PTC and Prosecution application for leave to appeal, dismissed).

In March 2010 instructed for two additional Dafuri rebel leaders, Abdullah Banda and Saleh Jerbo. Worked with the OTP, Registry and others to ensure the voluntary appearance of these two suspects before the court in June 2010. This was the first case in the ICC where confirmation was not contested by the defence and case fast tracked to the trial stage.

In January 2011, instructed as lead counsel to represent Ambassador Francis Muthaura, Cabinet Secretary & Head of the Public Service of Kenya. After active investigations in Kenya and extensive litigation, all charges were withdrawn by the Prosecution in March 2013, before trial commenced. This was the first time the Prosecutor of the ICC has withdrawn charges in a case that had been confirmed.

Instructed as lead counsel for William Ruto, Deputy President of Kenya. Full in depth investigations conducted in Kenya including forensic evidence, cell site evidence, documentary, testimonial and OS investigations conducted. This case ended in 2016 with a successful “no case to answer” submission by the Defence.

In 2016 (until June 2018) appointed as lead counsel for Dr. Saif Al- Islam Gadafi strictly limited to the issue of an admissibility challenge to the jurisdiction of the ICC based upon an assertion of double jeopardy / ne bis in idem.

**(v) *Special Tribunal for Lebanon (STL), Lead Counsel***

Lead Defence counsel to Al Jadeed TV and Ms. Karma Khayat in relation to charges of contempt of court before the Special Tribunal for Lebanon (STL). Active investigations conducted in Lebanon. This case represents the first time that a corporation has been charged before an international criminal or hybrid court. The company Al-Jadeed and Ms Khayat were acquitted on all counts in 2016. Prosecution appeals dismissed.

**(vi) *Libyan Criminal Case, Lead International Counsel***

International counsel until July 2018 to represent the former Prime Minister of Libya, Dr. Baghdadi Al-Mahmoudi who was charged before the courts of Libya until his release was ordered in 2019.

**(vii) *EULEX Kosovo, Lead International Counsel***

Between 2010 and 2012, lead counsel for Fatmir Limaj (former Deputy Prime Minister of Kosovo) in relation to charges of war crimes allegedly committed in Kosovo in 1999 before the EULEX (hybrid) court system in Kosovo. Led investigations, field missions to Kosovo, experts instructed. At the end of this trial, Fatmir Limaj was acquitted on all counts on 2 April 2012. The Supreme Court of Kosovo ordered a re-trial before a new Trial Chamber and Karim also acted as lead counsel in that case which again ended in a full acquittal on all charges. Also acted as lead counsel for Limaj in EULEX corruption case. Client acquitted on all charges.

**4. Select other international work****President of the International Criminal Court Bar Association (ICCBA) (2017-2018)**

Of particular note, during his Presidency of the ICCBA, Karim participated in the GQUAL mock debates and signed the GQUAL Action Plan on behalf of the ICCBA. The working group on harassment was also established. Regional and national focal points were appointed from both state and non-state parties. At his own expense, Karim visited several under-represented countries like Singapore, Fiji and Timor Leste to create awareness about the work of the ICC and the ICCBA.

**Legal Committee member & Legal Adviser to the Secretary General, Asian Hockey Federation (AHF) 2010-2014** member of the legal committee and Legal Adviser to the Asian Hockey Federation, a continental federation under the FIH.

**Counsel & advocate, International Court of Justices:** Until June 2018, Karim was part of a team that included Professors Payam Akhavan, Vaughan Lowe QC, Mathias Forteau, Alan Boyle, & Philipa Webb, instructed in the Maritime delimitation in the Indian Ocean (Kenya v Somalia). Oral arguments made in the Peace Palace.

**5. Select lectures & Public Events**

Karim has been a speaker on ICL and lectured extensively throughout the world including at the Universities of Tsinghua, China; Florence, Sarajevo, Utrecht; Stanford; Northwestern; King's College, London; Oxford; Sandhurst Military Academy; the Joint Service Command and Staff College, UK (2001-2010), National Police Training Centre, Bramshill and in Phnom Penh, Cambodia (workshop for the Judges of the ECCC) and Beirut, Lebanon Speaker at Bar Leaders conference, IBA (2012) and the IBA's ten year ICC anniversary event at the Peace Palace; the ICTR 20th Anniversary Conference in Arusha (2014); the IBA's Annual conference in Tokyo (2014), the 'Global Human Rights Summit', Tokyo, (2015); IBA's annual international criminal law conference, the Hague (2015) and 2016 (Hague). 2017, WSD Handa Annual Lecture, Stanford Centre for Justice and Human Rights, Stanford University, California "Islam and Human Rights"; Delivered Franz-Hermann Bruner memorial lecture on "Integrity in investigations" at the 19th Conference for International Investigators (CII), Songo, South Korea (2018); 2018 PAAMA Peace conference, key note address, "Islam and Human Rights" 2018 (London); 2nd AMA Peace Conference keynote address, Banjul, The Gambia, "Islamic law, Justice and Human Rights"; (2019).

Trainer and panelist at Philippines Judicial Academy (PHILJA) (Attended by Chief Justice of Philippines and Judiciary of Supreme Court (19 – 23 January 2016 and November 2016). Trainer and Course director, “Best Practices in Human Rights Investigations”, Philippines Commission of Human Rights, Manila, 21- 23 February 2018. He acted as Trainer, Constitutional Court of Indonesia, Jakarta, 26-27 February 2018, on international criminal law, investigations and evidence. Conducted training for Commissioners of the Indonesian Human Rights Commission on best practices in collection of evidence and interviewing victims and witnesses of gross human rights violations. From 2016-2018 appointed as Trainer on international criminal law, prosecutions and investigations by the Prosecutor-General of Timor-Leste (East Timor), Dr. Jose Xiemenes. Conducted training for Judges, Prosecutors and Senior Police Officers in Dili.

## 6. Appointments & Awards

Criminal Lawyer of the Year 2017 (UK), Society of Asian Lawyers (SAL); Visiting Professor, International law and Human Rights, Fourah Bay College, University of Sierra Leone; Senior Research Fellow, King’s College, London (1999-2002); Honorary Lecturer, School of Law, University of Utrecht (2010-2011 and 2012-2013); Former Director, the Peace and Justice Initiative; member of the CBA’s working group on the ICC Act 2001; member of the Foreign & Commonwealth Office, Pro Bono Human Rights Panel; included on Attorney-General’s panel of Prosecution Advocates (2001-2004). Awarded the 1999 John D & Catherine MacArthur Foundation Fellowship on International Peace and Security; Alexander Maxwell Law Scholarship Trust Award 2001. 2008, elected an individual member of the International Legal Assistance Consortium (ILAC); past member Disciplinary Council of the Association of Defence Counsel of the ICTY (ADC) (2007 to 10). Past Chair, Amicus Committee, (ADC). Member of the ICTY Disciplinary Board (along with ICTY judiciary) (2009 – 13). In 2010, Karim was also elected to the Disciplinary Appeals Board of the ICC (along with ICC judiciary 2012-2015).

## 7. Select Publications

- Contributing author: “Integrity & independence in the delivery of accountability” in CILRAP & Nuremberg Principles Academy publication “On integrity in international criminal justice”. Eds. Professors Bergsmo & Diettrich, TOAEP (forthcoming);
- Co-Author, of Archbold International Criminal Courts (Sweet & Maxwell, 1st ed 2003; 2nd ed 2005, 3rd ed 2009 4th edition (2013) 5th edition (2018);
- Co-Editor and contributing author: Principles of Evidence in International Criminal Law, (Oxford University Press) (2010)
- Contributor to Human Rights Practice (Sweet & Maxwell. 2002 to 2016);
- Contributing Author to A Commentary to the Rome Statute on the ICC (Baden-Baden) 2000; 2nd ed 2008; 3rd edition (2016)
- Co-Editor of the International Criminal Law Reports (ICLR) (Cameron May) (2006 to 2014);
- Co-Author, An unbreakable thread? The presumption of innocence in international law in “Promoting Accountability under international law for gross human rights violations in Africa, Essays in honour of Prosecutor Hassan Jallow”, (Brill I Nijhoff, 2015)
- Co-Author, “Sitting on Evidence? Systemic Failings in the ICC disclosure regime – time for reform” in Law and Practice of the International Criminal Court, (OUP, 2015)
- Co-Author, Defensive Practices: Representing Clients Before the International Criminal Court, 76 Law and Contemporary Problems 191-233 (2014);
- Co-Author, The Presumption of Innocence at International and Hybrid Criminal Tribunals and Courts, Sri Lankan Law College Journal (2014);
- Author, Oxford Transitional Justice Research -Working Papers Series, paper on victim participation before the ECCC (2010).



## C. Francesco Lo Voi (Italy)

[Original : English]

### 1. Letter of motivation

30 September 2019

Dear Chair and Members of the Committee,

I'm hereby expressing my interest in the position of Prosecutor of OTP.

I'm currently the Chief District Prosecutor in Palermo (since December, 2014) and I've reached the qualification to be appointed in the highest Italian judicial offices. After the degree in law in 1979 (summa cum laude), I entered the judiciary in 1981; therefore, more than 38 years of career, most of them spent in the prosecution services: Deputy Prosecutor in Palermo for seven years, Deputy Prosecutor General in Palermo for 10 years (during which, member of the High Council for the Judiciary), Deputy Prosecutor General before the Supreme Court (two years), National Member for Italy at Eurojust (five years). I meet the requirements of the vacancy notice, when it comes to professional competence, integrity, leadership and organizational skills, familiarity with the international environment, wide experience in international law and judicial cooperation procedures.

