

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 below? For how long? In which capacity? (par. 2.2 of the Guiding Principles on National-level Procedures for Nominations of Judges of the International Criminal Court)

- a) A graduate and postgraduate legal education, recognizing assets of the postgraduate studies and specialization in the legal fields relevant for the work of the Court**

During my studies between 1998 and 2005, I specialized in public international law at the highest levels, obtaining official recognition, grants and awards for my academic work.

I have a Ph.D. in Public International Law from *Université Paris I-Panthéon-Sorbonne* (France) and the *Universitat Jaume I* (Spain), co-directed by Professors Yves Daudet and Jorge Cardona.¹ The subject of my thesis was the relationships between the United Nations (“U.N.”) and regional organizations on the use of force. It was awarded with a “Mention très honorable avec félicitations du jury”, proposed for prizes and for a subvention for its publication. It won the Suzanne Bastid prize in 2005 for the best doctorate in public international law in the French language,² and the “Premio extraordinario” from *Universitat Jaume I* (2005).

I have two LL.M. degrees. The first (Paris 1, 1998-1999) is in public international law and international organizations, which included courses on international humanitarian

¹ I have a “*co-tutelle*” Ph.D., which designates a doctorate awarded to a doctoral candidate whereby two higher education institutions certified to award the doctoral degree, generally from different countries, agree to certify and award the doctoral degree jointly, thereby allowing the candidate to develop the research project in alternating stays at the partner institutions. The doctoral candidate is supervised academically by at least two supervisors, one from each institution, and the jury is composed of members designated by each institution.

² The “Suzanne Bastid” is the doctoral thesis prize awarded by the *Société Française pour le Droit International (SFDI)*, the French Society for International Law. It is awarded annually for the best Ph.D. thesis in public international law defended at a French or Francophone university during a specified period.

law and international criminal law, with my Master's thesis being on universal jurisdiction for crimes against humanity. The second (*Universitat Jaume I*, 2002-2003) is in constitutional rights and duties, focusing on the law of human rights in both Spanish law and in international law.

I also conducted post-doctoral studies as a Global Crystal Eastman Research Fellow at New York University's Hauser Global Law School Programme (2004-2005), for which I was also awarded a Fulbright grant. My research focused on the use of international law by domestic jurisdictions.

In parallel to my postgraduate education, between 1999 and 2005 I worked as assistant professor and researcher at two French universities (*Paris I-Panthéon-Sorbonne*, and *Paris II-Paris-Sud*) and at New York University ("NYU"), researching and teaching public international law, constitutional law and administrative law. I became a full-tenured professor in 2005 (*Université de Cergy-Pontoise*).

b) Professional activities in relevant capacities such as judge, prosecutor, advocate, legal scholar or similar

I have been working in OLA since 2015, first as a Senior Legal Officer and since 2018 as a Principal Legal Officer (Director level).

I am currently a Principal Legal Officer in the U.N. Office of Legal Affairs ("OLA") of the U.N. Secretariat, leading teams providing legal advice on issues of public international law related *inter alia* to conflict and post-conflict situations, including international humanitarian law, international human rights law and international criminal law.

During my time at the U.N., I have been deployed as Acting Director of the Department of Legal Affairs of UNRWA in Jerusalem, advising on the legal aspects of the humanitarian crisis stemming from the 2021 armed conflict in Gaza, including legal questions of international humanitarian law, international human rights law, international refugee law, international criminal law and accountability, and privileges and immunities. I have also been deployed as Acting Special Adviser and Head of the Investigative Team to promote accountability for crimes committed by Da'esh/ISIL in Iraq (UNITAD) (see next question for detailed information).

Prior to joining the U.N., and since 1999, I have been a researcher and professor of public international law in various universities, including the *Université Paris I (Panthéon-Sorbonne)*, New York University, *Institut d'Études Politiques de Paris - "Sciences-Po"*, *Universidad Autónoma* and *Universidad Complutense de Madrid*.

Subsequently, as a professor, I have taught general courses in public international law and specialized courses in international humanitarian law, international human rights law and international criminal law, including specific seminars on international humanitarian law for the military at the Spanish Ministry of Defence. I have also participated in seminars on international human rights law and violence against women for judges from different legal traditions in the context of cooperation programmes of the Council of Europe and Spain (e.g. in Morocco and Romania). I have also served as the director of the Spanish branch of a European research team on the rights of detainees in international human rights law, funded by the European Union Commission.

I worked as Senior Legal Advisor at the Spanish Ministry of Justice (in the cabinet of the Secretary of State) between 2007 and 2011, in which capacity I routinely provided advice on questions of public international law related to international human rights law, international humanitarian law and international criminal law, including in the context of judicial cooperation for criminal matters and for terrorism-related files. I was a member of the team preparing materials and representing Spain before various U.N. human rights committees, and for the U.N. Human Rights Council's Universal Periodic Review.

c) Proven experience in dealing with complex criminal cases

In 2024, I was appointed Acting Special Adviser and Head of the U.N.'s Investigative Team to promote accountability for crimes committed by Da'esh/ISIL (UNITAD). In this capacity, I personally supervised, reviewed and made final legal determinations on analytical reports and case assessments relating to acts committed by ISIL (Da'esh) in Iraq that may have amount to war crimes, crimes against humanity and/or genocide. This involved assessing the evidence of such acts that UNITAD had collected for eventual use in fair and independent criminal proceedings. During its mandate, the Team supported some 300 requests for assistance received from 21 States, aiding their ISIL-related national investigations and prosecutions. By the time the mission closed, at least 18 cases under investigation supported by the Team had led to indictments, and at least 15 cases ultimately resulted in convictions.

UNITAD produced 19 case assessments and analytical reports - hundreds of pages - covering specific acts committed by ISIL (Da'esh) in Iraq that may amount to crimes against humanity, war crimes and/or genocide, perpetrated against the Christian, Kaka'i, Shabak, Shi'a, Turkmen, Sunni and Yazidi communities. These included a report on the destruction of cultural heritage, and a further report on sexual violence. Most of these reports were finalized under my supervision, and were subsequently shared with the competent Iraqi authorities along with underlying evidence that UNITAD collected. The result of this investigative work drew on millions of pieces of information that the Team had collected and produced over the years, in particular information provided by the Iraqi authorities, and notably by the Iraqi judiciary. That collection of information was another significant achievement of the Team, which consolidated a searchable digital archive of ISIL-related material, using the most modern technologies, which was finalized under my supervision and that I personally transferred to a secure location before the closure of the mechanism.

In addition to the foregoing specific experience on criminal cases with UNITAD, during my time as Senior Legal Advisor at the Spanish Ministry of Justice between 2007 and 2011, I provided advice on complex criminal justice-related questions, including in the context of judicial cooperation in criminal matters, in particular in relation to terrorism cases in Spain and third countries, where such cooperation had to be considered in conjunction with international human rights obligations and standards (e.g. questions relating to fair trial, torture, and the death penalty).

