

ADVISORY COMMITTEE ON NOMINATIONS OF JUDGES

QUESTIONNAIRE

A. Nomination process

1. The Statute requires every candidate for election to the Court to 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 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.

Could you please describe your experience and competence in the areas specified? For how long? In which capacity?

I am a long-life prosecutor who spent seven years at the European Agency for International Judicial Cooperation in Criminal Matters (Eurojust) based in The Hague. In this position, I addressed a wide range of issues such as terrorism, security and the European Arrest Warrant and I coordinated the execution of international judicial cooperation in criminal matters.

Subsequently, I moved to the position of a Prosecutor-General of the Czech Republic (2011-2021) where among other matters I was in charge of the most complex criminal cases.

Currently I serve as a senior prosecutor at the Prosecutor General's Office and I am responsible for drafting legal opinions and methodology, including those with respect to issues of war crimes, genocide and cybersecurity.

In addition, I lecture on criminal law and procedure at various universities. I am also a fellow researcher of a project on electronic evidence at the Faculty of Law of Masaryk University in the Czech Republic. I am also involved in a project on developing of a training on cyber-issues for prosecutors and judges at the university.

2. Do you have any experience or competence in handling litigation or inquiring or investigating into issues related to violence, discrimination, sexual assaults, or other similar conduct, inflicted on women and children? In which capacity

Yes. I was dealing with such crimes when serving as a prosecutor at both the district and regional levels, including when I had the position of a Prosecutor General of the Czech Republic. In addition, I am a co-author of the manual for prosecutors on how to approach vulnerable victims. This manual has improved the practice of law enforcement and prosecution in the Czech Republic.

3. Have you ever been investigated for, or charged with, allegations of corruption, criminal or administrative negligence or any other similar misconduct, including sexual harassment? Was there a conclusive determination?

No.

B. Perception of the Court

1. What is your vision of the International Criminal Court and its dual nature as a court and an international organization? How do you see the main differences between the ICC and the two *ad hoc* Tribunals for the former Yugoslavia and for Rwanda?

The ICC is the first permanent criminal court with universal jurisdiction established by an international treaty. In this regard the ICTY and ICTR, established by a resolution of the UNSC under Chapter VII of the Charter of the United Nations, helped to pave the way to its establishment. The role of the UNSC is of a great importance in referring situation to the Prosecutor of the ICC.

The ICC also deals with the rights and compensation of victims, which is a unique development and a building stone for restorative justice.

There are challenges that belong to the Court (i.e. length of proceedings, dealing with evidence) as an organ and to those that are to be dealt with States Parties (i.e. budget issues, review mechanism).

2. What would be the main criticisms you are aware of in relation to the Court's proceedings?

Length of proceedings, inconsistencies of approaches by different Chambers, perception of the Court as not of an universal one (quite recently the ICC was perceived by some countries as an African court, nowadays is being seen by some countries as a court for Ukraine).

3. Do you have any suggestions on changes that could be proposed in order to improve the perception of the Court in the eyes of the international community?

In my opinion it is not just a matter for a better perception by the international community. The Court is here to deliver justice. Justice must not only be done but it also must be accepted by society (international community is in that sense a limited expression). In order to be successful in gaining trust, one should communicate more about the work and results of the Court, in particular about rights of victims and the Trust Fund for Victims.

Apart from that, a special emphasis should be put on improving working culture at the ICC. Bullying, bossing and harassment damages the perception of the Court.

4. Which are, in your view, the most important decisions issued by the Court in the past years, that have had an important impact in relation to its perception *vis-à-vis* the States Parties and the public? Could you give and explain at least one positive and one negative example?

Kenyatta, Ruto and Sang cases (in general Kenya cases) – From the side of the OTP could have been seen as unsuccessful cases (no condemnation). However, it lead to improvements of the OTP's work.

Bemba case – Mr. Bemba was in a custody for ten years and afterwards was acquitted. I am convinced that procedures at the ICC must be much faster. Protection of human rights, defendant included, is a mandatory obligation.