After several years of activity in carrying out investigation in dozens of very complex cases concerning serious crime (dealing also with witness protection issues), at a national and international level, I believe having reached the needed competence to lead what it seems to me the most important Prosecutor Office in the world, set up with an international Statute and based on the principles of fair and adversary trial, respect of human rights of all the parties: these principles have always guided my activity, being included in the Italian (also at a constitutional level) rules of criminal procedure.

The main reason that leads me to this application is the willingness to contribute to give a new impulse to the mission of the OTP, exploiting my experience to improve its effectiveness and efficiency, to strengthen its activity and subsequently gain more public confidence.

The new challenges stemming from the new forms of crimes against humanity represent something that I've already fought, particularly in these last years; at the same time, they give me a great impulse and encouragement to commit myself in a more demanding activity, in a position which is best placed to have a worldwide overview of such criminal phenomena as well as to investigate and prosecute the most responsible. In a nutshell, my objective is to increase my level of commitment and to make use of the experience done – and the good results achieved – in the fight against international organized crime. The excellent results recently obtained in the international cooperation with European, Asian and American countries might be considered an added value; together with the cooperation with the OTP by my office (participation in a JIT in the field of THB, personally followed by me) and also with the UN Sanctions Panel of Experts. The particular attention I paid to crimes against women and children (with a creation, in my Office, of a new Division responsible for investigation concerning “vulnerable victims”, and protection thereof) is in line with the Rome Statute's provisions.

The experience made at national level in carrying out complex investigation (also with the use of special investigative techniques, that often led to the arrest of fugitives), prosecution and trials (extensive courtroom experience, be in first degree be in appeal cases) will give me the possibility to identify - since the very beginning - whether there is a “reasonable basis” to initiate an investigation and, subsequently, there are sufficient evidences to prosecute the perpetrators of a crime (“trial-oriented” investigation). At the same time, the high rate of successful cases in Court that I achieved (also with dozens of “life sentences”) seems to be a good guarantee for an effective organization of the prosecutorial activity of the OTP, through the phases of preliminary examination, investigation and prosecution.

The extensive international experience I made since the '90s of last century will be better explained in my CV. Here, I only mention training activities, conferences, expert missions, “high level” debates in many European and overseas countries.

I have already mentioned my recent experience at Eurojust as National Member (so, working closely in a multi-cultural environment); my negotiation skills were significantly improved during that period, thanks to the collegial structure of that agency. If requested, I will better report about some activities during that period, as well as my participation in several seminars and congresses. I'm fluent in English (written and spoken), with a good knowledge of French (particularly for legal documents) and a basic knowledge of Spanish (whose legal documents I can understand).

I never failed to comply with the rules of all the organizations I worked for; in my current position, I never failed to comply with the constitutional, legal and soft-law rules foreseen for the judicial activity. This has been recognized by the High Council for the Judiciary, particularly for several "guidelines and directives" I issued for the Prosecutors of my office and the Police Forces; indeed, the High Council recently confirmed me in the position of Chief Prosecutor, after the evaluation of the first four years.

It's worthy to underline that the UNODC Executive Director, on 2016, "warmly welcome(d)" the achievements in an investigation – and subsequent trial – carried out by my Office, also stressing the "speedy conclusion to a complicated criminal process... This must also be commended."

I would be particularly honored and excited to lead an important international Prosecutor's Office like the OTP, in full independence like in all my career (the Italian system provides for full independence also for the Prosecutors). I would like to transfer in the new position all my commitment and experience, also under the organizational, communicational, financial and operational aspects, together with the other actors and subjects involved, to create a conducive working environment. Thus, to improve my career and to exploit the experience already done.

This is, very briefly, why I'm applying for the said position and kindly asking you to consider my application, thanking for your attention.

Francesco Lo Voi

## 2. Curriculum vitae<sup>3</sup>

### **CURRICULUM VITAE of Francesco Lo Voi, born on November 5th, 1957 in Palermo (Italy).**

I got the degree in Law at the University of Palermo, magna cum laude, in July 1979.

I entered the judiciary in 1981; after the training period, I started serving as a Judge in a misdemeanour Court in Sardinia for two years, dealing with civil and criminal cases (at that time, also playing the role of investigative Prosecutor); afterwards (1984-1987) I've been a Judge at the Court of Caltanissetta (Sicily, Italy), dealing both with civil and criminal cases and also chairing for one year a special Court section in charge of cases of confiscation of illicit assets. Subsequently, I've been a Judge at the Court of Palermo, dealing with criminal cases.

I'm fully **member of the Prosecution since July 1990**, in different positions (totally, **more than 25 years**, even not considering the High Council for the Judiciary):

- **Prosecutor at PPO Palermo from July 1990 to April 1997**; during this period, I dealt with complex cases mainly concerning organised crime and mafia organisations – "Cosa Nostra" – with dozens of suspects. I also represented the Prosecution in Court in many trials, where my requests were usually accepted by the Courts. I achieved some dozens of "life sentences" and highly severe convictions, with penalties from 20 to 30 years, for the crimes of "participation in a criminal association", multiple murders, drug trafficking, money laundering, and so on. I've been also responsible for leading some sections of the Prosecutor Office of Palermo, particularly the section in charge of the execution of the penalties and the one in charge of the investigation aimed at identifying illicit assets of organised crime members, for the purpose of their confiscation. I was also

<sup>3</sup> Mr. Lo Voi submitted an updated curriculum vitae to the Committee on 24 November 2020.

responsible of seeking some “Cosa Nostra” fugitive members, some of them at the highest position in the said criminal organisation: all of those I was responsible of have been found and arrested by the Police, under my instructions and coordination.

- **Prosecutor at GPO Palermo from 1997 to 2007** (see below for the period 2002-2006, during which I was member of the High Council of the Judiciary). In that Office, I represented the Prosecution before the Court of Appeal of Palermo in hundreds of trials, so increasing my Courtroom experience, mostly again in complex criminal cases concerning organised crime. I’ve been tasked with many organisational aspects of that Office, personally delegated by the Prosecutor General, who also appointed me as Secretary General of the said GPO. Also in this activity, I achieved a great number of convictions for the responsible of very serious offences.

- **Member of the Italian Council for the Judiciary from July 2002 to July 2006.** The High Council for the Judiciary is a Constitutional, independent body, chaired by the President of the Republic and is in charge of all the decisions concerning recruiting, career, appointment to directive positions and disciplinary aspects of all the Italian Magistrates, both Judges of Prosecutor. The preliminary examination of each paperwork is made by one of the ten Committees, and the final decision is taken at the Plenary sessions, composed by all the members (27). I also chaired and vice-chaired some of the said Committees, giving a new organisation to the work thereof and reducing the backlog. I’ve been also the Director of the Study Office of the Council (for nearly two years), that is competent for giving legal advices to the Committees, the Presidency Team and the Plenary and for preparing the documents and opinions to be used before the administrative Courts, in case of litigation. Since the High Council is in charge of the approval of the organisational aspects of the judicial offices, this gave me the possibility to improve my experience in the organisational aspects of different sectors and in the management of offices, particularly when it comes to the best use of human resources.

I also actively took part in the setting up of the Network of the European Judicial Councils (ENCJ), participating in the preparatory meetings (and, subsequently, to the official meetings) and also directly contributing to the creation of the web-site of the Network. At the end of the four-years term of the Council, I went back to GPO Palermo, until October 2019, as said above.

- **Prosecutor at GPO before the Supreme Court in Rome from October 2007 to December 2009.** The Italian Supreme Court deals with civil and criminal cases only as far as their “legal aspects” are concerned, namely the correct application of law in the decisions of the Courts of Appeal of the entire Italian territory. I represented the Prosecution before different chambers of the Supreme Court, particularly in criminal, civil and “labour rights” cases. My activity was highly appreciated by the Supreme Court Directive Council in the final report that has been issued after the end of my service there.

- **National Member for Italy at Eurojust from January 2010 to December 2014,** appointed by the Italian Minister of Justice with the favourable opinion of the High Council for the Judiciary. The particular mission of Eurojust led me to assist national and European judicial authorities in the procedures of judicial cooperation and assistance, as well in facilitating the coordination of transnational investigation. The Italian Desk of Eurojust has been, during my mandate, at the top positions for number of cases dealt with and I personally committed myself and my assistants to provide the best possible assistance for the positive results of the cooperation or coordination, also thanks to the “coordination centres” specifically created, the relationship with Europol and national Police Forces, the coordination meetings between judicial and police authorities of all the Member States of the E.U. and, in several cases, also with third countries.

I had the opportunity to deal with transnational crime cases in the field of organised crime, money laundering, child-pornography, drug trafficking, carousel frauds, European arrest warrants, financial and economic crimes, trafficking and smuggling of people and goods.

I have been member of some of the Teams of Eurojust, particularly the External Relations Team, in charge of the relationship with Third Countries and the EJM-LM Team (contacts with European Judicial Network and Liaison Magistrates). I chaired the Financial and Economic Crime Team, which was – at that time – the Team with the higher number of members and with wide competence in the mentioned area.