More generally, as a legal scholar in public international law (and an ICC List B candidate), I have researched and published on complex legal questions of international criminal law since 1999, including publishing a book on universal jurisdiction for crimes

against humanity (*La compétence universelle en matière de crimes contre l'humanité*, Bruylant, 2003).

d) Relevant international experience of the candidate, namely of his/her involvement in the broader field of international justice

I have extensive international experience in a professional legal capacity that is of relevance to the judicial work of the Court.

I joined the OLA in 2015 as team leader for all U.N. and U.N.-assisted criminal tribunals, providing and supervising the provision of legal advice on questions relating to:

- the International Criminal Court ("ICC");
- the *ad hoc* International Criminal Tribunals for the former Yugoslavia and Rwanda ("ICTY" and "ICTR");
- the International Residual Mechanism for Criminal Tribunals ("IRMCT");
- the Special Tribunal for Lebanon ("STL");
- the Residual Special Court for Sierra Leone ("RSCSL");
- the Extraordinary Chambers in the Courts of Cambodia ("ECCC"); and
- the Special Criminal Court for the Central African Republic ("SCC").

Regarding the ICC, the provision of such advice included all questions relating to the implementation of the Relationship Agreement between the U.N. and the ICC (approved by the U.N. General Assembly in its resolution 58/318 of 13 September 2004, and pursuant to Article 2 of the Statute), including in relation to the sharing of U.N. information with the Court³.

In addition to my specific experience with international and hybrid criminal tribunals, I was the Senior Legal Advisor in charge of reviewing the terms of reference of non-judicial accountability mechanisms established by U.N. intergovernmental organs to collect evidence of, and investigate, international crimes, including the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in Syria (the IIIM), the Investigative Team to promote accountability for crimes committed by Daesh/ISIL in Iraq (UNITAD), and the Independent Investigative Mechanism for Myanmar (the IIMM).

In the case of UNITAD, I was the U.N.'s lead negotiator of UNITAD's terms of reference, and I was subsequently in charge of legal aspects of its operationalisation. Six years later, I was tasked with its closure, and with the secure preservation and transfer of its archives. I was therefore involved in the whole lifespan of this accountability mechanism, from its establishment to its closure.

As a List B candidate with demonstrable established competence in relevant areas of international law such as international humanitarian law, international criminal law, and international human rights law, I wish to note that my extensive experience in relation to international justice goes beyond international criminal tribunals, and notably includes experience before the International Court of Justice (ICJ). As an example, in recent advisory

³ Please note that, while campaigning for a judicial position at the International Criminal Court, I have recused myself for all matters relating to the Court. I have formally filed such recusal with the United Nations Ethics Office to avoid any conflict of interest between my official functions as an independent United Nations official and my candidacy for the ICC.

proceedings at the ICJ in a case relating to the presence and activities of the U.N., I was the Director leading the team of lawyers that prepared:

- (1) the dossier of documents likely to assist with the question posed by the General Assembly (30 January, updated on 20 February and 19 March 2025);
- (2) written and oral statements (27 February and 28 April 2025 respectively); and
- (3) explanations regarding the provision of humanitarian assistance (27 August 2025) as well as comments to supplement the explanations (8 September 2025).

Finally, in the context of my academic experience, most of my publications include substantial references to the foundational instruments of - and case law from - international tribunals, including international criminal tribunals.

e) Proven ability to work effectively with diverse and multicultural environment;

During my more than 26 years of professional experience, I have worked effectively in diverse and multicultural environments.

As an academic in the field of public international law, since 1999 I have worked with legal scholars from different countries throughout my career. As explained above, my Ph.D. was one of the first “*co-tutelles*” between French and Spanish academic institutions, and was published in Belgium (*Bruylant – Collection droit international*). I was the director of the Spanish branch of the European Prison Litigation Network, funded through a grant agreement from the European Commission (JUST/2013/JPEN/AG/4558), which included lawyers and academic institutions from six different European countries. And I have provided training in almost all regions of the world, in English, French and Spanish, and interacted with lawyers from multiple legal traditions.

I have been working in OLA since 2015 with lawyers of around 50 different nationalities, with different legal traditions and cultural backgrounds.

I have furthermore been deployed for prolonged periods of time in Jerusalem (with UNRWA) and in Baghdad (with UNITAD) where I had to lead multicultural legal teams and liaise with local institutions and lawyers.

I have also frequently been deployed as the OLA lawyer in support of negotiations in all regions of the world and have had to adapt to the different multicultural environments where the negotiations were taking place. The understanding of, and respect for, different legal traditions and cultural approaches to sensitive legal questions has been a key element of my work as a lawyer in a multicultural environment.

f) Proven expertise and experience in the specific issues including but not limited to violence, discrimination, sexual assaults, or other similar conduct, inflicted on women and children

I have proven legal expertise in the fields of violence against women and children.

At the Spanish Ministry of Justice, where I worked as a Senior Legal Advisor between 2007 and 2011, I developed orders and protocols for the implementation of the 2004

Spanish Law on violence against women. While at the Ministry, I also advised on the drafting of the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

Between 2012 and 2015, I trained judges in Romania, Morocco and Tunisia on responding to violence against women, as a consultant for the Council of Europe, and also for public sector foundations of the Spanish cooperation system.

While at OLA, I supervised the legal advice provided to the Special Representatives of the Secretary-General for Children and Armed Conflict and Sexual Violence in Conflict.

As Acting Special Adviser of UNITAD, I supervised investigations of international crimes committed by ISIL (Da'esh) in Iraq, which particularly affected women and girls. Some of the investigations describe the details of the abduction, enslavement, and oppression that ISIL practiced against women and girls in Iraq, providing a legal analysis of such crimes, within the framework of international criminal law and international humanitarian law.

g) Proven knowledge of the main provisions of the Rome Statute and of the jurisprudence of the Court

I have been analyzing and referring to various provisions of the Rome Statute - as the major codification of international criminal law - since I started my LL.M. in 1998, shortly after the Rome Statute was adopted. I have continued doing so throughout my academic career while teaching international law and preparing my publications.

During my time at the Spanish Ministry of Justice (2007-2011), I provided advice on the Rome Statute, in the context of the reform of the Spanish criminal code, to align domestic legislation with the Statute's provisions, in particular to integrate into Spanish law the notions of: a widespread or systematic attack directed against any civilian population; the grave breaches of the 1949 Geneva Conventions; and the non-applicability of a statute of limitations to genocide and crimes against humanity. I was also part of the interministerial team that prepared the Spanish positions at the 2010 Review Conference of the Rome Statute that took place in Uganda.

Since I joined the U.N. in 2015, I have continued to closely monitor the work of the Court, in particular its evolving jurisprudence. I have also frequently had to refer to the provisions of the Rome Statute, in addition to the jurisprudence of the Court, where relevant for the U.N.'s legal analyses, and when advising senior U.N. officials.