Al Bashir Appeal case – Significant for the issue of non-cooperation and immunities.

Al Mahdi case – First case in which directing attacks against historical monuments were considered as a war crime.

Decision on investigation into the situation in Ukraine – currently influencing public opinion. ICC entered into JIT and cooperates with CISED, which are new elements in investigation.

C. Judge's independence

1. What in your view should be the relationship between a Judge and the authorities of his or her country of origin? Similarly, how do you envisage your future relationship with bodies such as universities, courts or non-governmental organizations with which you have been involved or to which you have been affiliated, if elected to the ICC?

As a general rule, there is a no relationship between a Judge and the respective authorities.

If elected, and if confidentiality of proceedings are to remain maintained, there is no problem of accepting an invitation to present personal views.

Judge's independence doesn't mean that s/he is isolated from the rest of the society. This is more about his/her personal integrity.

Universities, for instance, enjoy academic freedoms and thus I see no reason why a Judge should not be active at university (obviously not talking about cases which might recuse him / her later on from decision-making process).

2. In your view, can a Judge participate in a trial involving a national from his or her country of origin? Why?

In general, this should not pose a problem. However, in my opinion, this should be decided on a case by case basis. One must carefully take in consideration both criteria for a possible recusal – with relation to a case and/or with relation to a person.

3. Which jurisprudence/decisions do you consider necessary, useful and appropriate to be considered during proceedings at the ICC? From national courts? From international courts? From Human Rights bodies?

The overall answer lies in article 21 of the Rome Statute. There is a link to question no. B/1 related to ICTY / ICTR: its jurisprudence could be of a use as well.

4. In your view, what should be the approach of an independent Judge when faced with precedents established by the Appeals Chamber of the Court?

Article 21 (2) of the Rome Statute provides the answer in this regard. However, this answer is not directly connected to independence of a Judge as independence is governed by a different article (40) of the Rome Statute.

5. Do you consider that a Judge or a Chamber of the Court, in order to ensure efficiency, should be allowed to implement innovative procedural practices? If yes, please give examples.

The Rome Statute leaves rather a big space of manoeuvring for the activity of a Judge at a trial/proceedings. I believe that a Judge can decide himself/herself whether s/he becomes more active or passive in the proceedings.

There are different ways how to improve efficiency of the Court. Some of the innovative procedural practices might be applied irrespective of article 51 (3) of the Rome Statute. For instance, the introductory training for Judges and in particular the new incoming staff.

As to a trial: one could also think about page limits (for written submissions), time limits (for preparation for a procedural step) and limiting number of witnesses (if applicable).

6. How do you envisage working with a hybrid criminal procedure, different from the one you experienced in your national functions? How do you envisage your working relationship with other Judges from different backgrounds and from different legal systems?

As I have mentioned earlier, I had the pleasure working at Eurojust for seven years. During my time there I have highly enjoyed working with colleagues from both the civil law and common law traditions.

7. Are you used to working as part of a team? How would you deal with a disagreement in relation to a certain aspect of a decision? What are your views in relation to writing separate concurring and dissenting opinions?

I am used to work as a part of a team. I have been doing this for whole my carrier. Up to date, I am a part of a team dealing with cybersecurity capacity building and I am also a fellow researcher at a university.

I prefer to discuss an issue with my colleagues and I make every attempt to come to a consensus. Such discussions might be lengthy but in the end they usually result in high quality decisions. Only in case of a strong and fundamental disagreement I would think about a dissenting opinion.

D. Workload of the Court

1. Are you prepared and available to serve at the commencement and for the duration of your term, if elected and if called to work at the Court full-time?

Yes.

2. Work as a Judge of the ICC frequently involves many hours a day, including into the evenings and over some weekends. Holidays can only be taken at fixed periods during the year when, for instance, there are no hearings. Are you prepared for that?

Yes.

3. The Court has two working languages. What is your opinion about this matter? How could multilingual challenges be better addressed by International Criminal Court judges ?

I am fluent both in English and French. I believe that multilingualism is important in order to enhance communication and most importantly facilitate understanding.