All this activity increased my knowledge of the European and international Institutions, also thanks to several working missions to European and non-European countries.

Moreover, it gave me the possibility to live and work in a multi-cultural environment, thus confronting different cultures, different historical and legal traditions and always trying to find positive solutions and the right balance between different positions.

During my permanence at Eurojust, I was called to give speeches – on issues related to international judicial cooperation and different forms of serious crimes affecting many States around the world – by training institutions, foundations, Committees of the European Parliament; I also participated, with a speech, in a world conference organised in Australia on trafficking of human beings and exploitation of children, also for sexual abuse.

I've also been appointed as Contact Point for Child Protection at Eurojust, so increasing my expertise in protection of particularly vulnerable victims and investigative means to fight exploitation of minors.

• **Chief District Prosecutor in Palermo since December 2010**, upon appointment of the Italian High Council for the Judiciary.

My Prosecutor Office is currently composed by seven (7) Deputy Prosecutors and sixty-one (61) Prosecutors, with an administrative staff of more than 350 employees, and an Administrative Director.

As Chief District Prosecutor, I supervise (and sometimes also carry out personally) large scale investigation against many forms of organised crime, including mafia crimes, financial crimes, THB, money laundering, international drug trafficking, etc.. I'm responsible for the prosecution in the area of competence of my Office, monitoring and directing the activities of the Prosecutors, according to the law, the regulations and the internal rules of the Office (that include the selection of priorities).

I currently direct and lead a complex structure (PPO Palermo). This activity increased my directive capability. The Office is divided into four Divisions, according to the choice I made after having consulted all the Prosecutors working there. One of such Divisions, set up a few weeks after my taking of office, is competent for investigation concerning crimes against “vulnerable victims”; another working group has been created to fight against the trafficking and smuggling of human beings, which is a phenomenon of particular relevance in our territory, due to the geographical position of Sicily in the Mediterranean area, close to the North African countries. Also in this respect, particular attention has been paid to the rights of the victims of such crimes, ensuring them with all the form of protection provided by the Italian laws. Several convictions have been issued against many responsible, including “life sentences” and other severe penalties.

The Antimafia Unit is personally led by me and deals with all the crimes committed by mafia-type associations and Cosa Nostra members (like murders, extortion, drug trafficking, money laundering, and so on). In several investigations, special attention (and, if necessary, personal protection) has been given to the position of victims, stimulating and taking advantage of the local civil society associations and anti-racket organisation, which assist many victims of extortion in their cooperation with justice.

A number of trans-national investigations have been carried out or are still ongoing – many of them personally conducted by me – with the use of all the available international legal instruments (treaties, conventions, decisions, bi-lateral or multi-lateral agreements). My

Office is also member of a **“Joint investigation team” that includes the participation of the ICC-OTP.**

In her recent speech before the U.N. Security Council pursuant to Resolution 1970 (2011), **the Prosecutor of the ICC specifically mentioned an investigation carried out by PPO Palermo** as a recent development. It concerns convictions for the crime of torture, after an investigation carried out – and arrests obtained - by my Office (although the trial took place in the city of Messina, due to procedural issues linked to the place of arrest). The report of the speech so states (para 27):

*“The Office welcomes several recent developments that have taken place in this regard. This includes the sentencing of three individuals to 20 years imprisonment by the Court of Messina in Italy for crimes committed against migrants in Zawiyah.”*

It seems particularly important to underline the above statement, made by the ICC Prosecutor, because it shows how narrow is the link between some national investigation – included the one above mentioned carried out, among others, by my Office – and the crimes against humanity that are the ones for which the ICC itself was established. And it shows also, if correctly read and interpreted, that cooperation with national jurisdictions, through the instruments of the int’l judicial cooperation, can be of great support to the activity of the OTP and for the achievements of the goals of the ICC “mission”.

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Extensive use has been made, during all my career, of special investigative techniques together with the wide use of electronic instruments, also inside my Office.

During these last nearly six years, I had to face many organisational aspects, together with the Administrative Director, which required strategic choices on the allocation of resources and cases. All the most important decisions have been taken after a thorough study, with the previous creation of “study groups” (composed both by Prosecutors and staff members) and this resulted in directives and annual or multi-annual organisational programmes that have been adopted with the full consensus of all the Prosecutors of my Office.

I’ve issued dozens of directives addressed both to Prosecutors and Judicial Police Forces, aimed at improving the efficiency and effectiveness of investigative and prosecutorial activities, which resulted in a high rate of convictions by the competent Judges and in the significant reduction of the backlog, together with a special attention to the management of financial resources.

Furthermore, I actively participated – as I had already done during the period 1990-1997 (see above) in international activities linked with the execution of letters rogatory; just to mention the most important, very positive results were overall obtained through working missions in U.S.A., Canada, France, Germany, and more recently in Thailand and Andorra.

The Italian High Council for the Judiciary, as well as the Italian MoJ, recognised my leading and managerial capability when it comes, specifically, to the direction of PPO Palermo. Indeed, I’ve been confirmed in my position for a new “four-years term”, after the positive evaluation made by the District Judicial Council.

A specific mention needs to be done to the organisational commitment caused by the COVID-19 pandemic. The need to reduce the risk of infection has required the adoption of several new directives, following the numerous decrees issued by the national and local authorities, that required (often on a daily basis) new organisational forms of the work of my Office, also in accordance with other judicial authorities of the District and the Bar Association that represents the defence counsels. Several improvements have been made in the use of new technologies, in the computerization of many investigative and prosecutorial activities, in the re-allocation of human resources and cases according to the pandemic emergency and the available premises.

To sum up, a very complex managerial work that has been necessary due the big structure of the Office I currently lead, above mentioned.

\*

Consequently, after nearly 40 years of career, I'm in the highest qualification level to be appointed to the highest prosecutorial or judicial offices: and indeed, the High Council for the Judiciary has appointed me in 2014 as Chief District Prosecutor in Palermo, one of the biggest PPOs in Italy.

As to the languages, I'm fluent in Italian (C2) and English (C2), with a good knowledge of French (B1, particularly when it comes to legal documents) and a basic knowledge of Spanish (A1, whose legal documents I can anyway read and understand).

Since the '90s of last century, I played for many years an extensive role in the field of international judicial cooperation: I've been appointed as trainer for judges, prosecutors and police officers in several EU and CoE training programmes; as member of evaluation teams (JHA) in EU former candidate countries and for GAFI-FATF (evaluation mission in Liechtenstein) and UN (expert mission in Guatemala to verify the legal and political conditions to set up a special Prosecutor Office for fighting crimes committed by paramilitary groups); as contact point of EJM since its creation and as National Member of Eurojust for five years (see above).

I've been recently called (June, 2019) to participate in a "High Level Debate" at the UN premises in New York City, giving a speech on the "Role of Regional Groups in the fight against organised crime".

Considering the direction of PPO Palermo, of the Italian Desk at Eurojust, the membership at the High Council for the Judiciary and the chairmanship of some of its Committees, I've played high level directive roles (or senior management position) for many years.

I've already worked on drafting new rules of procedure, be at the Italian High Council for the Judiciary, be at PPO Palermo, be at Eurojust. Moreover, I've already experienced the opportunity to work in a multi-cultural environment; therefore, the possibility to work again in close contact with international Institutions and agencies may give me the chance to find an environment already familiar to me. The close cooperation with all the partners will be crucial. At the same time, legal systems and traditions of each country have to be carefully considered, with the aim of reaching the best possible results of investigation and prosecutions.

The full independence of the Prosecutors, in Italy, is widely known and taken as an example. The OTP will offer a serious guarantee of independence not only for the provisions of the Rome Statute, but also because the term of the Prosecutor is non-renewable. In this respect, being currently 63 years old, I'll be able to serve for the entire nine-years term.

\* \* \*

Palermo, November 24th, 2020.

Francesco Lo Voi  
District Chief Prosecutor  
Palermo

## D. Robert Petit (Canada)

[Original : English]

### 1. Letter of motivation

23 November 2019

Dear Members,

I chose law as a field of study specifically with the intent of becoming a Prosecutor. Then as now, I consider it the greatest of privilege to be able to help bring justice to victims of crime. It therefore would be an honour to represent those who look to the International Criminal Court in the hope for accountability for mass atrocities.

I have over 30 years of Prosecution experience first acquired in a heavy caseload jurisdiction in Canada, where I learned the principles which have grounded my practice from thereon. I appeared almost daily before judges or juries of various jurisdictions, in a broad array of criminal matters, interacting directly with victims, witnesses, law enforcement and counsels. I learned that regardless of personal inclinations, a Prosecutor is an officer of the Court whose overriding duty is to assist to the best of his or her abilities in upholding the integrity of the investigative and judicial processes, so that justice can be fairly and transparently dispensed. To do otherwise can fundamentally affect the value of the outcome to the point of rendering it meaningless.

In the subsequent 23 years, from carrying out field investigation in Rwanda to establishing an Office of the Prosecutor for the prosecution of the Khmer Rouge, prosecuting direct perpetrators or Heads of State, I acquired hands-on, practical experience in all the challenges of accounting for mass atrocities. Though significant, I believe I've successfully met those challenges by focusing on the belief that this work is first and foremost about building criminal cases that can withstand the high scrutiny associated with national systems. While there is clearly an aspirational aspect to international criminal law that has a broader relevance than what simply happens in court, those aspirations cannot be realised without as a foundation solid, core criminal litigation work.