Having supervised the implementation of the U.N.-ICC Relationship Agreement, and the cooperation provided by the U.N. to the Court, I have acquired an excellent understanding of the main provisions of the Rome Statute and of the jurisprudence of the Court.

h) Familiarity with the hybrid procedure governing the Court

One of the ICC's main departures from the precedents set by the *ad hoc* tribunals for the former Yugoslavia and Rwanda relates to its procedural rules, and the adoption of a hybrid model (see also response to Question B (1) below). The hybrid procedure is the

result of the inclusion of elements of both civil and common-law procedures, and in particular elements from adversarial and inquisitorial legal traditions. This procedure includes international human rights standards.

I am intimately familiar with the hybrid procedure governing the Court due to my overview of all international and hybrid criminal tribunals during my time at the U.N. OLA drafted the statutes of all U.N. international and hybrid criminal tribunals. While not personally involved in this drafting, which preceded my arrival at OLA, I have constantly and consistently been referring to these instruments since then, as well as monitoring any developments which could be useful if new accountability mechanisms were to be established. In this regard, the establishment of the Special Criminal Court in the Central African Republic in 2015, supported by the U.N., and of a number of U.N. non-judicial accountability mechanisms (for Syria in 2016, Iraq in 2017, Myanmar in 2018, and more recently for Afghanistan in 2025) required my careful review of existing provisions from international accountability mechanisms to ensure consistency, as appropriate.

i) Proven knowledge of the organization and functioning of the Court;

In addition to the knowledge that I acquired from my international law studies, and from my academic background as a legal scholar, I have proven practical experience with the Court, most notably having had to liaise with the Court and the Assembly of States Parties (“ASP”) in the context of the implementation of the Relationship Agreement between the U.N. and the ICC. The Agreement creates a general framework for cooperation between all units and entities of the U.N., including its Offices, Funds and Programmes, on the one hand, and the ICC and the Secretariat of the ASP to the Rome Statute, on the other. Within this framework, U.N. entities have sought advice from my team at OLA regarding matters of cooperation with any organ of the Court. In the context of such cooperation, I have frequently had very close interaction with officials of the Court, such that I am confident I can demonstrate proven knowledge of the organization and functioning of the Court.

j) Practical skills, including excellent knowledge of and fluency in at least one of the working languages of the Court

I have practised international law professionally in English, French and Spanish. I am bilingual in Spanish and French. I am also fluent in English, which has been my main working language since I began my work at U.N. Headquarters in 2015. I have also published several academic articles in English.

Most of my education was in French-speaking countries (Switzerland and France). I also taught international law in French in various universities, including the *Université de Paris I (Panthéon-Sorbonne)*, *Université de Cergy-Pontoise*, *Université de Paris II*, and the *Institut d'Études Politiques de Paris - "Sciences-Po"*. In 2005 I was awarded the Suzanne Bastid prize for best doctorate in the French language.

Furthermore, I also have an excellent knowledge of Italian.

2. **Have you ever been investigated for, charged with, or otherwise been the subject of any disciplinary, administrative, civil or criminal proceedings involving allegations of corruption, criminal or administrative negligence, misconduct, including sexual harassment, or any matter calling into question your professional or ethical standing? If yes, please provide full details, including any determinations or outcomes.**

No.

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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?

Regarding the dual nature of the ICC as both a judicial entity and an international organization

The ICC is not only a criminal court but also an international organization, which belongs to the category of “related organizations” within the U.N. system. Being both a court and an international organization has at least one major consequence from an institutional perspective. All States having ratified or acceded to the Rome Statute are represented at the Assembly of States Parties to the Rome Statute, which, *inter alia*, provides management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court and acts as a legislative body.

Regarding the differences between the ICC and the *ad hoc* Tribunals

The statutes of the *ad hoc* tribunals for the former Yugoslavia (“ICTY”) and Rwanda (“ICTR”) differ from the Rome Statute, with the latter being more detailed and providing a comprehensive codification of key aspects of both substantive and procedural international criminal law. The main differences could be systemized as follows:

From an institutional perspective:

The ICTY and ICTR, as well as the International Residual Mechanism for Criminal Tribunals (“IRMCT”), were all established by the U.N. Security Council as subsidiary organs of the Council, while the ICC is an international organization established by the States Parties to the Rome Statute, which can raise questions from a law of international organizations perspective (e.g. separate legal personality).

From a jurisdictional perspective:

Having been established through a binding Security Council decision under Chapter VII of the U.N. Charter, the jurisdictions of the ICTY and the ICTR (and subsequently the IRMCT) were imposed on all U.N. member States, while the jurisdiction of the ICC depends upon consent, except where the U.N. Security Council has referred a situation to the Prosecutor.

Whereas the ICC is a permanent court with, potentially, a global scope, the *ad hoc* international tribunals for the former Yugoslavia and Rwanda (as well as other courts and tribunals assisted by the U.N.) were established to address specific situations where international crimes were alleged to have been committed. Such jurisdictions and mandates were limited *ratione loci* (crimes committed in specific countries) and *ratione temporis* (crimes committed during a specific period).

Most importantly, the jurisdiction of the ICC relies on the principle of complementarity, whereby it is first and foremost the duty of States to investigate and prosecute international crimes at the domestic level. The Court is complementary to national criminal jurisdictions. Therefore, contrary to the *ad hoc* tribunals, which enjoyed primacy over national jurisdictions, the ICC’s role is complementary to States Parties’ national jurisdictions in cases in which States Parties are unwilling or unable genuinely to carry

out the investigation of - or prosecution for - alleged international crimes of sufficient gravity.

From a functional perspective:

While the statutes of the *ad hoc* tribunals did not include provisions specifying the applicable law, Article 21 of the Rome Statute has been considered to be the first codification of the sources of international criminal law. Regarding the Court's procedures, the hybrid model of criminal procedure reflected in the Statute results from the merging and juxtaposition of elements from the adversarial and inquisitorial legal traditions. The most evident departure from the model of *ad hoc* tribunals concerns the role of the Pre-Trial Chamber, the power and functions of which are defined in Article 57 of the Statute. This organ of the Court plays a fundamental role for the preservation of evidence ahead of trial, the protection of victims, and as the first filter of prosecutorial actions through its judicial review of admissibility and jurisdiction.

From a victims' perspective:

Another important innovation of the Statute concerns the role of victims in the proceedings before the ICC. Unlike in the *ad hoc* tribunals, victims at the ICC are allowed to participate "at stages of the proceedings determined to be appropriate by the Court", in order to present their "views and concerns" (Article 68). Therefore, victims, through their legal representatives and the activity of the Office of the Public Counsel (established pursuant to Article 43 of the Statute) have become an important procedural actor, despite not formally being a party to pre-trial, trial, and appellate proceedings. In addition, the ICC has the authority to award reparations to victims (Article 75), and the Rome Statute provides for the establishment of a Trust Fund for Victims by decision of the ASP for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims (Article 79).

