

Milandou, Prosper (Republic of the Congo)

[original: French]

Statement of qualifications

Detailed document accompanying the nomination of Mr Prosper MILANDOU for the post of judge of the International Criminal Court.

The present document was prepared in accordance with article 36, paragraph 4(a)(ii) of the Rome Statute of the International Criminal Court (the Statute), and paragraph 6 of resolution ICC-ASP/3/Res.6, which recommend that such a detailed document be prepared. This document contains the items indicated on page 2 of the note verbale of 20 December 2019.

1) Qualities required under article 36, paragraph 3 of the Statute

a) Qualities required under article 36, paragraph 3(a)

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

Organic law No. 29-2018 of 7 August 2018 on the organization, composition and functioning of the High Council of the Judiciary (in the Republic of the Congo), under its article 8(3), lists the following criteria for the nomination of judges [TRANSLATION]:

- impartiality;
- technical skills and qualifications;
- probity and moral integrity;
- professionalism;
- seniority in the profession;
- professional experience;
- a deep sense of patriotism and strong belief in the duties of the State.

Article 10, paragraph 1 of above law also provides, as a condition to be nominated to the highest judicial offices, not to have been subject to disciplinary sanctions in the ten years prior to the proposal.

This organic law mirrors and completes the provisions of articles 8 and 10 of organic law No. 22-2008 of 26 July 2008 on the organization, composition and functioning of the High Council of the Judiciary (in the Republic of the Congo).

The various criteria listed under article 8 above are freely assessed by the High Council of the Judiciary, the First Vice-President of which is the Minister of Justice. Having been regularly appointed to various positions in the judiciary, Mr Milandou has fulfilled and continues to fulfil these criteria. It should also be emphasized that he has never been subject to any disciplinary procedure, disciplinary sanction or legal proceedings.

In other words, the qualities required under article 36, paragraph 3(a) of the Statute have been assessed domestically, and Mr Milandou possesses them all.

b) Qualities required under article 36, paragraph 3(b)

Article 36, paragraph 3(b) of the Statute provides that every candidate for election to the Court shall:

- (i) Have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or
- (ii) Have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court.

Mr Milandou was appointed judge of the High Court of Impfondo by decree No. 2013–194 dated 17 May 2013 on the appointment of judges to domestic courts. He was a judge of the Criminal Division of the High Court and in that capacity, he heard cases of serious offences.

By order of the President of this Court, dated 24 July 2013, he was appointed children’s judge and examined cases involving minors and tried certain cases alone, in accordance with the code of criminal procedure. The

children's judge is the president of the juvenile Court. It is in that capacity that he heard the cases involving minors.

By decree No. 2014–237 of 21 May 2014 on the nomination of judges in domestic courts and tribunals, Mr Milandou was appointed examining magistrate of the Second Chamber of the High Court of Impfondo. During the four years that he spent in that position, in addition to examining cases, he broadened his experience of criminal trials, criminal law and criminal procedure in other ways: by once again serving the Criminal Division of the High Court, whenever one of the judges was unavailable; as acting public prosecutor, whenever the latter and his deputies were away from the judicial division; and as acting President of the Court, at times when the latter was not available. As a result of the large number of criminal cases that he heard and referred to the Court of Appeal of Ouessou, a criminal session was held in Impfondo for the first time in 2018.

By decree No. 2018–104 of 14 March 2018 on the appointment of high court judges, Mr Milandou was appointed examining magistrate of the Eighth Chamber of the High Court of Brazzaville. The 2018 statistics show that out of the eleven examining magistrates of the Brazzaville High Court, he issued the most closing orders in 2018. The large number of decisions he issued demonstrate his skills in the area of criminal law and criminal procedure.

The preliminary examination is one stage of criminal trials. Mr Milandou has seven years' experience with criminal law, criminal procedure and criminal trials. As a judge and examining magistrate, he exclusively deals with criminal matters. Thus, his many different functions have provided him with remarkable skills and solid experience in criminal matters (criminal law, criminal procedure and criminal trials).

c) *Qualities required under article 36, paragraph 3(c)*

Article 36, paragraph 3(c) of the Statute provides that every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

Article 50, paragraph 2 of the Statute provides that “the working languages of the Court shall be English and French”.

The official language of the Republic of the Congo is French. Mr Milandou learnt to write and speak French at school as of age five. All his studies were in French. From 2006 to 2010, he taught French in several private high schools in Pointe-Noire and Brazzaville. French is the working language of the Republic of the Congo.

Thus, Mr Milandou has an excellent knowledge of and is fluent in French, which he writes and speaks perfectly.

2) List chosen by the candidate

In accordance with paragraph 5 of article 36 of the Statute, Mr Milandou is being nominated for **list A** which contains the names of candidates with the skills described under paragraph 3(b)(i), and in particular qualifications and experience in criminal matters (criminal law, criminal procedure, criminal trials).

3) Information contained in article 36, paragraph 8(a) of the Statute

The States Parties, in the selection of judges, take into account the need, within the membership of the Court, for:

i) The representation of the principal legal systems of the world

The Republic of the Congo applies the Romano Germanic legal system, in which judges sit in the examining phase, in criminal divisions and in courts of appeal, whilst in criminal courts, there is a judge and a jury;

ii) Equitable geographical representation

The nomination of Mr Milandou falls under the region of African States;

iii) A fair representation of female and male judges

Mr Milandou is a man.

4) Expertise

In regard to article 36, paragraph 8(b) of the Statute, Mr Milandou does not have any particular legal expertise. He examines all criminal cases submitted to him, in accordance with the code of criminal procedure.

5) Nationality

Under article 36, paragraph 7 of the Statute, Mr Milandou is **Congolese from the Republic of the Congo**. He does not have any other nationality.

6) Nominations of candidates

Under article 36, paragraph 4(a), nominations of candidates for election to the Court may be made by any State Party to this Statute, and shall be made either:

- i) By the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; or
- ii) By the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.

Domestically, nominations may be proposed by the Minister of Justice (First Vice-President of the High Council of the Judiciary), First President of the Supreme Court (Second Vice-President of the High Council of the Judiciary), Public Prosecutor attached to the Supreme Court, and other ex-officio members.

The nomination of Mr Milandou is submitted according to the method provided under article 36, paragraph 4(a)(i) of the Statute.

7) Commitment

Mr Milandou commits to be fully available to take up full-time service as a judge when the Court's workload so requires.