I have also learned the challenges involved in national prosecutions of mass atrocity crimes, both in the course of my national practice with Canada's War Crimes Section but also working directly with other national prosecution authorities such as the *Habré* prosecution and my current assignment in the Democratic Republic of Congo. I believe this has provided me with a privileged and useful insight into, among other things, the challenges of complementarity. I would also note that I have practiced in both common law and civil law jurisdictions, the latter in Cambodia and the Democratic Republic of Congo.

I've worked in senior positions in politically sensitive environments and successfully interacted with a variety of stakeholders while keeping focused on the integrity of my mandate. In all these assignments the management of limited resources versus acceptable outcomes has been a constant priority.

I've had the privilege of being part of, and leading, teams of women and men from various nationalities and professional backgrounds and I have been successful in promoting a culture of respect and mutual commitment to success despite sometimes difficult circumstances. I firmly believe that gender and geographical parity is essential to the success of any institution, especially one which must, as a matter of principle, account for gender-based violence.

The International Criminal Court is one of the most consequential multilateral institutions ever created by the international community. It is an essential part of a rules-based world order and has the potential to foster peace through justice for the worst crimes. Due in part to the work of the first two Prosecutors, I firmly believe it will remain a *de facto* actor in any attempt by the international community to deal with mass atrocities.

As with any institution seeking to remain effective, the Court needs to build upon its successes, which are significant, and incorporate the lessons learned from where it may have fallen short. This will naturally include sometimes difficult decisions, including by the next Prosecutor.

I believe I have the necessary skills and experience to meet the challenges ahead and I would be honoured to be considered for the position.

Sincerely,

Robert Petit

## **2. Curriculum vitae**

### ***Senior Official***

#### ***Follow-on Mechanism for the Democratic Republic of Congo***

***November 2017/ current***

Lead a team of international criminal investigators in providing assistance to the authorities of the Democratic Republic of Congo in their investigation of the murders of two United Nations Experts killed in Congo in March 2017.

### **Professional Experience**

#### ***Senior Counsel and Team Leader***

##### ***Justice Canada, Crimes against Humanity and War Crimes Section, Ottawa, Canada***

***2001 (currently on leave)***

Supervise a team of Counsels and Analysts in the collection of evidence and provision of legal advice to Law Enforcement teams investigating persons currently in Canada, suspected of having committed violations of International Humanitarian Law and International Criminal Law in various countries.

#### ***International Co Prosecutor***

##### ***Extraordinary Chambers of the courts of Cambodia, Phnom Penh, Cambodia***

***2006 / 2009***

In an Internationalized National Court, leading a team of National and International staff, supervise the investigation and prosecution of those most responsible for the crimes committed during the Khmer Rouge era of Cambodia.

#### ***Senior Trial Attorney***

##### ***Special Court for Sierra Leone, Office of the Prosecutor, Freetown, Sierra Leone***

***2003 / 2004***

In a Hybrid Tribunal, leading one of two teams of National and International staff, prosecute those bearing the greatest responsibilities for mass crimes committed during the period of the Civil War.

#### ***Prosecutor***

##### ***United Nations Mission in East Timor, Serious Crimes Unit, Dili, East Timor***

***2002***

In a Hybrid Tribunal, exercise criminal investigative functions and lead the prosecutions of persons suspected of mass crimes committed during a period of national political transition.

#### ***Crown Attorney***

##### ***Justice Canada, Federal Prosecution Service, Montreal, Canada***

***2000 / 2001***

Provide legal advice to Law Enforcement investigating international narcotics trafficking networks to ensure successful prosecution under domestic criminal legislation.

#### ***Regional Legal Advisor***

##### ***United Nations Mission in Kosovo, Mitrovica Region, UNMIK, Pristina, Kosovo***

***1999 / 2000***

Provide legal advice to the International Administrator of one of five Regions of Kosovo on various issues including the implementation of International Judiciary and issues arising out of the deployment of International Police and Armed Forces.

#### ***Legal Officer***

##### ***International Criminal Tribunal for Rwanda, Office of the Prosecutor, Kigali, Rwanda***



**1996 / 1999**

Supervise the investigations, indictments and prosecutions of numerous perpetrators of crimes committed during the Rwandan Genocide as well as provide legal advice to the Intelligence and Tracking Team of the Office of the Prosecutor.

**Crown Attorney**

*Ministry of Justice, Government of Québec, Montreal, Canada*

**1989 / 1996**

In a heavy caseload jurisdiction, appear for the Crown on an almost daily basis to conduct criminal prosecutions, specializing in violent crimes, gender crimes and organized criminality.

**Education**

Quebec Bar Association, Montreal, Canada September 1987  
Advanced University Law Degree, Licence en droit.

University of Montreal, Montreal, Canada September 1984  
Bachelor of Arts L.L.B. Baccalaureat en droit.

University of Montreal, Montreal, Canada September 1981  
Bachelor of Arts Baccalaureat en Histoire

**Activities and Awards**

Speaker at numerous international conferences on international criminal law and Canada's War Crimes Statute and Program.

Frederick K. Cox International Humanitarian Award for Advancing Global Justice, 2009

Rome Statute Review Conference Kampala, Canadian Delegation, Member, 2010

Shortlisted candidate, Prosecutor of the International Criminal Court, 2012

Queen Elizabeth II Diamond Jubilee Medal Recipient 2013

**Publications**

*Compendium of Lessons Learned and Suggested Practices of the Offices of the Prosecutor of the ICTR, ICTY, SCSL, ECCC and STL*, 2013 (editor).

Various articles on international Criminal Law in specialized publications; list available upon demand

**Personal**

Nationality: Canadian

Date of Birth: 27 April 1961

Languages: French (native), English (fluent), Kinyarwanda (basic)

Married with dependents

## E. Brigitte Raynaud (France)

[Original : French]

### 1. Letter of motivation (*as submitted*)

22 November 2019

Madame, Monsieur,

Magistrat de l'ordre judiciaire français depuis 1988 et expert auprès de la Cour pénale internationale depuis 2009, j'ai l'honneur de présenter ma candidature au poste de procureur de la dite cour, au regard de ma longue expérience de pénaliste, notamment au niveau international, et de compétences de management avérées.

Ma légitimité première tient au fait que j'ai enquêté, en qualité de juge d'instruction, sur le génocide des Tutsis au Rwanda suite à la plainte déposée en février 2005 par six victimes pour complicité de génocide et complicité de crime contre l'humanité.

Pour suivre l'avis de vacance du poste tel que publié sur le site de la cour, je répondrai ci-dessous à chacune des exigences qui y sont spécifiées.

*Une pratique approfondie et confirmée, et en particulier en qualité de procureur, acquise dans le cadre d'enquêtes, de procès et d'appels dans des affaires pénales complexes :*

J'ai exercé des fonctions de procureur à plusieurs reprises dans ma carrière, au tribunal de grande instance de Metz, au tribunal de grande instance de Paris puis à la cour d'appel de Paris. J'ai acquis les différentes techniques d'enquête selon les registres d'infractions et j'ai mené, pendant de nombreuses années, des enquêtes complexes, notamment en matière financière et commerciale. J'ai l'expérience du contentieux des affaires civiles liées à la nationalité et à l'état civil et bien évidemment, celle de l'accusation aux audiences correctionnelles et criminelles.

A ce jour, j'exerce au service central des politiques judiciaires et de l'action publique de proximité au parquet général de la cour d'appel de Paris, en charge de la coordination des politiques judiciaires sur l'ensemble du ressort judiciaire, couvrant une population de près de 8 millions d'habitants et concentrant 20% de l'activité judiciaire du pays. J'élabore également la stratégie territoriale du procureur général sur l'ensemble du ressort aux fins de visibilité et de rayonnement de son action.

Mon expertise pénale a été largement renforcée par l'exercice des fonctions de juge d'instruction pendant treize années, de 1993 à 2006, au tribunal aux armées de Paris, juridiction internationale spécialisée pour les militaires français en opérations extérieures, auteurs ou victimes d'infractions.

Dans ce cadre, j'ai effectué de nombreuses missions à l'étranger, en particulier en Afrique, pour enquêter sur place, aller à la rencontre de mes collègues magistrats dans le cadre de commissions rogatoires internationales, des autorités diplomatiques françaises et des autorités ministérielles et gouvernementales des pays considérés. J'ai effectué de nombreuses missions en Côte d'Ivoire, à Djibouti, au Sénégal, au Togo, au Gabon, au Tchad, au Rwanda mais aussi dans les Balkans, au Kosovo et en Macédoine.

J'ai enquêté dans un contexte à la fois international, diplomatique et militaire, sur des affaires souvent complexes, parfois très sensibles, avec un large retentissement dans la presse nationale et internationale. Deux affaires illustrent mon propos : la plainte déposée en février 2005 par des victimes Tutsi du génocide rwandais, pour complicité de crime de génocide et complicité de crime contre l'humanité mettant en cause la France ; en novembre 2004, l'affaire du bombardement de Bouaké en Côte d'Ivoire ayant causé la mort de neuf militaires français et de nombreuses blessés.