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

The Court's proceedings have been criticized for the following reasons:

Efficiency: The length of the trials (and the related costs) has raised questions about the efficiency of the proceedings. From my experience with other international tribunals at the U.N. – the Secretariat handles subvention requests for the ECCC and the RSCSL to cover the lack of funding through voluntary contributions – one reason that funding erodes over time is that cases take too long to complete.

Consensus and collegiality in the decision-making: The Court has been criticized for the lack of collegiality among the judges, and for the high number of dissenting and concurring opinions rendered. While the number of separate opinions has decreased over recent years, there are still instances where the number and the substance of individual opinions revealed the divisions on the bench, creating uncertainty as to the state of the law (e.g. *Al-Hassan*).

Consistency of the decisions: Divergent case law has also been criticized as undermining the authority of the Court (e.g. *Al-Bashir*). There have also been questions about how different Chambers have approached certain procedural matters differently (e.g.

witnesses' preparation, admissibility of evidence), which has also created uncertainty as to the state of the law.

Public international law perspective: The public international law reasoning has sometimes been considered as deserving a more detailed and thorough analysis, and more elaboration and development to better explain and support the positions taken by the Court (e.g. on treaty law interpretations, questions of jurisdiction, immunity of heads of state, and the obligations of States Parties to cooperate).

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?

Several changes could be implemented to improve the perception of the Court. The first set of suggestions below addresses some of the criticisms relating to the Court's proceedings as identified in the previous question. The second set of suggestions relates to the perception of the Court in general.

Suggestions relating to Court's proceedings:

Efficiency and length of the proceedings: Investigations at the ICC by their nature deal with broad and complex situations, which involve processing huge amounts of information. However, when a specific case against an individual is being prepared, its scope should be identified as precisely as possible and as early as possible, to facilitate more efficient and faster proceedings. In this regard, the ICTR experience showed that proceedings became more efficient when focusing on specific charges for specific events, when compared to the cases that tried to encompass broader situations.

Consensus and collegiality in decision-making: While dissenting and separate opinions are expressly mentioned in the Rome Statute, and while they allow judges to present their individual reasoning, as reflected in the Chambers Practice Manual they should only be issued once every effort to arrive at judicial consensus has been exhausted, as a measure of last resort, and they should in any event be written using respectful language and in a spirit of collegiality. Ultimately, the potentially adverse impact of separate opinions on judicial coherence and on the credibility of the Court should be considered. I would suggest caution and economy in issuing separate opinions when they are concurring. Aiming at reaching consensus and collegial decisions will strengthen both the authority of the decision, and counter perceptions of weakness relating to the legal reasoning and the decision itself.

Public international law perspective: As mentioned earlier, the ICC is not only a court, it is also an international organization, established through the Rome Statute, a treaty to be interpreted in line with the rules codified in the Vienna Convention on the Law of Treaties. Pursuant to Article 21, the Statute (a Treaty) is the primary applicable law. "[A]pplicable treaties and the principles and rules of international law" are a secondary source. Some States Parties, as well as academic fora, have criticized certain of the Court's decisions relying on analyses of public international law. In this regard, more detailed and thorough analysis, elaboration and development of public international law considerations, including from a customary international law perspective, could strengthen the process to get to a certain result and preclude criticism.

Suggestions relating to the Court in general

Integrity: Credible accountability mechanisms should be in place, including for elected officials, to respond to complaints. These mechanisms should ensure procedural fairness and certainty for all involved when allegations of misconduct arise and should address complaints expeditiously. A process that lasts too long will inevitably impact negatively on the institution, independently of the result.

In close coordination with the *Chef de Cabinet* of the President of the Special Tribunal Lebanon (“STL”), I have personally worked on the establishment of the accountability mechanism for the STL judges. The difficulties confronted did not relate to its establishment, but to its practical implementation, which required lengthy discussions to ensure that it was as precise as possible and endorsed by all interested parties, before including it in the revised terms and conditions of the judges’ contracts.

Governance: The Chambers Practice Manual has become a key tool for monitoring judicial productivity, including timelines (e.g. by stating a typical target of four to six months from the first appearance to the confirmation hearing). It could be developed further to continue consolidating best practices as standards that judges should follow.

Victims: While victims’ participation in the proceedings has been clarified and significantly improved over the years, victims’ reparations remain contentious and have led to disappointment of the victims themselves, and of their communities. There are ongoing discussions on how better to address this matter, bearing in mind that the time for required reparations is very long, and the funds are limited. In this regard, it is fundamental to find ways to reduce timelines. In my experience with victims of international crimes, time is of the essence to locate victims (e.g. identification information can quickly become obsolete), notably in volatile environments and where access to the territory is not easily obtained. Specific efforts could be devoted to this objective, in particular increasing financial contributions (from public and private donors) to accelerate the work for the identification of the victims.

Capacity-building/Dissemination: It is important to continue strengthening initiatives to gather interest in the Court's work, including with academic communities (e.g. ICC Academic programme), as well as for the promotion and respect for international criminal law.

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?

Over the years, major decisions of the ICC have been the object of many comments, in particular by States Parties, civil society organizations, academics and affected communities, in some cases to praise them (e.g. *Al Mahdi*, *Ongwen*) and in others to criticize them, in particular when the decisions led to acquittals (e.g. *Bemba*, *Gbagbo*), with commentators also recalling that these were the result of independent and impartial proceedings.

In the most recent jurisprudence, I would note as positively received the 2021 Trial Chamber’s reparations order in *Ntaganda*, and the related Appeals Chamber decision of

2024, which clarified a number of points in relation to reparations proceedings, including that “the children of direct victims suffered transgenerational harm” and “no other family members are entitled to reparations in this case based on transgenerational harm”. This led to major certainty for the victims and their communities, while also managing expectations. The Trial Chamber also determined that the primary factors in determining the convicted person’s financial liability are the harm caused to victims and the costs to address and repair it, excluding from the analysis factors pertaining to the convicted person’s degree of participation and culpability in the crimes that gave rise to the harm and the potential monetary liability of others for the same offenses.

On the contrary, the 2024 *Al Hassan* judgment of the Trial Chamber has been negatively perceived, as the judgment was issued along with individual decisions from all three judges, with the result of having more decisions than judges. The judgment was difficult to read, and has been criticized as leading to legal uncertainty, in addition to reflecting a lack of collegiality among the judges. The judgment included a conviction on some charges by two judges, and a full acquittal by the third judge, who found that although almost all of the crimes charged had been committed, the accused himself was not criminally responsible. Ultimately, Al Hassan was convicted for religious-based persecution, and acquitted for gender-based persecution. Even where the conclusion was the same among certain judges (e.g. no conviction for crimes of sexual violence and forced marriage), the legal reasoning to get to that result differed.