4. What is your approach to writing decisions? Will you undertake this work yourself? To what extent would you delegate drafting to assistants or interns?

I would use the assistance of a team for analytical and supportive work (searching for legislation, analysing case law, and witness statements). Nevertheless it would be my role to set up the framework of the decision and to write the final draft as the responsibility would be mine.

5. Which are, in your view, the decisions that could and should be issued by a Single Judge in order to expedite proceedings?

In simple terms those are the decisions that are not supposed to be dealt by all members of the Chamber. For instance decisions regarding management of a case should be done by a Single Judge. Single Judge also has a role in a unique investigative opportunity.

6. Are you used to working under pressure from States, governmental authorities, national or international organizations, the media or the wider public? Can you provide an example?

Yes. As a former Prosecutor General, I had to deal with cases that had attracted a huge media interest.

7. Are you in good health and able and prepared to work under pressure, given the Court's heavy workload? Have you ever been on leave from your professional duties due to exhaustion or any other work-related incapacity? If yes, for how long?

Yes, I am in good health and prepared to work under pressure. I have never been on leave from my professional duties due to such issues.

E. Deontology

1. What is your definition and understanding of an independent Judge?

Independence is a mandatory requirement for a Judge (article 40 of the Rome Statute). Apart from the legal language, I understand it as a basic rule, together with impartiality, that allows the Judges to effectively carry out their duties.

2. In your view, what would constitute a conflict of interest for a Judge?

The Rome Statute (article 41 (2), a)) is a guiding provision in this regard. At the same time, every and each situation needs to be approached on case a case basis.

3. Should considerations relating to race, colour, gender or religion be taken into account when assessing a candidate's suitability to be a judge at the ICC? Why?

No.

4. Have you ever been the subject of disciplinary, administrative, criminal or civil proceedings in which your professional or ethical standing has been called into question? If yes, please provide details, including the outcome.

On 15 July 2021, a complained was filed by the Minister of Justice at the time regarding my alleged non recusal in a case which had previously brought media attention. On 15 December 2021, the Supreme Administrative Court dismissed the complaint and decided about my acquittal explaining that neither I was biased not my recusal was obligatory.

5. What measures and decisions would you take, if you are elected, to ensure the effective participation by victims in the proceedings?

The uniqueness of the ICC is also closely related to the fact that the ICC is the first permanent universal court that deals with the rights of victims. At the same time, the Trust Fund for Victims is a great achievement.

I would cooperate closely with the Registry and with the Trust Fund for Victims. An effective victims participation is only possible if the proceedings are well planned and scheduled.

One should also add that vulnerable victims deserve different and sensitive approach in order to avoid secondary victimization. It is up to a Judge to guarantee that such an approach is taken.

6. In reaching a decision, how would you approach the need to balance the rights of an accused person and the rights of victims, which are both protected by the ICC's legal texts?

There is no controversy in maintaining rights of defendants and victims. The defendant has, among others, right to question witnesses and victims and victims do have (among others) the right to fair approach in particular in cases of vulnerable victims.

F. Additional information

1. Are you fluent in at least one of the working languages of the Court? Can you speak fluently in public hearings and meetings, and write your own decisions in one of the working languages of the Court?

Yes. I am fluent both in English and French. I am used to deliver lectures/presentations in English, French and German. I can have a decent communication also in Russian.

2. Do you have any other nationality, other than the one indicated in your nomination, or have you ever requested another nationality?

No.

3. Have you familiarized yourself with the conditions of service (which include the remuneration and the pensions' scheme) for the Judges of the Court? Are you aware of, and do you accept, the Terms and Conditions of work?

Yes.

4. If elected, are you willing to participate in a financial disclosure program organized by the ICC?

Yes.

5. Is there any other information which should be brought to the attention of the Committee and which might call into question your eligibility for judicial office?

No.

G. Disclosure to the public

1. You have the option to make your answers to this questionnaire public. What is your preference in this regard?

I am content to make my answers public.