*Une expertise avérée en matière d'indépendance et d'impartialité, ainsi que l'engagement à défendre la justice, la reddition de comptes, les droits de l'homme et la promotion de l'égalité des sexes :*

Les deux affaires précitées témoignent de mon indépendance et de mon impartialité, qualités attendues de tout magistrat, spécifiquement dans les affaires où l'intérêt de l'Etat ne rejoint pas forcément celui de la justice.

S'agissant du génocide rwandais, c'est grâce à mon sens aigu de la justice et à ma détermination sans faille à enquêter, dans le strict respect des textes internationaux et du code de procédure pénale, qu'il existe aujourd'hui en France, 25 ans après le génocide, une procédure judiciaire. Et c'est au titre du devoir de mémoire que j'ai participé, en juin 2019 à Paris, à un colloque sur les 25 ans du génocide rwandais organisé par la FIDH (Fédération internationale des droits de l'homme) et l'association SURVIE.

L'enquête relative au bombardement de Bouaké sus-visée a nécessité, elle aussi, une détermination totale de ma part pour enquêter dans un environnement peu enclin à la manifestation de la vérité. L'affaire sera jugée par la cour d'assises de Paris au printemps 2020, quinze ans après la commission des crimes.

J'ai prouvé, à travers ces deux affaires emblématiques, reflétant ma personnalité calme, rigoureuse et déterminée, que je dispose de toute l'indépendance et l'impartialité requises, dont la solidité se vérifie souvent à l'épreuve des faits et dans les contextes délicats. Ces dispositions personnelles traduisent mon engagement à défendre la justice, et ce depuis 31 ans, au plan national et au plan international aussi.

En effet, ayant acquis la qualité d'expert à la Cour pénale internationale en 2009, je me suis attachée à promouvoir la justice pénale internationale par l'organisation de conférences, notamment :

- un colloque à l'Université de Paris 1 Panthéon Sorbonne ouvert par Robert Badinter, ancien ministre de la justice et grand témoin du XX<sup>ème</sup> siècle;
- trois conférences en Algérie sur « les infractions transnationales, la Cour pénale internationale, le droit international humanitaire », « les droits de la défense », « la médiation et l'aide aux victimes », en lien avec l'association nationale des avocats algériens, le Barreau de la ville de Sétif, et avec l'intervention d'un représentant du Bureau du procureur de la CPI.

Dans le même esprit, j'ai participé à un séminaire de formation au langage juridique et judiciaire français organisé par la CPI au bénéfice des magistrats et personnels du Bureau du procureur de la CPI, sous le pilotage de Maître François Ameli, avocat français inscrit à la CPI.

J'ai défendu les droits de l'homme et l'égalité des sexes dans le cadre de mes fonctions liées à la politique de la ville dont l'objet est précisément de réduire les inégalités territoriales et humaines et d'agir en faveur du développement harmonieux de la société, entendue dans toute sa diversité culturelle. J'y ai consacré 8 ans de ma vie professionnelle d'abord en qualité de chef du département de la prévention de la délinquance à la Délégation interministérielle à la ville puis en qualité de Secrétaire générale du Conseil national des villes, instance nationale consultative présidée par le Premier ministre, composée de parlementaires, de maires, d'associations, d'experts et de représentants la société civile.

J'y ai acquis l'expertise du développement territorial sécurisé et sécurisant, de la bonne gouvernance locale dont la composante démocratique, reposant sur le respect des droits et la participation des habitants, est essentielle, notamment pour les pays en reconstruction.

La promotion des droits de l'homme est un éternel recommencement, il faut donc éduquer en permanence. J'ai enseigné la culture générale pendant 12 ans à l'université Paris 1 Panthéon Sorbonne aux étudiants préparant le concours de l'École nationale de la magistrature. La formation des esprits, en particulier des futurs décideurs, aux droits de l'homme et à l'égalité des sexes est la condition de leur perpétuation à travers les générations. Récents à l'échelle de l'histoire, leur caractère universel reste un combat de tous les jours.

La reddition des comptes s'entend de diverses manières, le suffrage universel, les contrôles exercés par la cour des comptes ou des autorités administratives indépendantes, l'évaluation des politiques publiques. La reddition des comptes est un acte de confiance et de démocratie entre les habitants et l'autorité publique, locale ou nationale, s'inscrivant dans ce concept contemporain de la transparence. Je l'ai pratiquée la reddition sous diverses formes, et en particulier lorsque j'ai exercé des fonctions de directrice générale des services d'un département.

*Une expérience avérée en matière de gestion financière, de management et de direction :*

Du 1er juillet 2016 au 30 juin 2019, j'ai été directrice générale des services du Conseil départemental des Ardennes, département de 283 000 habitants, situé dans l'Est de la France. J'ai dirigé les 1700 agents de cette collectivité locale aux vastes compétences tant sociales que d'aménagement du territoire pour agir dans le sens de l'égalité des territoires et des personnes.

J'ai géré un budget annuel de l'ordre de 400 millions d'euros, avec une reddition périodique des comptes devant les élus portant sur l'exécution globale du budget. J'ai doté la collectivité d'un plan stratégique pour valoriser, rationaliser et coordonner l'action publique, selon une méthode interactive et concertée, visant à rénover la gouvernance et fixer les priorités.

La dimension managériale a été très importante puisque j'ai piloté la réorganisation générale des services, rénové les méthodes de management interne pour décroiser l'administration, diversifier les sources de financement, affirmer la communication. Le leadership, la valorisation des personnels, le respect, le professionnalisme, le dialogue et la prise de décision ont été les fils conducteurs de ma méthode de management tout au long de ma carrière.

Mère de deux enfants, j'ai fait du leadership un engagement personnel pour la jeunesse en soutenant plusieurs associations : l'association internationale Give1Project créée par Thione NIANG dont j'ai favorisé l'implantation en France en 2010, l'association Les Déterminés et l'association Débarquement Jeunes en faveur de l'entrepreneuriat et de la jeunesse.

*Une connaissance approfondie du droit pénal et de la procédure pénale au niveau national ou international ainsi du droit humanitaire et du droit international public :*

Magistrate pénaliste de longue date, je dispose d'une parfaite maîtrise du droit pénal et de la procédure pénale. Aucune de mes enquêtes n'a jamais été annulée pour vice de procédure. Pour avoir travaillé pendant 13 ans au sein d'une juridiction internationale spécialisée en matière militaire, je connais parfaitement la question des règles d'engagement, le droit pénal et la procédure au niveau international, le droit humanitaire ainsi que le droit international public.

J'ai acquis une bonne connaissance de la procédure anglosaxonne à travers le dossier du génocide rwandais et aussi par mes diverses actions de promotion de la cour pénale internationale.

L'exposé détaillé de ma longue carrière vous auront convaincus, je l'espère, que je possède l'ensemble des compétences et aptitudes par ailleurs listées dans l'avis de vacance de poste : le professionnalisme, le jugement – la prise de décision, l'intégrité, la propension à l'analyse stratégique, le leadership, les compétences financières, la planification et l'organisation, la communication, les technologies numériques, en concordance avec l'ensemble des missions, responsabilités et devoirs tels que décrits également.

Je suis convaincue du rôle de la Cour pénale internationale en faveur de la paix dans le monde et du dialogue entre les peuples et les cultures. Pour autant, rien n'est jamais acquis.

La justice pénale internationale est aujourd'hui à la croisée des chemins, du droit, de la géopolitique, de la diplomatie, de la morale, ce qui en rend l'exercice difficile. La Cour pénale internationale, porteuse de cette justice universelle, est elle-même dans une période charnière de son histoire qui est récente. Elle est en effet confrontée à deux phénomènes majeurs et dangereux pour la paix : la fin du multilatéralisme et un recul du droit à travers le monde, y compris en Europe. Des Etats se retirent de la Cour pénale internationale. Comment dans ces conditions la faire évoluer pour assurer sa pérennisation grâce à des résultats probants ?

Ma candidature nourrit aussi le projet de réfléchir sur l'efficacité de son mode de fonctionnement et de la procédure d'enquête dont la longueur ne garantit pas le résultat attendu. Comment assurer des poursuites et des condamnations dans le strict respect des droits, des auteurs comme des victimes, dans des délais raisonnables ? Tel est certainement le véritable enjeu de ces prochaines années pour que la Cour pénale internationale incarne la lutte mais aussi la prévention des crimes contre l'humanité, par la dissuasion et la promotion de la bonne gouvernance.

Telle est ma conviction, tel est mon programme pour la Cour pénale internationale.

Veuillez agréer, Madame, Monsieur, l'expression de ma très haute considération.