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?**

Relationship between a Judge and the authorities of the country of origin: Article 40 of the Statute, and Article 3 of the Court's Code of Judicial Ethics, stipulate that judges shall be independent in the performance of their functions. This is a cardinal principle in the administration of justice - to uphold the independence of judicial office and the authority of the Court. Judges must therefore be independent from the authorities of any country, including their country of origin, which implies that they must not receive or indulge any instructions from any authority, nor place themselves in a situation of dependence with regard to them. In line with Article 10 of the Code of Judicial Ethics, it is important to ensure that there is also a perception of independence, and not to engage in any extra-judicial activity that may affect or may reasonably appear to affect their independence or impartiality. This may be particularly relevant when interacting with the authorities of the Judge's state of origin.

While acknowledging that judicial independence is a more robust concept than is the status of an international civil servant, I wish to note that, as a U.N. official, I am currently bound by Article 100 of the Charter of the U.N. which provides that in the performance of their duties, U.N. staff shall not seek or receive instructions from any government or from any other authority external to the U.N., and shall refrain from any action that might reflect on their position as international officials responsible only to the Organization. This is a fundamental principle that has guided my work at the U.N. I intend to exercise my jurisdictional functions, if elected, in complete independence, drawing from my professional experience to date.

Future relationship with bodies such as universities, courts or non-governmental organizations: When I became a U.N. official in 2015, I rescinded all links with institutions I was affiliated with, in line with internal rules and policies applicable to U.N. officials. Since then, for any activity with external partners, I have systematically requested authorization to participate in outside activities in accordance with the applicable regulatory framework. As far as the ICC is concerned, I consider it fundamental to avoid any activity that could be perceived as undermining the independence or impartiality of a Judge of the Court.

This does not mean that no relationship or cooperation with external entities would be possible, but rather that any interaction between judges and such external entities should be treated with utmost caution to avoid any perceived interference with judicial functions, or any perceived compromise of the independence or impartiality of any judge. In this way my own view is consistent with Article 40, paragraph 2, of the Statute. The impact of any activity or interaction on the trust in, and reputation of, the Court should always be the primary consideration.

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

Article 41 of the Statute and Rule 34 of the Rules of Procedure and Evidence, on excusing and disqualification of judges, do not specifically provide that a Judge sharing nationality with a party or a participant in a trial could constitute grounds to excuse or disqualify a Judge. The fundamental principle at stake is the impartiality of the Judge, and such recusal or disqualification should only occur if the Judge's impartiality "might reasonably be doubted on any ground".

In accordance with Article 4 of the Code of Judicial Ethics of the Court, judges shall be impartial and ensure the appearance of impartiality in the discharge of their judicial functions. Therefore, not only must there be impartiality, but they also need to ensure that the Judge is perceived as being impartial when discharging his or her functions. In this regard, there may be situations in which the appearance of impartiality could be an issue, in which case it may be appropriate for a Judge to request the Presidency to remove him or her from the exercise of a specific function.

Such a decision should be made on a case-by-case basis and not based only on the nationality of a party or a participant in the trial. It is advisable that a Judge who is aware of a valid reason not to sit in a case involving a national of the Judge's own State Party consult the Presidency in advance of any decision, in order to discuss internally the possibility of being excused from the exercise of that specific judicial function, particularly where a request for disqualification under article 41 of the Rome Statute and the Rules of Procedure and Evidence may reasonably be anticipated.

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?

Article 21, paragraph 1, establishes a hierarchy of applicable law for the judges of the ICC to apply in adjudicating cases. The sources of law, as elaborated in the Rome Statute, derive generally from those contained in Article 38 of the Statute of the International Court of Justice, which can be considered evidence of customary international law and which include a reference to "judicial decisions" as subsidiary means for the determination of rules of law.

The Statute is very clear in the sense that the Court shall apply, "[i]n the first place", the Statute, the Elements of Crimes and its Rules of Procedure and Evidence (Article 21, paragraph 1 (a)). The reference in Article 21, paragraph 1 (b), to the applicable treaties and the principles and rules of international law "in the second place" opens the door to the consideration by the Court of the jurisprudence of international tribunals that could assist the Court in the identification and interpretation of principles and rules of international law. In the *Bemba* case, the Trial Chamber stated that case law of other international courts and tribunals can assist the judges both in interpreting the Court's primary sources of law, and "in identifying rules of customary law in order to fill a lacuna with a 'subsidiary source of law' provided for in Article 21(1)(b)". Consideration should be given in particular to the jurisprudence of other international criminal tribunals, the International Court of Justice, and regional human rights courts. In this regard, the ICC's case law already refers to their jurisprudence.

It is worth noting that Article 21, paragraph 3, of the Rome Statute specifically provides that the application and interpretation of law must be consistent with internationally recognized human rights. ICC Judges should therefore be familiar with and refer to, as appropriate, decisions from regional human rights courts when verifying the compatibility of the applicable law with international human rights law. In this regard, it is important to note the difference between human rights courts and other human rights “bodies” which do not have judicial functions (e.g. human rights treaty bodies that monitor the implementation of international human rights treaties). Any consideration of their decisions would need to be in line with international law, including customary international law.

Article 21, paragraph 1 (c) provides that falling what is provided in paragraphs (a) and (b) of that same article, the Court can also apply the general principles that it derives from national laws of legal systems of the world. The Court could, in this context, consider domestic laws and jurisprudence when interpreting such general principles (e.g. *Situation in Bangladesh/Myanmar*).

When applying the Statute, the Elements of Crimes and the Rules of Procedure and Evidence “in the first place”, the Court should also ensure consistency of the applicable law, in line with Article 21, paragraph 2, of the Statute, which provides that “[t]he Court may apply principles and rules of law as interpreted in its previous decisions”.

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?

As mentioned above, Article 21, paragraph 2, of the Statute provides that the Court may apply principles and rules of law as interpreted in its previous decisions. This provision provides for the discretionary use of precedent by the Court, which does not require that a Chamber adhere to prior decisions; neither is there provision in the Statute for the binding nature of Appeals Chamber decisions.

As the *travaux préparatoires* of the Rome Statute show, Article 21, paragraph 2, of the Statute was the result of a compromise between the civil and common law approaches to judicial decisions as binding precedent. While this article does not enshrine the principle of *stare decisis*, it is an invitation for the judges to take previous decisions into account. It reflects a certain evolution and could be seen as departing from Article 59 of the Statute of the International Court of Justice, which specifies that no decision of that Court has binding force except between the parties, and in respect of a specific case.

Regarding ICC Appeals Chamber decisions, while not constituting formally binding precedent either, in practice they have nevertheless been treated as highly authoritative by the Pre-Trial and Trial Chambers. The Appeals Chamber has stated that its earlier decisions are “authoritative” and that it would normally follow its own prior interpretations of the Statute, Rules and Elements of Crimes.