Brigitte RAYNAUD

## 2. Curriculum vitae (as submitted)<sup>4</sup>

*Magistrat à la Cour d'Appel de Paris*

*Double nationalité : française et ivoirienne*

*Exercice des droits civils et politiques en France*

*Décorée de l'Ordre National du Mérite*

*Colonel de réserve*

### **CHAMPS D'EXPERTISE : JUSTICE / INTERNATIONALE – GOUVERNANCE - ARMEE – AFRIQUE**

**Justice nationale – justice internationale - Armée - Afrique : expertise juridique et du monde judiciaire, au plan national et au plan international, expertise de la défense nationale et de la sécurité**, avec une très bonne connaissance du continent africain

Depuis le 4 Juillet 2019	<p><b>Substitut général au Parquet général de la Cour d'Appel de Paris</b></p> <ul style="list-style-type: none"> <li>• Mise en cohérence des politiques judiciaires sur le ressort de la cour d'appel, audit et contrôle de fonctionnement des juridictions du ressort, rapport annuel d'action publique, action internationale, action publique de proximité en faveur de l'accès aux droits et de l'égalité, de la lutte contre des discriminations et les violences faites aux femmes, de la prévention et de la lutte contre la criminalité dans les quartiers en difficultés</li> </ul>
Mars 2014-juin 2016	<p><b>Premier Vice-Procureur au Tribunal de grande Instance de Paris</b></p> <ul style="list-style-type: none"> <li>• Pôle financier, économique et commercial : faillites et procédures collectives, prévention des difficultés des entreprises, droit pénal des affaires (enquêtes, réquisitions, audiences)</li> </ul>
Depuis 2009	<p><b>Expert près la Cour Pénale Internationale de La Haye</b></p> <ul style="list-style-type: none"> <li>• Organisation de colloques internationaux en Algérie, à Bou Saâda, à Sétif et à Béjaïa sur « Les pratiques des cours pénales internationales provisoires, la CPI : compétence et politique pénale du Procureur, les infractions pénales transnationales en matière de droit international humanitaire » et sur « La médiation, les droits de la défense, l'aide aux victimes »</li> <li>• Promotion de partenariats avec le Barreau de Sétif et l'Union nationale des avocats algériens de Sétif Délégation de M'Sila</li> </ul>
Décembre 1993-février 2006	<p><b>Juge d'Instruction au Tribunal aux Armées de Paris</b></p> <ul style="list-style-type: none"> <li>• En charge de l'instruction des affaires militaires avec compétence générale pour les infractions commises hors du territoire national et sur les théâtres d'opérations extérieures. Nombreuses missions à l'étranger - Kosovo, Djibouti, Sénégal, Tchad, Rwanda, Togo, Gabon, Côte d'Ivoire - en lien étroit avec les autorités diplomatiques et judiciaires des pays.</li> <li>• Infractions délictuelles et criminelles de droit commun, infractions délictuelles et criminelles en matière militaire, génocides, infractions à la sûreté de l'Etat</li> </ul>
Septembre à novembre 1993	<p><b>Substitut du Procureur de la République à Paris</b></p>

<sup>4</sup> Ms. Raynaud submitted an updated curriculum vitae to the Committee, in English and in French, on 24 November 2020.

- Chargée des affaires économiques
  - Janvier 1988-août 1993      **Substitut du Procureur de la République à Metz**
    - Chargée des affaires financières et commerciales
    - Chargée des relations avec la chambre commerciale
  - 1986-1987      **Auditeur de Justice à l'Ecole Nationale de la Magistrature**
- Gouvernance et Management d'une collectivité territoriale et d'une institution publique : expertise des collectivités territoriales, de la décentralisation et des politiques de développement urbain et rural** sous tous les angles (économique, social, environnemental, sécuritaire, démocratique) et tous les enjeux sociétaux (questions de la diversité, de la jeunesse, de la reconstruction, de la société civile, des ONG et de la démocratie participative). Expertise développée au contact des cabinets ministériels, des parlementaires, des think tank et cercles de réflexion, des réseaux d'élus locaux et nationaux (associations des maires, des départements, des régions de France).
- Juillet 2016-juin 2019      **Directrice générale des services du Conseil départemental des Ardennes**

Direction administrative et management de 1700 employés pendant trois années : réorganisation générale des services, création d'une direction des affaires juridiques pour prévenir la corruption et assurer la sécurité juridique des actes de la collectivité et des agents, structuration et renforcement du dialogue syndical et de la qualité de vie au travail, dématérialisation, introduction du travail en mode-projet pour décloisonner les services, favoriser le leadership et l'émergence des talents, impulsion de nouveaux projets de développement et de partenariats en lien avec le Grand Paris et les pays limitrophes, ouverture du département à l'international, renforcement de l'action de communication et de l'action publique de proximité avec les populations les plus démunies, développement des infrastructures et des nouvelles technologies ; mise en œuvre de la réforme des compétences territoriales des départements en lien avec les Régions et les Métropoles ; travail en lien étroit avec les parlementaires, députés et sénateurs

Direction financière du budget annuel de la collectivité de l'ordre de 400 millions d'euros pour un département doté d'une population de 283 000 habitants, avec débat sur les orientations budgétaires, suivi de l'exécution budgétaire et reddition des comptes devant les élus et devant la chambre régionale de la cour des comptes le cas échéant
  - Mars 2010-2014      **Secrétaire Générale du Conseil national des villes**

Instance nationale consultative de 55 membres (dont 25 maires et parlementaires représentatifs de 25 villes, des représentants d'associations-ONG, d'experts et de la société civile), présidée par le Premier ministre. Mission de recommandations au gouvernement sur les politiques publiques en faveur des banlieues et territoires en difficultés en matière de développement urbain, social, économique et environnemental, de prévention et de lutte contre l'insécurité et la radicalisation, de gouvernance territoriale en lien avec l'émergence des métropoles.
  - Mars 2006-février 2010      **Chef du département Prévention de la délinquance et Citoyenneté Délégation Interministérielle à la Ville - administrateur civil hors classe**

Instance interministérielle et opérationnelle de la politique de la ville : conception, financement et mise en œuvre des politiques publiques en faveur des banlieues et des quartiers en difficultés, programmes d'actions en faveur de l'accès au droit, de l'égalité des personnes et des territoires, de la promotion de la femme, de l'éducation citoyenne, de la prévention de la criminalité et de la lutte contre les discriminations et inégalités.

Mise en œuvre et financements des programmes d'action gouvernementale au niveau national avec évaluation et reddition des comptes.

## **ACTIVITÉS ANNEXES : ENGAGEMENTS BENEVOLES, ENSEIGNEMENT, PUBLICATION**

### **Bénévolat :**

- Depuis 2006 Soutien à l'association Débarquement Jeunes, sis à Rouen en Normandie, présidée par Stéphane Meterfi, chevalier de l'Ordre national du Mérite, en faveur de l'aide aux démunis, de la médiation, de la prévention, des actions culturelles et sportives visant à favoriser l'insertion sociale et économique des jeunes dans la société  
Membre du comité d'organisation de la Nuit des Trophées, évènement culturel et musical en faveur de l'entreprenariat et du leadership des jeunes
- Depuis 2010 Membre de l'Association internationale Give1Project créée aux Etats-Unis par Thione NIANG (fondateur avec l'artiste AKON de AKON LightingAfrica, président des jeunes démocrates du Collège Caucus, co-président du GEN44, Ambassadeur au sein du ministère de l'énergie américain): promotion de la jeunesse, du leadership et de l'entreprenariat, association internationale largement développée sur le continent africain  
Co fondatrice et membre du conseil d'administration de Give1Project France en 2010
- Depuis 2012 Membre du Forum mondial INTA (Développement urbain et politiques publiques)  
Membre fondateur du Cercle K2 (Conseil en sécurité pour les entreprises, éthique et développement)
- Depuis 2018 Membre du Cercle Rimbaud visant à la promotion culturelle et économique des Ardennes (département français à la frontière belge) et à la mise en valeur des diasporas

### **Enseignements :**

- 2013-2015 Interventions à l'Ecole Nationale de la Magistrature dans le cadre de séminaire sur l'inscription des politiques judiciaires dans le paysage politique et les politiques publiques territoriales
- 2010-2014 Chargée d'enseignement à l'Université de Paris Sud XI  
Master 2 Diplomatie, Médiation et Relations internationales
- 2007-2009 Chargée d'enseignement à l'Université de Paris 2 Panthéon-Assas  
« Déontologie et droit pénal de la sécurité et de la défense »
- 2004-2015 Chargée d'enseignement de culture générale à l'Institut d'Etudes Judiciaires Jean Domat à l'Université Paris 1 Panthéon-Sorbonne, Préparation au concours de l'Ecole nationale de la magistrature

## **ETUDES SUIVIES**

- 1986-1987 École nationale de la magistrature - rang d'entrée 8<sup>ème</sup>, âge 22 ans
- 1981-1985 Maîtrise de droit privé à l'Université de Lille II (Nord de la France)
- 1981 Baccalauréat série C - Scolarité suivie au collège des Hautes-Loges et au lycée Yves Kernanec à Marcq-en-Barœul (Nord)

## **PUBLICATIONS ET COMMUNICATION**

- Octobre 2019 Intervention au Colloque « La diversité de la Médiation », Université Paris 2
- Juin 2019 Intervention au colloque du 22 juin 2019 organisé par la FIDH « Bisesero, l'opération Turquoise face au génocide des Tutsis du Rwanda »
- Décembre 2016 Ouvrage collectif sous la direction de Jacques Delga, professeur à l'Essec : « la criminalité en col blanc : délinquance d'affaires, financière et fiscale »
- Juillet 2015 Revue Parole publique : « La justice à l'épreuve de la mondialisation »
- Octobre 2015 Les Cahiers Constitutionnels de Paris 1 Sorbonne : « La justice et les militaires »  
Xème printemps du droit constitutionnel, les compétences en matière de défense sous la Vème République
- Avril 2015 Revue française de criminologie et de droit comparé : Aide aux victimes et Prévention
- Mars 2014 Cahiers de l'Orient « La médiation et l'interculturel »
- Juin 2013 Colloque Tunis- Paris Sud XI « Les villes et la francophonie économique »
- Mars 2013 Revue Parole Publique « Médias, participation des habitants et Images des quartiers »
- Décembre 2012 Colloque international sur la médiation Université de Padoue (Italie) organisé par le Michele De Gioia, Professeur à l'université de Padoue
- Mars 2012 Actes du Centre d'analyse stratégique « A quoi sert la rénovation urbaine ? »
- Janvier 2012 Revue européenne de la politique de la ville EUKN : « Participation des habitants et démocratie de proximité »
- Mars 2007 Journal national Libération : « Prévention de la délinquance, le devoir de cœur »
- Décembre 2005 Portrait dans le journal national Le Monde : « Seule face à la Grande Muette »

[Translation : English]

### 3. Letter of motivation (*translation*)

22 November 2019

Dear Madam, Sir,

As a judge of the French judiciary courts since 1988, and as an expert of the International Criminal Court since 2009, and based on my extensive experience as a criminal jurist, in particular at the international level, and proven managerial skills, I have the honour of applying for the position of Prosecutor of the above Court.

My application is primarily justified by the fact that, as an examining judge, I carried out investigations into the Tutsis genocide in Rwanda following the charges of complicity in genocide and complicity in crimes against humanity brought by six victims in February 2005.

I will explain below how I meet each of the requirements listed in the vacancy announcement as published on the website of the Court.

*Extensive and proven practical experience, in particular as a prosecutor, in the investigation, trial and appeal of complex criminal cases:*

I have served as a prosecutor several times throughout my career: at the Metz Regional Court, at the Paris Regional Court and at the Paris Court of Appeal. I have acquired different investigating techniques for different types of offences, and spent many years conducting complex investigations, in particular into financial and business matters. I have



civil law litigation experience in cases involving nationality and marital status, and naturally also in correctional and criminal prosecution.

Currently I serve at the Central Department for Judicial Policy and Community Prosecution at the Public Prosecutor's Office of the Paris Court of Appeal, and am responsible for coordinating judicial policies across the entire district, which encompasses a population of close to eight million inhabitants, and where 20% of the country's judicial activities take place. I also prepare the district-wide strategy of the Prosecutor General for the visibility and outreach of his work.

I gained considerable criminal expertise during the thirteen years from 1993 to 2006 during which I served as an examining judge at the Paris military tribunal, a specialised international tribunal for French soldiers on foreign operations who perpetrated or were victims of offences.

In that context, I participated in many missions abroad, in particular in Africa, to investigate on site, to meet fellow judges to process international letters rogatory, and to meet the French diplomatic authorities and the ministerial and governmental authorities of the countries concerned. I went on many missions to Côte d'Ivoire, Djibouti, Senegal, Togo, Gabon, Chad, Rwanda and also to the Balkans, Kosovo and Macedonia.

I have carried out investigations often in complex and at times very sensitive cases with considerable national and international press coverage, in international, diplomatic and military contexts. Two cases illustrate this work: the accusations filed by Tutsi victims of the Rwandan genocide in against France for complicity in crimes of genocide and complicity in crimes against humanity in February 2005; and the case concerning the bombing of Bouake in Côte d'Ivoire which killed nine French soldiers and left many wounded in November 2004.

*Proven record of independence and impartiality and commitment to upholding justice, accountability and human rights, and ensuring gender equality*

The two cases above demonstrate my independence and impartiality, which are qualities expected of any magistrate, in particular in cases in which the interests of the State are not necessarily aligned with the interests of justice.

Concerning the Rwandan genocide, it is owing to my strong sense of justice and to my unwavering determination to investigate, in strict compliance with international texts and with the code of criminal procedure, that there are now judicial proceedings in France, 25 years after the genocide. And it was as a duty of remembrance that I participated in a conference marking 25 years since the Rwandan genocide organised by the FIDH (the International Federation for Human Rights) and the SURVIE association in Paris in June 2019.

The investigation into the bombing of Bouake also called for a strong determination on my part, as the environment was not particularly conducive to uncovering the truth. The case will be judged by the Paris Court of Assize in spring 2020, fifteen years after the crimes were committed.

Through these two emblematic cases, which showed my calm, rigorous and firm temperament, I demonstrated that I possess the independence and impartiality required, the extent of which is often tested in practice and in sensitive contexts. This personal disposition reflects my commitment to stand for justice, as I have done for 31 years, at both the national and international level.

Indeed, having become an International Criminal Court expert in 2009, I set out to promote international criminal justice by organising conferences. In particular:

-A colloquium at the University of Paris 1 (Panthéon Sorbonne) opened by Robert Badinter, former Minister of Justice and a great observer of the XXth century;

-A series of three conferences in Algeria in connection with the national association of Algerian lawyers and the Bar Association of the city of Sétif, and which included a speech by a representative of the Office of the Prosecutor of the ICC on "les infractions transnationales, la Cour pénale internationale, le droit international humanitaire" [Transnational crimes, the International Criminal Court, international humanitarian law],

“les droits de la défense” [the rights of the defence], “la médiation et l'aide aux victimes” [mediation and victim assistance].

In a similar spirit, I participated in a training seminar on French legal and judicial language organised by the ICC for judges and Staff of the Office of the Prosecutor of the ICC, with Maître François Ameli, a French counsel on the list of the ICC.

I defended human rights and gender equality in my work as it related to the politics of the city, with a view to reducing inequalities between neighbourhoods and people and to strive for the harmonious development of society in all its cultural diversity. I dedicated eight years of my professional life to this goal, first as the head of the department for the prevention of delinquency at the city's inter-ministerial delegation, and then as a Secretary general of the National Council of Cities, a national advisory body chaired by the Prime Minister, consisting of members of parliament, mayors, associations, experts and civil society representatives.

In that position I acquired expertise in safe and reassuring land development and in proper local governance, which imperatively must include a democratic component based on respect for rights and the participation of the inhabitants, in particular in countries under reconstruction.

The promotion of human rights is an endless process, and it is therefore necessary to continually educate. I taught general culture for 12 years at the University Paris 1 (Panthéon Sorbonne) to students preparing the competitive examination of the National School of the Judiciary. The training of minds, in particular of future decision makers, in human rights and gender equality is how these will be passed on from generation to generation. While they are recent in terms of history, their universality is still a daily battle.

Accountability can be understood in different ways; universal suffrage, oversight by the Court of Audit or by independent administrative authorities, or the review of public policies. Reporting on accountability is an act of democracy and of trust between inhabitants and local or national public authorities, which form part of the contemporary notion of transparency. I was subject to it in various forms, and in particular when I served as director general of a department.

*Demonstrated financial management, management and leadership experience:*

From 1 July 2016 to 30 June 2019, I was Director General of the Departmental Council Services of The Ardennes which has 283 000 inhabitants and is situated in the East of France. I managed the 1'700 agents of this local community with broad powers in social and land use planning matters, with a view to ensuring the equal treatment of all areas and persons.

I managed a yearly budget of 400 million euros, and periodically had to report back to elected representatives on the overall performance of the budget. I gave the community a strategic plan for valuing, streamlining and coordinating State action, through a concerted and interactive method, with a view to reform governance and establish priorities.

The managerial aspect of this work was very important as I steered the overall reorganization of the department, reformed the internal approach to management in order to decompartmentalise the administration, diversified sources of funding and strengthened communication. Leadership, valuing staff, respect, professionalism, dialogue and decision making have all underpinned my approach to management throughout my career.

As the mother of two children, I turned leadership into a personal commitment to youth by supporting several associations: the International Give1Project Association created by Thione NIANG, which I helped to bring to France in 2010, the “Les Déterminés” association [The Determined] and the “Débarquement jeunes en faveur de l'entrepreneuriat et de la jeunesse” association [The Young People's Landing for Entrepreneurship and Youth].

*An in-depth knowledge of national or international criminal law and procedure, international humanitarian law and public international law:*

As a long-standing criminal law judge, I have a perfect command of criminal law and procedure. Not one of my investigations has been cancelled due to a procedural flaw.

Having worked for an international tribunal specializing in military cases for 13 years, I am fully versed in matters related to the rules of engagement, international criminal law and procedure, humanitarian law and public international law.

I acquired a strong knowledge of Anglo-Saxon procedure through the Rwandan Genocide file and through my various actions to promote the International Criminal Court.

I hope that this detailed statement about my long career will have convinced you that I possess all of the competencies and skills set out in the vacancy announcement: professionalism, judgement/decision-making, integrity, strategic awareness, leadership, financial competencies, planning and organizing, communication and using digital technologies, acquired through all of the missions, responsibilities and duties described.

I am a firm believer in the role of the International Criminal Court in world peace and in generating a dialogue between peoples and cultures. However, nothing can ever be taken for granted.

International criminal justice is currently at a crossroads between law, geopolitics, diplomacy and morality, which makes it difficult to render. The International Criminal Court, established to bring universal justice, is itself at a critical time in its history, which is relatively short. It faces two major and dangerous threats to peace: the end of multilateralism and the retreat of law throughout the world, including in Europe. States are withdrawing from the International Criminal Court. In such circumstances, how could its development be steered to achieve the significant results that will see it endure?