An independent Judge should consider departing from previous established case law only in limited circumstances, and when there are compelling reasons to do so. In this regard, in *Gbagbo and Blé Goudé* the Appeals Chamber declared its intention to exercise its discretion to follow its previous interpretations of law, absent convincing reasons to

depart from them. This is particularly important to address the criticism that the Court has faced relating to the lack of consistency in the jurisprudence of the Court, and the existence of divergent decisions at least among the Pre-Trial and Trial Chambers (see above response to question B (3)). Beyond the imperative for consistency, applying principles and rules of law as interpreted in previous decisions reinforces the principle of legal certainty, as noted by the Trial Chamber in *Bemba*, which is also relevant from a fair trial perspective.

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.

In principle, innovative procedural practices to ensure efficiency would appear to be a positive development, but only if these are implemented in a consistent manner throughout the Court, while fully respecting the Statute and the Rules, and the rights of the parties (e.g. virtual testimony of a witness in accordance with Article 69 of the Statute and Article 67 of the Rules of Procedure and Evidence). Processes for coordination and harmonization between chambers would be necessary. Therefore, rather than allowing such practices from “a Judge or a Chamber of the Court”, innovative procedural practices should be discussed in the context of the ongoing effort to consolidate best practices (e.g. Chambers Practice Manual).

Based on my experience in international organizations, the use of “templates” where appropriate can save time in certain cases, in particular for simple decisions, or where a template can facilitate the analytical work, which is also applicable to the Court. In this regard, I note that the Court recently decided to request that *amicus curiae* briefs be presented in a certain format, to ensure they all contained the information that the Court would subsequently analyze. Other procedural innovations have been taking place in other *fora* and it is important to monitor them closely in case they could inspire some adjustments to ICC procedural practices (e.g. in regional human rights courts, at the ICJ).

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?

Working with hybrid criminal procedure: During my 26 years of professional legal experience, I have frequently been exposed to legal reasoning that was hybrid in nature. At the U.N., the methodology to address legal questions does not rely on any specific national legal framework; rather it can be considered as hybrid, in the sense that it tends to consider best practices from different legal traditions to produce the most appropriate legal analysis and result.

In academia, I notably worked on domestic jurisprudence relating to international law, which involved researching jurisprudence from different legal traditions (*“La place du droit international dans la jurisprudence récente de la Cour suprême des Etats-Unis”*, *Revue générale de droit international public*, 2005, n°3, pp. 609-642 ; *“Après Avena: l’exécution par les Etats-Unis de l’arrêt de la Cour internationale de Justice”*, *Annuaire Français de Droit International*, 2005, pp. 140-161 ; “The Place of International Law in

Recent Supreme Court Decisions”, Global Law Working Paper, NYU School of Law, 2004).

I therefore have experience analyzing, and working with, different legal traditions. With specific regard to a hybrid criminal procedure, I envisage remaining open and flexible, as I have done when working with different legal traditions, while maintaining the imperatives of the accused’s rights to a fair trial, and the rights of other participants in the proceedings.

Working with judges from different backgrounds and different legal systems: During my 26 years of professional experience, I have consistently worked with lawyers from different backgrounds and from different legal systems, in particular in academia and at the U.N. (see response to Question 1 (e) above). In addition to working in teams with lawyers from different legal systems, I have also frequently been deployed as the lawyer in support of negotiations in all regions of the world, and have had to adapt to the legal traditions, as appropriate.

Likewise, as a Senior Legal Advisor in international law and European Union law at Spain’s Ministry of Justice, I was Spain’s representative in a number of working groups and international conferences, including for the negotiation of European instruments within the EU COPEN working group, and of international instruments in U.N. conferences on criminal-justice related matters. I was also the representative of the Ministry of Justice in Spain’s delegations presenting reports to human rights bodies. At the U.N., in a legal office currently comprising lawyers of 45 nationalities, my daily work is to write and review legal analyses and to provide and supervise the provision of legal advice together with lawyers from different backgrounds and legal systems.

I therefore have extensive practical experience in working with lawyers from different backgrounds and different legal systems. When it comes to working specifically with judges from different backgrounds and different legal systems, I would expect that many of the same lessons learned would apply.

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?

Working as part of a team: I am used to working as part of a team, both as a team member and as a team manager, with teams ranging from few lawyers (in academia, at the Ministry of Justice and in the U.N.) to larger teams, including heading a team of more than 200 personnel in Iraq (UNITAD).

Dealing with disagreement: I perceive disagreement as potentially positive, especially on legal matters, as it enriches the discussion, allows judges to anticipate counterarguments, and ultimately leads to more refined and reasoned analyses.

Understanding the reasoning behind the different positions at stake is fundamental to engaging in a constructive discussion and to finding consensus where possible. Throughout my career, whether in the legal office of an international organization or within a domestic authority, reaching consensus has been the objective, as separate opinions have not been an option in such settings. It has been necessary to find ways to

overcome differences and find a common legal position, first through thorough research and analysis, and second, by using the language that would accommodate and reflect the different sensitivities at stake as much as possible. A readiness of all parties involved to consider alternative opinions, and to compromise where possible, is necessary.

Separate concurring and dissenting opinions: Although the ICC judicial setting permits writing separate and dissenting opinions, I believe that it is important for judges to try to find common solutions and outcomes in the context of judicial decisions. Article 74, paragraph 3, of the Statute provides as much, requiring that judges shall attempt to achieve unanimity in their decisions. This can be achieved only by judges making certain compromises during the deliberations.

Dissenting and concurring opinions ought therefore to be limited to situations where irreconcilable judicial opinions arise. In most situations, consensus can be reached through the negotiation of specific language that can accommodate the views of all members of a chamber. While the existence of individual opinions can be a good source for understanding the decision-making of the Court, it could also weaken the decisions themselves and generate discussions on the reasoning of the Court and, ultimately, criticism of the decision itself.

8. Have you considered the risk of being subject to sanctions imposed by one or more States due to the exercise of your judicial functions?

Yes, I have considered such risk. I am familiar with the sanctions that have been imposed on various ICC officials merely due to their exercise of their judicial functions. I am currently an official of an international organization whose officials can and have faced similar situations relating to their official functions. I am convinced that my faith in the rule of law, and the need to uphold independent judicial functions, would support me should such risk ever materialise.

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, I am. I am used to heavy schedules, and the need to be available at any time. I have been working on unpredictable schedules during my time in the cabinet of the Secretary of State of the Ministry of Justice of Spain, and since 2015 at the U.N. Being a Director in the Office of the Legal Counsel, which oversees the provision of legal advice in the context of political crises and armed conflicts, my schedule depends on external factors that are not under my control, and managing it requires flexibility and constant adjustments of priorities. I am therefore confident that I am prepared for the nature and schedule of the work of an ICC Judge.

- 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?**

Two working languages: Functioning multilingually is fundamental for an institution that is not only a court but also an international organization with a foundational treaty of global scope. Geographic representation within the Court should also account for multilingualism and notably its two working languages, as well as its official languages.