My application also fuels a project to reflect on the efficiency of the Court's mode of operation and of its investigative procedure, the duration of which does not guarantee the expected result. How can you guarantee prosecutions and convictions which fully observe the rights of the perpetrators and of the victims within a reasonable period of time? Such is most certainly the main challenge of the coming years, in order for the International Criminal Court to incarnate the fight against and the prevention of crimes against humanity, though deterrence and the promotion of good governance.

Such are my convictions and such is my plan for the International Criminal Court.

Please accept, Sir, Madam, the assurances of my highest consideration.

Brigitte RAYNAUD

#### **4. Curriculum vitae (as submitted)<sup>5</sup>**

*Magistrate at the Paris Court of Appeal*  
*Dual French and Ivorian nationality*  
*Exercises civil and political rights in France*  
*Decorated with the National Order of Merit*  
*Reserve Colonel*

#### **AREAS OF EXPERTISE : JUSTICE / INTERNATIONAL - GOVERNANCE - ARMY – AFRICA**

**National justice - international justice - Army - Africa: legal and judicial expertise, both nationally and internationally, expertise in national defence and security, with a very good knowledge of the African continent**

Since July 4,  
2019

#### **General Substitute at the General Prosecutor's Office of the Paris Court of Appeal**

- Ensuring the consistency of judicial policies within the jurisdiction of the Court of Appeal, auditing and monitoring of the functioning of the courts within the jurisdiction, annual report on public action, international action, local public action to promote access to rights and equality, the fight against

<sup>5</sup> Ms. Raynaud submitted an updated curriculum vitae to the Committee, in English and in French, on 24 November 2020.

- discrimination and violence against women, and the prevention of and fight against crime in neighbourhoods in difficulty
- March 2014-  
June 2016 **First Vice-Prosecutor at the Tribunal de Grande Instance of Paris**
- Financial, economic and commercial sector: bankruptcy and insolvency proceedings, prevention of business difficulties, business criminal law (investigations, requisitions, hearings)
- Since 2009 **Expert to the International Criminal Court of la Haye**
- Organization of international colloquiums in Algeria, Bou Saâda, Sétif and Béjaia on "The practices of the provisional international criminal courts, the ICC: jurisdiction and criminal policy of the Prosecutor, transnational criminal offences under international humanitarian law" and on "Mediation, the rights of the defence, assistance to victims
  - Promotion of partnerships with the Setif Bar Association and the National Union of Algerian Lawyers of Setif Delegation of M'Sila
- December  
1993-February  
2006 **Investigating Judge at the Tribunal aux Armées de Paris (Paris Military Court)**
- In charge of the investigation of military affairs with general jurisdiction for offences committed outside the national territory and in external theatres of operations. Numerous missions abroad - Kosovo, Djibouti, Senegal, Chad, Rwanda, Togo, Gabon, Ivory Coast - in close liaison with the diplomatic and judicial authorities of the countries.
  - Common criminal offences, military criminal offences, genocide, offences against State security, etc.
- September to  
November 1993 **Public Prosecutor's Office in Paris**
- Economic Affairs Officer
- January 1988-  
August 1993 **Public Prosecutor's Office in Metz**
- In charge of financial and commercial affairs
  - In charge of relations with the Chamber of Commerce
- 1986-1987 **Auditor of Justice at the Ecole Nationale de la Magistrature (National School for the Judiciary)**
- Governance and Management of a local authority and a public institution: expertise of local authorities, decentralisation and urban-rural development policies** from all aspects (economic, social, environmental, security, democratic) and all societal issues (issues of diversity, youth, reconstruction, civil society, NGOs and participatory democracy). Expertise developed in contact with ministerial offices, parliamentarians, des think tanks and circles, networks of local and national elected officials (associations of mayors, departments, regions of France.
- July 2016-June  
2019 **Director General of Services of the Ardennes Departmental Council**
- Administrative direction and management of 1700 employees for three years : general reorganization of services, creation of a legal affairs department to prevent corruption and ensure legal security for the acts of the community and agents, structuring and strengthening of trade union dialogue and quality of life at work, dematerialization, introduction of project mode work to decompartmentalize services, Fostering leadership and the emergence of talent, driving new development projects and partnerships in connection with Greater Paris and neighbouring countries, opening up the department to the international market, strengthening communication and public action in proximity to the most disadvantaged populations, developing infrastructure and new technologies; implementation of the reform of the territorial competences of the departments in conjunction with the Regions and Metropolises; work in close collaboration with members of parliament, deputies and senators.

400 million for a department with a population of 283,000 inhabitants, with debate on budget guidelines, monitoring of budget implementation and reporting to elected officials and to the regional chamber of the court of auditors, if necessary.

- March 2010-  
2014 **Secretary General of the National Council of Cities**  
National consultative body of 55 members (including 25 mayors and parliamentarians representing 25 cities, representatives of NGO associations, experts and civil society), chaired by the Prime Minister. Mission to make recommendations to the government on public policies for suburbs and territories in difficulty in terms of urban, social, economic and environmental development, prevention and fight against insecurity and radicalization, and territorial governance in connection with the emergence of metropolises.
- March 2006-  
February 2010 **Head of the Department of Crime Prevention and Citizenship Interministerial Delegation to the City - senior civil administrator**  
Interministerial and operational body for urban policy: design, financing and implementation of public policies for suburbs and neighbourhoods in difficulty, action programmes for access to the law, equality of persons and territories, promotion of women, civic education, crime prevention and the fight against discrimination and inequality. Implementation and financing of government action programmes at the national level with evaluation and accountability.

## **SECONDARY ACTIVITIES: VOLUNTEER COMMITMENTS, TEACHING, PUBLISHING**

### **Volunteering :**

- Since 2006 Support for the association Débarquement Jeunes, based in Rouen in Normandy, chaired by Stéphane Meterfi, Knight of the National Order of Merit, in favour of aid to the underprivileged, mediation, prevention, cultural and sports activities aimed at promoting the social and economic integration of young people into society.  
Member of the organising committee of the Nuit des Trophées, a cultural and musical event in favour of youth entrepreneurship and leadership.
- Since 2010 Member of the International Association Give1Project created in the United States by Thione NIANG (founder with the artist AKON of AKON LightingAfrica, President of the Young Democrats of the College Caucus, co-president of the GEN44, Ambassador within the American Department of Energy): promotion of youth, leadership and entrepreneurship, international association widely developed on the African continent.  
Co-founder and board member of Give1Project France in 2010
- Since 2012 Member of the INTA World Forum (Urban Development and Public Policy)  
Founding member of Cercle K2 (Security consulting for companies, ethics and development)
- Since 2018 Member of the Cercle Rimbaud aiming at the cultural and economic promotion of the Ardennes (French department on the Belgian border) and at the development of the diasporas.

### **Teachings :**

- 2013-2015 Interventions at the Ecole Nationale de la Magistrature in the framework of a seminar on the inclusion of judicial policies in the political landscape and territorial public policies
- 2010-2014 Teaching at the University of Paris Sud XI

- 2007-2009 Master 2 Diplomacy, Mediation and International Relations  
Teaching at the University of Paris 2 Panthéon-Assas  
"Ethics and Criminal Law in Security and Defence".
- 2004-2015 Teaching for general culture at the Jean Domat Institute of Judicial Studies at the University of Paris 1 Panthéon-Sorbonne, Preparation for the competitive examination of the Ecole nationale de la magistrature

## EDUCATION

- 1986-1987 École nationale de la magistrature - entry rank 8th, age 22
- 1981-1985 Master's Degree in Private Law at the University of Lille II (Northern France)
- 1981 Baccalaureate series C - Schooling followed at the collège des Hautes-Loges and the lycée Yves Kernanec in Marcq-en-Barœul (Nord)

## PUBLICATIONS AND COMMUNICATION

- October 2019 Intervention at the Colloquium "The Diversity of Mediation", University of Paris 2
- June 2019 Intervention at the colloquium of 22 June 2019 organised by FIDH "Bisesero, Operation Turquoise in the face of the genocide of the Tusi of Rwanda."
- December 2016 Collective work under the direction of Jacques Delga, professor at the Essec: "white collar crime: business, financial and fiscal delinquency "
- July 2015 Parole publique review: "Justice in the face of globalization".
- October 2015 Les Cahiers Constitutionnels de Paris 1 Sorbonne: "Justice and the military". 10th Spring of Constitutional Law, defence competences under the Fifth Republic
- April 2015 French Journal of Criminology and Comparative Law: Victim Assistance and Prevention
- March 2014 Cahiers de l'Orient " La médiation et l'interculturel " (Mediation and Interculturality)
- June 2013 Tunis- Paris Sud XI Symposium "Cities and the French-speaking world's economy".
- March 2013 Review Parole Publique " Médias, participation des habitants et Imagedes quartiers " ("Media, participation of inhabitants and Imaging of neighbourhoods")
- December 2012 International Colloquium on Mediation University of Padua (Italy) organised by Michele De Gioia, Professor at the University of Padua
- March 2012 Proceedings of the Centre d'analyse stratégique "What is the point of urban renewal?"
- January 2012 European Urban Policy Review EUKN: "Citizen participation and grassroots democracy".
- March 2007 National newspaper Libération: "Crime prevention, the duty of the heart"
- December 2005 Portrait in the national newspaper Le Monde: "Seule face à la Grande Muette" ("Alone in front of the Great Mute")