Being bilingual myself (please see my response to question 1 (j) above), while furthermore being fluent in English and Italian, I particularly value and encourage multilingualism. I know the benefits firsthand. Not only was the Court conceived to work in such manner, but I believe multilingualism can contribute to the efficiency of court proceedings when taking place in the language spoken in situation countries, in particular if this is one of the working languages of the Court, but also if it is an official language of the Court.

Multilingual challenges: As a court and an international organization, the ICC embraces the official languages of the U.N. as well as its working languages, French and English. Its Rules also provide for other languages to be used during the proceedings. As in any multilingual setting, including the international organizations where I have worked, there is an inherent tension between competing principles and interests, such as the respect for the multilingual diversity inherent in such organizations, *versus* efficiency considerations to avoid unreasonable delays and financial costs. Objective constraints must limit the proliferation of working languages, most notably budgetary concerns.

In a judicial setting, there is an additional tension relating to the accessibility of the proceedings to its participants (the accused's right to understand the charges against him

or her, and rights to counsel; the witnesses and victims). At the ICC, proceedings can concern situations where none of the languages of the accused and or witnesses and participating victims are the same as the working or official languages of the Court. This is a situation with which I am familiar in that that UNITAD also had to deal with it; several witnesses and victims could not speak Arabic but only other non-U.N. official languages (e.g. Yazidis). These are complex situations that require pragmatic and case-by-case assessments to find a reasonable balance between the above-mentioned principles and interests.

More generally, having judges fluent in both working languages and, if possible, in other official languages, is always of added value. Judges operational in both working languages can ease discussions and facilitate consensus. In proceedings conducted in one of the working languages (or in another official language that they can work with), they will benefit from access to the information as originally delivered.

Another general consideration relates to the dissemination of the work of the Court in different languages, in particular non-official languages widely spoken in the communities affected by situations before the Court, and the Court's subsequent jurisprudence. In these cases, if resources are not made available, other options, including automatic means of translation, should be considered to promote knowledge of the Court and its work. In the preamble to the Statute, the States Parties are expressly mindful of the multitudes that have been victims of unimaginable atrocities that deeply shock the conscience of humanity. Being able to render justice effectively includes being able to communicate the Court's work with the victims in specific cases.

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?

Judges should be involved from the outset in the drafting process of each decision: first by studying all the written submissions of the parties, without waiting for a draft to be produced; second, by actively discussing possible solutions with their colleagues and the legal team before beginning the drafting process; and third, by giving clear drafting instructions to the legal team regarding the structure of the decision, references and solutions to be adopted. It is essential for the judges to draft certain decisions themselves, at the very least their legal arguments and the operative substantive parts thereof, in particular if they involve a new interpretation of law, or a particularly complex legal point.

Having been an academic and having mentored junior lawyers in all my teams, I strongly believe in training future generations of lawyers. Specific guidance and close supervision are essential. However, assistants and interns should not be entrusted with drafting decisions or judgments alone, except for very simple decisions, which would often follow pre-established templates. The Judge would in any event always review, adjust and redraft as needed, explaining to the junior lawyers the reasoning behind the changes.

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

The Rome Statute specifies which decisions can be issued by a single Judge (e.g. Article 39, paragraph 2 for the pre-trial phase; Rule 132 bis of the Rules of Procedure and Evidence for preparation of the trial). It remains fundamental to ensure that major

decisions are decided in a collegial manner by a fully constituted Chamber. These major situations are explicitly spelled out for the pre-trial stage, where the Statute specifies that decisions relating to the authorization to open an investigation, admissibility, authorization to conduct an investigation on the territory of a State, confirmation of charges and protection of national security information must be rendered in a collegial manner. In any event, for the collegiality and consistency reasons exposed earlier, it is important that a single Judge systematically informs the Chamber and refers a matter to the Chamber where appropriate.

For decisions of a merely procedural nature, such as decisions on requests for an extension of time to file a submission, it would doubtless be expeditious to allow one Judge to resolve the matter, as long as this aligns with the provisions of the Statute.

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?

I am used to working under pressure from States, governmental authorities, national or international organizations, the media and the wider public, including victims' communities and civil society organizations. This was a constant during my time working both for the Spanish Government, and for the U.N. While such pressure can occur in different settings, I felt it to an even higher degree when deployed in field operations.

As a specific example, I will note my time in Iraq as Acting Head of UNITAD, when the Security Council, upon request from the local authorities, had requested to finalize UNITAD's operations and close the mission within 12 months. The pressure I faced when trying to ensure an orderly end of operations and closure of the mechanism came from different actors, including State actors, and for different reasons. There was pressure from certain communities and civil society organizations to finalize investigations relating to crimes committed against specific communities of victims. From my perspective, it was important to ensure that the work products of the mechanism were balanced in that regard. There was also pressure regarding the sharing with local authorities of the information collected by the mechanism, which had to be done in accordance with the legal framework of the mechanism, including international law and U.N. policies (e.g. respecting the consent of information providers), which in practice meant that not all documents could be shared. Most information was shared with local authorities though, in accordance with such legal framework, and the whole archive was safely transferred to the U.N. I also had to brief orally the U.N. Security Council and was exposed to the media.

This experience among others means that I am very sensitive to the pressures of dealing with States government authorities and the media. I understand from personal experience the importance of sticking to a script, remaining on message, and being extremely discreet with sensitive information.

7. Are you in a health condition allowing you to work under pressure, given the Court's heavy workload?

Yes.

E. Deontology

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

Definition of an independent judge: Article 40 of the Rome Statute provides that judges shall be independent in the performance of their functions. Judicial independence is the principle that courts and judges must be free to perform their functions, both when deciding cases and when interpreting the law, free of improper influence or control from any outside force. This provision aligns with the same principle contained in many other international instruments, including Article 2 of the Statute of the International Court of Justice, and Article 14 of the 1966 International Covenant on Civil and Political Rights. The U.N. General Assembly has welcomed the Basic Principles on the Independence of the Judiciary which further develop the meaning of the independence of the judge (A/RES/40/156, 13 December 1985).

Understanding of an independent judge: Judges should be independent in their work, in the sense that they should resist any pressure they may receive from external parties. This requires from judges a certain state of mind, skills and ultimately common sense, which are usually developed throughout a professional career. It also requires a certain level of anticipation to prevent any situation that could affect, or reasonably be perceived as affecting, the independence of a judge.

In this regard, bearing in mind the particularities of the judicial function and the central role of the principle of judicial independence and, furthermore, of the perception of independence, I would recall that the U.N. regulations which currently regulate my functions already include the following obligations, which obligations I find equally important for a judge:

- “In the performance of their duties staff members shall neither seek nor accept instructions from any Government or from any other source external to the Organization”.
- “While staff members’ personal views and convictions, including their political and religious convictions, remain inviolable, staff members shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations”.
- “They shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations”.
- “They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status”.
- “Staff members shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends, other staff members and those they favour. Staff members shall not use their office or knowledge gained from their official functions for personal reasons to prejudice the positions of those they do not favour”.
- “Staff members shall exercise the utmost discretion with regard to all matters of official business”.

Judicial independence does not amount to judges being above scrutiny; judges are expected to give reasoned, transparent decisions, and to adhere to the standards expected of their office.

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

As a Judge, it is fundamental to be mindful of the possibility of facing a conflict of interest, which can be complex and difficult to identify, and can extend beyond the Judge's professional life and affect her or his personal life. Interests that are likely to – or which could appear to —influence the independent, impartial and objective exercise of the judicial function are likely to constitute a conflict of interest. This could happen if specific views, which could be perceived as compromising the impartiality of a Judge, have been expressed, or if it is established that a Judge collaborated closely with entities or individuals having expressed such views. It could also occur when private interests, such as outside relationships or financial assets, interfere — or appear to interfere — with the interests of the Court or its proceedings, making it difficult to fulfil one's judicial duties impartially.

A Judge must always keep the interests of the Court in mind. Even the mere appearance of a conflict between a Judge's personal interests and those of the Court could gravely undermine both the judicial process and the Court itself. A well-known example of the consequences of a conflict of interest arose in the case of *R v. Bow Street Magistrate, Ex parte Pinochet Ugarte (No. 2)*, in which the House of Lords set aside its own decision because one of the sitting judges had an undisclosed connection to a party in the case. The interest of the Court should always be served ahead of any other interest, including private interest. Any conflict of interest should be disclosed in advance and resolved in favour of the interests of the Court and the proceedings before it.

Currently, as a U.N. official at the Director level, in addition to the obligations of independence in my work deriving directly from the U.N. Charter, I have been required to file annual financial disclosure statements, in line with my regulatory framework. The financial disclosure statements include certification that my assets and economic and outside activities, as well as any external affiliations, as well as those of my spouse and dependent children, do not pose a conflict of interest with my official duties or the interests of the U.N. I have also been subject to U.N. Staff and Financial Regulations and Rules which govern, *inter alia*, outside activities.

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?

Candidates should be assessed for the quality of their qualifications and their expertise. Article 36 requires that the Court's judges be of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. Considerations relating to race, colour, gender or religion are not included as such, and should not be considered when assessing a candidate's suitability to be a Judge at the ICC.

Nevertheless, the Statute does require States Parties to take into account the need for representation of the principal legal systems of the world equitable geographical

representation, and fair representation of female and male judges. In this regard, the system for the election of ICC judges, and particularly the selection criteria established by the Assembly of States Parties for each election, has contributed to the goal of achieving gender parity and ensuring geographic representation within the Court.

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

As I mentioned in an earlier response, it appears that the participation of victims in the proceedings of the Court has improved over the years. Article 68, paragraph 3, of the Rome Statute provides for victims' participation, and this was the focus of important discussions as reflected in the *travaux préparatoires* of the Rome Statute, given the widely divergent legal traditions in this regard. Victims do not generally participate in criminal proceedings under common law systems, whereas they can be parties to a trial under the civil law system. Although victims' participation at various stages of the proceedings is specifically provided for in the Statute, the compromise adopted involves participation where reparations can be awarded without the victims being actual parties to the proceedings. In the absence of any detailed framework on victims' participation, the judges have gradually clarified the process which has led to the current situation, where the participation of victims is well established. This is to be welcomed. If elected, I would pay special attention to supporting the harmonisation of practices between the chambers in relation to the modalities of victims' participation.

The length of the reparations phase remains, as mentioned earlier, problematic, despite the establishment of a special chamber responsible for reparations, which is also a welcome development.

5. 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?

Participation by victims was extensively discussed during the negotiation of the Rome Statute, and States Parties did not reach a clear agreement, leaving to judges the responsibility of ensuring that a balance between the rights of an accused person and the rights of victims would be maintained at every stage of the proceedings. The Statute allows victims' views and concerns to be presented in a manner which is not prejudicial to or inconsistent with the rights of the accused. The key point for the Judge is, accordingly, to ensure that victims can intervene and assert their views where their interests are involved, without their becoming a second prosecutor. During the trial, questions from the representative for the victims should therefore not duplicate those of the Office of the Prosecutor. Neither should victims' participation cause any unreasonable delay in the conduct of the proceedings (*Lubanga*).

6. How do you see possibilities and limits of use of AI in the work of the Court? Do you have any experience in using AI in your work?

Possibilities and limits of use of AI: While the possibilities of AI should always be considered, its use should be carefully framed and limited, bearing in mind ethical and human rights considerations applicable in criminal proceedings. The U.N. has developed the following set Principles for the Ethical Use of Artificial Intelligence in the U.N.

System: do no harm; defined purpose, necessity and proportionality; safety and security; fairness and non-discrimination; sustainability; right to privacy, data protection and data governance; human autonomy and oversight; transparency and explainability; responsibility and accountability; and inclusion and participation. For legal determinations and decisions affecting fundamental human rights, the U.N. recommends human autonomy and oversight. While AI can assist in research, and in certain analyses, it should never replace human reasoning supporting any legal decision-making. Its use in the analysis of evidence would also require human oversight (e.g. to avoid false positives or false negatives).

UNESCO has also developed Guidelines for the safe use of AI systems in courts and tribunals, which provide practical principles, safeguards and recommendations to orient organizations and individuals in developing, acquiring, and using AI systems ethically and in full respect of human rights. These include information security, auditability, and human oversight and decision-making. In this regard, AI could for example be used for the preparation of transcripts, under the supervision of a Court official. AI is a reality that is now here, and subject to controls and protections could be a useful tool for the conduct of criminal proceedings.

Experience using AI: I have been trained to use Copilot Web at an advanced level (AI and generative AI). In practice, it is a helpful tool for summarizing long texts and for comparing information from multiple sources. I have also used it for translations with high-quality results. Writing structured prompts has helped me to get good outputs as well as to know the boundaries of what can be safely done. In this regard, AI has been of limited use for detailed and high-quality research, and it cannot be used for decision-making or legal expert review.

UNITAD also experimented with AI and developed its own in-house AI tool. Given the overwhelming volume of digital data recovered from ISIL devices—nearly half of which was in video and image formats, and almost entirely in Arabic—a specialized AI-driven e-discovery and data analytics application was developed. Open-source investigation was also widely used and proved to be very helpful for the investigative work.

F. Additional information

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

I hold Spanish nationality only. I haven't requested any other nationality.

- 2. 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, I have familiarized myself with the conditions of service for the Judges of the Court, and I am aware and accept the Terms and Conditions of work.

- 3. 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?**

To the best of my knowledge, there isn't any information which might call into question my eligibility for judicial office. I remain available to respond to any questions the members of the Committee may have and to provide any further information.

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 have no objection to my answers being made available to the public. Doing so would contribute to the transparency of the process, which is important for the credibility of the Court's selection process.
